

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR  
COTTONWOOD GREEN SUBDIVISION,  
CITY OF SALIDA, CHAFFEE COUNTY, COLORADO**

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This Amended and Restated Declaration (the "Amended and Restated Declaration" or the "Declaration") is made this \_\_\_ day of \_\_\_\_\_, 2023 by **Cottonwood Green Association, Inc.**, a Colorado nonprofit corporation, of 327 E 1st Street, CO, (herein "Association"), as follows:

WHEREAS, the plat of Cottonwood Green Subdivision (the "Property") was recorded on January 11, 2005 in the records of the Clerk and Recorder of Chaffee County, Colorado at Reception No. 348399 (the "Plat"); and

WHEREAS, that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for Cottonwood Green Subdivision, was recorded on January 11, 2005 in the records of the Clerk and Recorder of Chaffee County, Colorado at Reception No. 348398 (the "Original Declaration"); and

WHEREAS, that certain First Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements was recorded on April 19, 2006 in the records of the Clerk and Recorder of Chaffee County, Colorado at Reception No. 357894 (the "First Amendment"); and

WHEREAS, that certain Second Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements was recorded on October 20, 2006 in the records of the Clerk and Recorder of Chaffee County, Colorado at Reception No. 362169 (the Second Amendment"); and

WHEREAS, that certain Third Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements was recorded on June 18, 2008 in the records of the Clerk and Recorder of Chaffee County, Colorado at Reception No. 374931 (the "Third Amendment"); and

WHEREAS, pursuant to the terms of the original Declaration, as amended by the First Amendment, and in accordance with C.R.S. § 38-33.3-217, the Owners of at least sixty-seven percent (67%) of the Lots and Units encumbered by the Amended Declaration have voted to amend the terms of the Declaration; and

WHEREAS, this Amended and Restated Declaration is intended to amend, restate, supersede, and replace the Original Declaration, as amended by the First Amendment, the Second Amendment, and the Third Amendment, in its entirety; and

WHEREAS, the Owners have appointed the President of the Association to execute this Amended and Restated Declaration on behalf of the Owners; and

NOW, THEREFORE, the Association, on behalf of the Owners, by and through the undersigned, does hereby amend and restate the Original Declaration, and all of the aforementioned Amendments, as follows:

## 1. COMMON INTEREST COMMUNITY

1.1. General Purposes. Pursuant to the provisions of the Colorado Common Interest Ownership Act (Article 33.3 of Title 38 of Colorado Revised Statutes) as the same may be amended ("CCIOA"), Cottonwood Green Subdivision (the "Property") is a "common interest community" (as such term is defined in CCIOA). The owners' association organized to govern and administer the common interest community is Cottonwood Green Association, Inc., a Colorado nonprofit corporation (the "Association"), formed in accordance with the Colorado Revised Nonprofit Corporations Act (the "CRNCA"). In order to establish a means to ensure the proper use and appropriate development of the Property as a high quality, aesthetically pleasing and harmoniously designed planned community, the Association desires to continue to submit the property to mutually beneficial covenants, conditions and restrictions for the benefit all Owners of any portion of the Property.

1.2. Declaration. To further the purposes expressed in Section 1.1 hereof, the Association, for itself and its successors and assigns, hereby declares that the Property shall, at all times, be owned, held, used and occupied subject to the provisions of this instrument, to the covenants, conditions and restrictions contained herein and to all amendments and supplements hereto.

1.3. Location and Type of Common Interest Community. The common interest community known as Cottonwood Green Subdivision is situated in the City of Salida, Chaffee County, Colorado. The common interest community is a "Planned Community" (as such term is defined in CCIOA).

### 1.4. Planned Community.

1.4.1. The Property was originally divided into 43 Lots as shown on the Plat.

1.4.2. All Lots except for Lots 16, 29, 30, and 31 shall be limited to one single-family dwelling per Lot. The original Declaration permitted Lots 14, 15, 16, 29, 30, and 31 to have up to three (3) separate single-family dwelling units located within a single principal structure on each of such Lots. Each of these the Lots have been developed as of the date of this Amended and Restated Declaration. Lots 14 and 15 each contain one single-family dwelling and shall henceforth be limited to one single family dwelling per Lot. Lot 16 has been divided into two Lots known as Lot 16A and Lot 16B, each of which contains an attached single-family dwelling unit (duplex townhome) and shall henceforth be limited to one attached single family dwelling unit (duplex townhome). Lots 29, 30, and 31 each contain three condominium units, forming a nine-unit condominium community known as "Cortona Courts Condominiums" in

accordance with the Condominium Declaration, Condominium Maps, and Supplemental Declarations recorded in the records of the Clerk and Recorder of Chaffee County, Colorado. There are a total of fifty (50) Lots and Units in Cottonwood Green Subdivision.

## 2. PROPERTY OWNERS ASSOCIATION

2.1. Rights, Duties, Privileges, Powers, and Obligations. The Association shall exercise all of the rights, duties, privileges, powers, and obligations as set forth in this Declaration and the Articles of Incorporation, Bylaws, Responsible Governance Policies, Architectural Guidelines, and Rules and Regulations of the Association (the “Association Documents”), the CRNCA, and CCIOA.

2.1.1. General Purposes and Powers. The Association, through its Executive Board (also known as the Board of Directors) (the “Board”), shall perform functions and hold and manage Association property as provided in this Declaration. The Association shall have all the powers necessary or desirable to carry out such purposes.

2.1.2. Membership and Voting. The Owner of a Lot or Condominium Unit (“Unit”) shall automatically be a member of the Association. Said membership is appurtenant to the Lot or Unit of said Owner, and title to the ownership of the membership for that Lot or Unit shall automatically pass with fee simple title to the Lot or Unit. If the fee simple title to a Lot or Unit is held by more than one person, the membership as to such Lot or Unit shall be joint, and a single membership for such Lot or Unit shall be issued in the names of all Owners. Membership in the Association shall be limited to Owners of Lots and Units within the Property, and each Lot or Unit shall be entitled to the voting rights allocated to that Lot or Unit in this Declaration.

2.1.3. The Board. The affairs of the Association shall be managed by the Board, which may by resolution delegate any portion of its authority to an Executive Committee or to a Managing Agent for the Association. The Board may also appoint other committees as provided in the Bylaws. The Board shall have the authority to adopt Rules and Regulations of the Association in accordance with CCIOA and the CRNCA.

2.1.4. Association Documents. The purposes and powers of the Association and the rights and obligations with respect to Owners set forth in this Declaration may and shall be amplified by provisions of the other Association Documents.

2.2. Purpose of Association. The purpose of the Association is to use its authority, as given in the Association Documents:

2.2.1. To enforce the protective covenants.

2.2.2. To levy and assess Owners annual assessments;

2.2.3. To provide upkeep and maintenance to all common ownership and/or Association owned property, real and personal, in the Planned Community.

2.3.4. To represent all Lot and Unit Owners in matters of mutual interest.

2.3. Assessments. The purposes of the assessments shall include, but not be limited to:

2.3.1. Repairs and maintenance of Common Area(s) within the Property, except for damage caused by the negligence, misuse or tortuous act of an Owner or the Owner's agents or guests;

2.3.2. Expenses of management of the Association and its activities;

2.3.3. Taxes and special assessments upon the Association's real and personal common property;

2.3.4. Premiums for all insurance which the Association is required or permitted to maintain;

2.3.5. Common services and additional services to Owners as approved by the Board;

2.3.6. Payments to Association contractors and employees of the Association, if any;

2.3.7. Legal and accounting fees for the Association;

2.3.8. Any deficit remaining from a previous Assessment year;

2.3.9. The creation of reasonable contingency reserves for future maintenance expenses and administrative expenses.

2.3.10. Such other expenses to comply with law or that benefit Lot and Unit Owners in common.

## 2.4 Common Areas.

2.4.1. General Common Areas. General Common Areas shall include Lot A, Lot B, Lot C, and the Path shown on the Plat of Cottonwood Green Subdivision (herein the "Plat"). The Common Areas shall be for the use and enjoyment of all the Owners for the limited purposes set forth herein. The Common Areas shall be maintained as open space. Structures shall be prohibited. Use of Common Areas shall be governed by the Rules and Regulations adopted by the Board.

2.4.2. Dedication of General Common Areas. All General Common Areas within Cottonwood Green Subdivision are intended for the common use and enjoyment by the Owners

within Cottonwood Green Subdivision. The General Common Areas are hereby dedicated to the above and foregoing uses for the Owners, their families, tenants, guests, and invitees under the terms and conditions contained in the Association Documents.

2.4.3. Management of General Common Areas. The Association shall be responsible for the management and control of the General Common Areas and all improvements thereon, and shall keep them in a good, clean, attractive and pleasant condition and shall landscape, maintain, and repair the same consistent with the purposes and uses of the General Common Areas as set forth in the Association Documents.

2.4.4. Maintenance of Medians. The Association shall keep the medians on the roads within the Property in good, clean and attractive condition and shall maintain and repair them as needed.

### 3. DESIGN REVIEW COMMITTEE

3.1. Guidelines. The Board of Directors shall establish an architectural control policy and guidelines (“Design Guidelines”). The Board may amend, repeal, and augment the Design Guidelines from time to time, in the Board’s sole discretion. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive. The Design Guidelines will be binding on all Owners and other persons governed by this Declaration. The Design Guidelines may include, among other things, those restrictions and limitations set forth below:

3.1.1. Procedures for making application to the Design Review Committee (herein “the Committee”) for design review approval, including the documents to be submitted and the time limits in which the Committee must act to approve or disapprove any submission.

3.1.2. Time limitations for the completion, within specified periods after approval, of the Improvements for which approval is required under the Design Guidelines.

3.1.3. Designation of the Building Site on a Lot.

3.1.4. Minimum and maximum square foot areas of living space that may be developed on any Lot.

3.1.5. Landscaping regulations, with limitations and restrictions prohibiting the removal or requiring the replacement of existing trees, the use of plants indigenous to the locale, and other practices benefiting the protection of the environment, aesthetics and architectural harmony of Cottonwood Green Subdivision. Landscaping will be prosecuted diligently to completion and will be completed within the time frames set forth in the Design Guidelines.



3.1.6. General instructions for the construction, reconstruction, refinishing or alteration of any Improvement, including any plan to excavate, fill or make any other temporary or permanent change in the natural or existing surface contour or drainage or any installation of utility lines or conduits on the Property, addressing matters such as loading areas, waste storage, trash removal, equipment and material storage, grading, transformers, and utility meters.

3.2. Committee. There is hereby established a Design Review Committee, which will be responsible for the administration of Design Guidelines to facilitate the purposes and intent of this Declaration.

3.2.1. Committee Membership. The Board of Directors shall appoint the Design Review Committee to administer the architectural approvals required pursuant to the Declaration. It shall consist always of either three (3) or five (5) members. Absent a specific appointment by the Board, the members of the Board shall be the members of the Design Review Committee. The Board may reduce the number of members of the Design Review Committee to three and increase it to five as often as it wishes. Members of the Design Review Committee may be removed at any time without cause by the Board of Directors. From among the members of the Design Review Committee, the Board may appoint a Chairperson of the Design Review Committee who shall coordinate the operation of the Design Review Committee.

3.2.2. Purpose and General Authority. The Committee will review, study and either approve or reject proposed Improvements on the Property, all in compliance with this Declaration and as further set forth in the Design Guidelines and such rules and regulations as the Committee may establish from time to time to govern its proceedings. No Improvement will be erected, placed, reconstructed, replaced, repaired or otherwise altered, nor will any construction, repair or reconstruction be commenced until plans for the Improvements shall have been approved by the Committee; provided, however, that Improvements that are completely within a Building may be undertaken without such approval, except as set forth in the Design Guidelines. All Improvements will be constructed only in accordance with approved plans.

3.2.3. Committee Discretion. The Committee will exercise its best judgment to see that all Improvements conform and harmonize with any existing structures as to external design, garage placement, quality and type of construction, seals, materials, color, location on the Building Site, height, grade and finished ground elevation, and the schemes and aesthetic considerations of Cottonwood Green Subdivision. The Committee, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements. Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver

of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

3.3. Organization and Operation of Committee.

3.3.1. Term. The term of office of each member of the Committee, subject to Section 3.2.1., will be two (2) years, and continuing until his successor shall have been appointed. Should a Committee member die, retire, or become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed.

3.3.2. Operations. The Committee chairperson will take charge of and conduct all meetings and will provide reasonable notice to each member of the Committee prior to any meeting. The notice will set forth the time and place of the meeting, and notice may be waived by any member.

3.3.3. Voting. The affirmative vote of a majority of the members of the Committee will govern its actions and be the act of the Committee.

3.3.4. Expert Consultation. The Committee may avail itself of technical and professional advice and consultants as it deems appropriate, and the Committee may delegate its plan review responsibilities, except final review and approval, to one or more of its members or to consultants retained by the Committee. Upon that delegation, the approval or disapproval of plans and specifications by such member or consultant will be equivalent to approval or disapproval by the entire Committee.

3.4. Expenses. Except as provided in this section below, all expenses of the Committee will be paid by Cottonwood Green Association, Inc. and will constitute a Common Expense.

3.5. Other Requirements. Compliance with Cottonwood Green Association, Inc. design review process is not a substitute for compliance with the City of Salida building, zoning, and subdivision regulations, and any other applicable state, federal, or local code or regulation. Each Owner is responsible for obtaining all approvals, licenses, and permits as may be required prior to commencing construction. Further, the establishment of the Design Review Committee and procedures for architectural review will not be construed as changing any rights or restrictions upon Owners to maintain and repair their Lots or Unit.

3.6. Limitation of Liability. The Committee will use reasonable judgment in accepting or disapproving all plans and specifications submitted to it. Neither the Committee, the Association, the Board, nor any individual Committee member will be liable to any person for any official act of the Committee in connection with submitted plans and specifications. Approval by the Committee does not necessarily assure approval by the appropriate governmental board or commission for the City of Salida. Notwithstanding that the Committee has approved plans and specifications, neither the Committee nor any of its members will be responsible or liable to any Owner, developer or contractor with respect to any loss, liability,

claim, or expense which may arise by reason of such approval or denial of the construction of the Improvements. Neither the Board, the Design Review Committee, nor any agent thereof, or any consultants hired by the Board or the Design Review Committee will be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Cottonwood Green Association Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the Committee will be defended and indemnified by Cottonwood Green Association, Inc. in any such suit or proceeding which may arise by reason of the Committee's decision.

### 3.7. Enforcement.

3.7.1. Inspection. Any member or authorized consultant of the Design Review Committee, or any authorized officer, Director, employee or agent of Cottonwood Green Association, Inc. may enter upon any Lot or Unit at any reasonable time after notice to the Owner, without being deemed guilty of trespass, in order to inspect Improvements constructed or under construction on the Lot or Unit to determine whether the Improvements have been or are being built in compliance with the Cottonwood Green Association Documents and the plans and specifications approved by the Design Review Committee.

3.7.2. Completion of Construction. Before any Improvements on a Lot or Unit may be occupied, the Owner of the Lot or Unit will be required to obtain a temporary certificate of compliance issued by the Design Review Committee indicating substantial completion of the Improvements in accordance with the plans and specifications approved by the Committee, and imposing such conditions for issuance of a final certificate of compliance issued by the Design Review Committee as the Committee may determine appropriate in its reasonable discretion. Without limiting the generality of the preceding sentence, the Committee may require that the Owner deposit with the committee such sums as may be necessary to complete the construction and landscaping on the Lot or Unit by a specified date. If the construction and landscaping is not completed as scheduled, the Committee may apply the deposit to cover the cost of completing the work and enforce such other remedies as are available to Cottonwood Green Association, Inc. for the failure of the Owner to comply with these covenants, including without limitation the remedies set forth in Section 3.7.3.

3.7.3. Certificate of Compliance. Upon completion of construction, the Committee will issue an acknowledged certificate of compliance setting forth generally whether, to the best of the Committee's knowledge, the Improvements on a particular Lot or Unit are in compliance with the terms and conditions of the Design Guidelines.

(i) Fines for Violations. The Board may adopt a schedule of fines for failure to abide by the Committee rules and the Design Guidelines, including fines for failure to obtain any required approval from the Committee. Fines shall be imposed only in accordance with the Association's Responsible Governance Policies.

(ii) Removal of Nonconforming Improvements. Cottonwood Green Association, Inc., upon request of the Committee and after reasonable notice to the offender and,

if different, to the Owner, may enter upon any Lot or Unit at any reasonable time after notice to the Owner, without being deemed guilty of trespass, and remove any Improvement constructed, reconstructed, refinished, altered, or maintained in violation of these Covenants. The Owner of the Improvement will immediately reimburse Cottonwood Green Association, Inc. for all expenses incurred in connection with such removal. The Association shall not take action under this paragraph without first giving the Owner notice and a hearing in accordance with the Association's Responsible Governance Policies.

3.8. Continuity of Construction. All Improvements commenced on the Lot or Unit will be prosecuted diligently to completion and will be completed within eighteen (18) months after commencement, unless an exception is granted in writing by the Committee. If an Improvement is commenced and construction is then abandoned for more than ninety (90) days, or if construction is not completed within the required eighteen (18) month period, then after notice and opportunity for hearing, Cottonwood Green Association, Inc. may impose a fine of not less than \$100.00 per day (or such other reasonable amount as Cottonwood Green Association, Inc. may set) to be charged against the Owner of the Lot or Unit until construction is resumed, or the Improvement is completed, as applicable, unless the Owner can prove to the satisfaction of the Board of Directors that such abandonment is for circumstances beyond the Owner's control.

#### 4. PROPERTY USE RESTRICTIONS

4.1. General Restriction. The Property will be used only for the purposes set forth in these Covenants, as permitted by the applicable ordinances of the City of Salida and the laws of the State of Colorado and the United States, and as set forth in the Cottonwood Green Association Documents or other specific recorded covenants affecting all or any part of the Property.

##### 4.2. Residential Use of Lots and Units.

4.2.1. Lots and Units and improvements located thereon may only be used for residential purposes.

4.2.2. Subject to Board approval on an annual basis, residential purposes may include home occupations and long term rentals (for a lease term of no less than 12 months) of Lot or Unit improvements for residential purposes. Other restrictions and limitations on the use of any part of any Lot or Unit or structure thereon for rentals may be adopted by the Board in Rules and Regulations of the Association. No business may be conducted on any Lot or within any Unit, except an Owner or occupant residing on a Lot or within a Unit may conduct business activities within the residence so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the residence; (ii) the business activity conforms to all zoning requirements for the Subdivision; (iii) the business activity does not involve door-to-door solicitation of residents of the Subdivision; (iv) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in the Subdivision which is noticeably greater than that

which is typical of residences in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of the Subdivision and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety or other residents of the Subdivision, as may be determined in the sole discretion of the Board. The terms “business” and “trade,” as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation; work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

4.3. Residences, Outbuildings, and Garages.

4.3.1. Single-family residences constructed on any Lot shall be required to contain a minimum square footage of 1,800 square feet of living area exclusive of decks, porches, and garages. Any permitted structure containing more than one single-family dwelling unit (as set forth in Section 1.5 above) shall have a minimum square footage of 1,400 square feet per dwelling unit exclusive of decks, porches, and garages. Other conditions, restrictions, and limitations regarding minimum square footage may be set forth in the Design Guidelines.

4.3.2. No exterior surface of any residence, or structure, constructed on any Lot may be of metal construction. All roofing shall be finished with tile material, in compliance with the Design Guidelines, and approved by the Design Review Committee.

4.3.3. No mobile home, portable home, or modular home shall be permitted to be placed on any Lot.

4.3.4. No residence shall be occupied prior to completion, and there shall be no temporary living quarters constructed on any Lot. No trailer, basement, tent, shack, garage, barn or other outbuilding erected on any Lot shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence. However, accessory dwelling units may be permitted by the Design Review Committee in accordance with the City of Salida Land Use Code. Any such accessory dwelling unit shall not be rented to anyone other than members of the Owner’s family.

4.3.5. The design of garages shall be governed by the Design Guidelines. Garages which protrude excessively from the main structure and otherwise dominate the front elevation shall be prohibited. The design, placement, and location of any detached garage must be approved by the Committee in accordance with the Design Guidelines.

4.3.6. The height of all residences and other structures shall be governed by the restrictions and limitations set forth in the Design Guidelines.

4.3.7. Outbuildings, including, but not limited to, gazebos, tool sheds, and greenhouses, shall not be constructed on any Lot unless approved by the Committee in accordance with the Design Guidelines.

4.3.8. All permitted structures located on a Lot shall be of similar design and construction so that their appearance is reasonably uniform within the Lot.

4.4. Building Envelope Area and Driveways. All Lots and Units shall be subject to the setbacks and/or building envelope area restrictions as shown on the plat. All buildings and structures shall be limited to said building envelope area. Each Lot shall be permitted one driveway not to exceed 16 feet in width where the driveway intersects the street. Driveways shall intersect the street at a 90 degree angle. Driveways shall be concrete only; asphalt driveways shall not be permitted. The Board may adopt additional provisions in the Design Guidelines regarding the placement of driveways for single family Lots and for the condominium Units. Said guidelines may include additional landscaping requirements connected to driveway borders and setbacks of driveways from side Lot lines.

4.5. Fencing. The design, material, height, location and construction of all fences must be approved by the Design Review Committee. Permitted fencing shall comply with City of Salida regulations. Fencing must be aesthetically pleasing and be of similar design to all other fencing within the Subdivision.

4.6. No Partition or Subdivision. No action shall be brought for partition or subdivision of a Lot or Unit between or among the Owners thereof. Each Owner hereby expressly waives any and all such rights of partition or subdivision he may have by virtue of his ownership of a Lot or Unit. Nothing in this subsection shall prohibit an Owner from subdividing a Lot or Unit for the sole purpose of annexing all subdivided portions of such Lot or Unit to other adjacent Lots or Units, in which event each newly created Lot or Unit shall continue to have an equal share of the common expenses.

4.7. Combining Lots or Units. Combining Lots or Units shall not be permitted without written approval of the Board. If an Owner combines two or more Lots or Units with the intent of creating one Lot or Unit therefrom, the resulting Lot or Unit shall continue to have the full share of Common Expenses originally assigned to the Lots or Units so combined.

4.8. Maintenance Guidelines.

4.8.1. All portions of a Lot which are not improved by an impervious surface or a structure must be maintained with landscaping, which may include xeriscaping, approved by the Committee. No bare earth may be exposed on a Lot (except for flower beds or vegetable gardens with appropriate approvals as required).

4.8.2. All turf areas on a Lot must be kept neatly mowed during the growing season. Grass should not be permitted to exceed six (6) inches in height.

4.8.3. Turf areas and other vegetation should be watered during dry periods. Any dead or diseased plants, shrubs or trees should be immediately removed.

4.8.4. Turf areas should be kept as weed free as possible. At no time should weed cover exceed more than twenty-five percent (25%) of the total turfed area.

4.8.5. Construction materials required for the improvement of a Lot or Unit should be neatly stored in as unobtrusive a location on the Lot or Unit as possible when not in use.

4.8.6. All hedges, trees and shrubs must be neatly trimmed and maintained, and their size maintained in proportion to the Lot and improvements on the Lot through pruning.

4.8.7. The exterior of a home must be maintained in an attractive manner. No significant blistering or peeling of exterior painted surfaces is permitted.

4.8.8. Any exterior building components (i.e., siding, gutters and downspouts, roof shingles, windows and doors) which are missing, broken or otherwise in a state of disrepair must be repaired as quickly as possible.

4.9. Motorized Vehicles. No trucks, motorized trail bikes, recreational vehicles, motor homes, motor coaches, snowmobiles, campers, trailer, boats or boat trailers or similar vehicles, or any other motorized vehicles other than passenger automobiles or pickup or utility trucks with a capacity of one ton or less, will be parked, stored or in any manner kept or placed on any portion of a Lot except in an enclosed garage. Notwithstanding this restriction, the Design Committee may grant exception(s) where it is deemed that the vehicle is in harmony with its surroundings.

4.9. Abandoned, Inoperable, or Oversized Vehicles. No abandoned or inoperable vehicles of any kind will be stored or parked on any portion of a Lot, except as provided below. "Abandoned or inoperable vehicle" is defined as any vehicle which has not been driven under its own propulsion for a period of three (3) weeks or longer; provided, however, this will not include vehicles parked by Owners while on vacation or residing away from Cottonwood Green Subdivision. A written notice describing the "abandoned or inoperable vehicle" and requesting its removal may be personally served upon the Owner or posted on the unused vehicle. If such vehicle has not been removed with seventy-two (72) hours after notice has been given, the Association will have the right to proceed with the enforcement process pursuant to the Association's Responsible Governance Policies. All unsightly or oversized vehicles, snow removal equipment, garden maintenance equipment, and all other unsightly equipment and machinery may be required by the Board of Directors to be stored at a designated location or locations. "Oversized" vehicles, for purposes of this Section, will be vehicles which are too high to clear the entrance to a residential garage.

4.10.1. Notwithstanding the foregoing in Sections 4.9 and 4.10, an Owner may park a motor vehicle on a Lot, street, parking space, or guest parking area in

the Subdivision if the vehicle is required to be available at designated periods at the Owner's residence as a condition of the Owner's employment and all of the following criteria are met:

- (i) The vehicle has a gross vehicle weight rating of ten thousand pounds or less;
- (ii) The Owner is a bona fide member of a volunteer fire department or is employed by a provider of emergency firefighting, law enforcement, ambulance, or emergency medical services; and;
- (iii) The vehicle bears an official emblem or other visible designation of the emergency service provider; and
- (iv) Parking of the vehicle can be accomplished without obstructing emergency access or interfering with the reasonable needs of other unit owners to use streets and driveways within the common interest community.

4.11. Electrical, Television and Telephone Service. All electrical, television and telephone service installations will be placed underground.

4.12. Animals and Pets. The raising, breeding or keeping animals, livestock or poultry of any kind is prohibited, except that a reasonable number of dogs, cats or other usual and common household pets (as determined by the Board in its absolute and sole discretion) may be permitted for non-commercial purposes; however, no Owner shall keep more than the number of pets within the Lot or Unit than is allowed by the city of Salida. Those pets which are permitted to roam free, or, in the discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to other Lot or Unit Owners or adjoining landowners, shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet after notice and hearing in accordance with the Association's Responsible Governance Policies. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed and inoculated as required by law. Owners shall regularly pick up after their animals.

4.13. Animal Housing. The Committee will consider requests for structures for the care, housing or confinement of generally recognized domestic animals, under appropriate circumstances. Visual impact of such structures and the proximity to neighboring properties are of primary concern. If approved, housing for pets shall be located in the rear yard and normally adjacent to the owner's dwelling. Residents are to ensure that odors caused by their pets do not affect adjacent residents. Approved structures shall be well maintained, and the surrounding areas are to be kept neat, clean, attractive and unobtrusive. Dog runs of any type, including cage or cable, will not be approved.

4.14. Drainage. No Owner will do or permit any work, place any landscaping or install any other Improvements or cause or suffer the existence of any condition whatsoever which will



alter or interfere with the drainage pattern for the Lot, except to the extent such alteration and drainage pattern is approved in writing by the Committee or the Board of Directors.

4.15. Trash and Garbage. No lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials, scrap, refuse, garbage or trash shall be kept, stored or allowed to accumulate on any portion of Cottonwood Green except between regular garbage pickups and within enclosed structures or appropriately screened from view. Trash containers and/or recycling bins shall not be left in any other location such as the driveway, on the front porch stoop, in front of the garage, in the side yard, or in the front yard for any extended period of time. Trash and trash containers and recycling bins for pick-up should be placed in the pick-up location for the shortest time reasonably necessary to affect collection and then returned to their storage location as soon as possible, but in any event, no later than the evening of the day of pick-up. Trash containers shall be placed in front of properties no sooner than the evening before the scheduled pickup. Homeowners are responsible for ensuring that all household trash and recycling material left out for pick up is secured in such a manner that they do not litter the surrounding areas. During the construction of any structure, building materials shall be stored in an orderly fashion. Scrap and refuse shall be promptly collected in bins and dumpsters and promptly removed from Lots. The Board may adopt additional rules or Design Guidelines which pertain to management of construction sites.

4.16. Composting. All compost bins will require approval by the Committee, and will be considered based on location, materials, style, size and color. All compost will be self-contained. Composting containers are to be located as inconspicuously as possible on the property. Residents are to ensure that odors caused by their composting activities do not affect adjacent residents.

4.17. Dumping. Dumping grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances in any drainage ditch, stream, pond or lake or elsewhere within the Subdivision is prohibited, except that fertilizers may be applied to landscaping provided care is taken to minimize runoff.

4.18. Firewood. Any and all firewood located on property within Cottonwood Green shall be neatly stacked as inconspicuously as possible, with individual stacks not to exceed four feet in height. Firewood should be located inside property boundaries and in the rear yard. Firewood should be stacked inside exterior fencing where it exists.

4.19. Signage. Permitted signs shall include those placed by builders, “for sale” signs maintained by an Owner or real estate brokerage firm, and name and address signs with lettering not to exceed four inches (4”). The Association shall not regulate signs based on subject matter, message, or content, except that commercial signs shall be prohibited. Notwithstanding the foregoing, the Association may establish reasonable, content-neutral sign rules based on the number, placement, or size of signs or other objective factors. The placement of signs and their regulation must at all times comply with CCIOA and local ordinances and regulations.

4.20. Outside Clotheslines. Laundry or wash dried or hung outside any Building will be screened from the road(s) and public's view.

4.21. Antennae. No towers or exposed radio, television, or other electronic antennae shall be allowed on any parcel, except for satellite dishes or similar antennae which when installed are less than thirty-six (36) inches in diameter and directly attached to the exterior of the residence. However, if any such dish or similar antennae can be viewed from the street, the dish or similar antennae must be approved by the Design Review Committee prior to installation.

4.22. Lighting. All exterior lights and light standards on parcels shall comply with the exterior lighting plan set forth in the Design Guidelines and shall be subject to approval by the Design Review Committee for harmonious development and the prevention of lighting nuisances to other parcels within the Property. No light shall be emitted from any location within the Subdivision which is unreasonably bright or causes unreasonable glare. All exterior lights shall be fully shielded from above, and directed downward only, to reduce excessive glare and light trespass to adjoining property. The Design Review Committee shall interpret and enforce this paragraph.

4.23. Chemicals. No chemicals or other products detrimental to water quality shall be used on the Lots or within Units or on General Common Areas. Owners are encouraged to limit the use of household chemicals.

4.24. House Numbers. Each dwelling unit will have a house number with a design and location approved by the Committee.

4.25. Mailboxes. Owners shall not place mailboxes in the front yard of the dwelling unit. The Association shall maintain mailbox facilities at the north end of the subdivision in the Common Area near the corners of Lots 22 and Lot 23.

4.26. Nuisance. No activity shall be conducted which generates noises which are excessively loud, odors which are offensive, nor any activity be conducted which is or may become a nuisance or cause significant disturbance or annoyance to others. No activity shall be conducted within the Subdivision and no improvements may be constructed within the Subdivision which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no hunting shall be allowed within the Subdivision, and no firearms shall be discharged within the Subdivision; and no open fire shall be lighted or permitted within the Subdivision except (i) in a contained barbecue unit while attended in such unit and used for cooking purposes, or (ii) within a safe and well-designed interior stove or fireplace, or exterior patio fireplace or stove. Outside burning of trash, leaves, debris or other materials shall be strictly prohibited. The use and discharge of firecrackers and other fireworks is prohibited. No owner of any Lot or Unit shall cause, permit, or allow anything which will increase the rate charged for or cause the cancellation of any insurance maintained by the Association, or any activity which would violate any law. Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort,

annoyance or nuisance to persons using the Common area or to the occupants of other Lots or Units is prohibited.

4.27. Sound. The use or discharge of any radio, loudspeaker, horn, whistle, bell or other audio equipment or sound device so as to be audible to occupants of other Lots or Units are strictly prohibited except alarm devices used exclusively for security purposes.

4.28. Swimming Pools. No above-ground pools will be permitted, with the exception of children's wading pools.

4.29. Mining. No portion of the Subdivision shall be used for purposes of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, or earth.

## 5. ASSESSMENTS

5.1. Personal Obligation for Assessments. Each Owner of any Lot or Unit, by accepting a deed for a Lot or Unit, is deemed to covenant to pay to the Association (a) the Annual Assessments imposed by the Board as necessary to fund the maintenance and insurance of the Common Areas (as shown on the Plat of the Property) and to generally carry out the functions of the Association; (b) Special Assessments for capital improvements and other purposes as stated in this Declaration; and (c) Default Assessments which may be assessed against a Lot or Unit pursuant to Association Documents for the Owner's failure to perform an obligation under Association Documents or because the Association has incurred an expense on behalf of the Owner under Association Documents.

5.2. Annual Assessments. The Board shall adopt an annual budget each year to serve as the basis for the establishment of the Annual Assessments. The Board shall prepare and adopt a proposed annual budget not less than ninety (90) days prior to the commencement of each fiscal year. After the Members consider the budget in accordance with 5.3. below, the Board shall adopt a final budget and shall determine, levy, and assess the Assessments for the following year in accordance with the Colorado Common Interest Ownership Act. The budget and the Annual Assessments for Common Expenses will be based upon the estimated net cash flow requirements of the Association to cover items including, without limitation, the cost of routine maintenance, repair and operation of the Common Areas; expenses of management; premiums for insurance coverage as deemed desirable or necessary by the Association; landscaping, care of grounds and common lighting within the Common Areas and/or the Lots, if such maintenance and care is provided by the Association; routine renovations within the Common Areas; wages of agents and employees; common water and utility charges for the Common Areas; legal and accounting fees; management fees; expenses and liabilities incurred by the Association under or by reason of this Declaration; payment of any deficit remaining from a previous Assessment period; and the supplementing of the reserve fund for general, routine maintenance, repairs and replacement of improvements within the Common Areas on a periodic basis.

5.3. Approval of Budget. Within ninety (90) days after adoption of any proposed budget for the common interest community, the Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the Owners (which may be by email or posting on the Association's website) and shall set a date for a meeting of the Owners to consider the budget. The Board shall give notice to the Owners of the meeting as provided for in the Bylaws and the CRNCA, and the meeting shall take place within the minimum and maximum times set forth in the Bylaws and the CRNCA. The budget proposed by the Board does not require approval from the Owners and will be deemed ratified by the Owners in the absence of a veto at the noticed meeting by a majority of all of the Owners of Lots and Units within the Property, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the Board and not vetoed by the Owners must be continued until a subsequent budget proposed by the Board is not vetoed by the Owners.

5.4. Apportionment of Annual Assessments.

5.4.1. Each Owner will be responsible for that Owner's share of the Common Expenses. As a general rule, Common Expenses will be divided equally among the Lots and Units included in the Property under this Declaration. Accordingly, at any given time, an Owner's share of Common Expenses will be determined as a fraction, the numerator of which is the number of Lots and Units owned by the Owner, and the denominator of which is the number of Lots and Units then platted and incorporated in the Property.

5.4.2. The Association shall have the authority to allocate certain expenses on a basis other than the equal allocation set forth in 5.4.1 when equal allocation would be inequitable or unreasonable. In general, (i) any Common Expense, fee for services, or portion thereof benefiting fewer than all of the Lots and Units shall be assessed exclusively against the Lots or Units or benefited; (ii) any Common Expense, fee for services, or portion thereof benefitting Lots or Units in a manner that is not substantially equal shall be assessed in a manner that reasonably relates to each Lot or Unit's proportionate share of usage or services; and (iii) if any Common Expense is caused by the misconduct or negligence of any Lot or Unit owner, the Association may assess that expense exclusively against such Owner's Lot or Unit. The Association shall have the authority to adopt rules or policies related to allocation of Common Expenses and fees for services.

5.5. Collection. Annual Assessments will be collected annually, biannually, quarterly, or monthly, as the Board may determine, and are due on the date set forth in the assessment notice delivered to the Owners.

5.6. Special Assessments.

5.6.1. Determination by Board. The Board may levy in any fiscal year one or more Special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal

property related thereto, or after adopting and submitting a revised budget to the Association as may be required by CCIOA, to make up any shortfall in the current year's budget.

5.6.2. Notice. Notice of the amount and due dates for such Special Assessments must be sent to each Owner at least thirty (30) days prior to the due date.

## 6. ENFORCEMENT OF ASSESSMENTS

6.1. Nonpayment of Assessments. Any Assessment, whether Regular, Special, or Default Assessment, which is not paid within thirty (30) days of the due date, or such other time period as may be established in the Association's Rules and/or Responsible Governance Policies shall be deemed delinquent. In the event that any Assessment becomes delinquent, the Association shall follow the procedure set forth in the Association's Responsible Governance Policies, which shall comply and be adopted in accordance with Colorado Revised Statutes § 38-33.3-209.5, as amended. After providing Notice of Delinquency and an opportunity to cure as provided in the Responsible Governance Policies, if an Owner fails to cure the delinquency, the Board may take any or all of the following actions:

6.1.1. Assess a late charge, to be determined by the Board and set forth in the Association's Responsible Governance Policies or the maximum allowed by Colorado law, whichever is lower, on the amount due and owing per each delinquency;

6.1.2. Assess an interest rate charge from the date of delinquency at a rate determined by the Board and set forth in the Association's Responsible Governance Policies or the maximum allowed by Colorado law, whichever is lower;

6.1.3. Suspend the voting rights of the Owner during any period of delinquency, subject to the requirements of CCIOA and the Association's Responsible Governance Policies;

6.1.4. Bring an action against any Owner personally obligated to pay the delinquent Assessment, subject to the requirements of CCIOA and the Association's Responsible Governance Policies;

6.1.5. File a Statement of Lien with respect to the Lot or Unit and foreclose such lien in the manner hereafter set forth. The Association may file a Statement of Lien by recording with the Clerk and Recorder of Chaffee County, Colorado, a written statement with respect to the Lot or Unit, setting forth the name of the Owner, the legal description of the Lot or Unit, the name of the Association and the amount of the delinquent Assessments then owing. The Statement of Lien shall be signed and acknowledged by the President, Vice President, or Secretary of the Association, and shall be sent by certified mail, postage prepaid, to the Owner of the Lot or Unit at the latest address the Association may have in its records as to the Owner. Such Statement of Lien shall secure all Assessments accruing or assessed subsequent to the date of recording of such Statement of Lien until the same have been satisfied and released, together with the Association's attorneys' fees and cost incurred in the preparation and recording of such Statement of Lien and any release thereof; and/or

6.1.6. Foreclose the Lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Colorado. Provided, however, no action to foreclose shall be commenced unless the Association has followed the procedures set forth in the Association's Responsible Governance Policies, and unless the balance of the assessments and charges secured by the Lien equals or exceeds six months of common expense assessments based on a periodic budget adopted by the Association. Prior to bringing any such action, the Board must formally resolve, by a recorded vote, the filing of a legal action against the specific Lot or Unit on an individual basis. In any action for the payment or foreclosure of such Assessment, the Association shall be entitled to recover as part of the action, the interest, costs, and reasonable attorneys' fees with respect to the action.

6.2. Successors' Liability for Assessments. In addition to the personal obligation of each Owner of a Lot or Unit to pay all Assessments and the Association's lien on a Lot or Unit for such Assessments, all successors to the ownership of a Lot or Unit shall be jointly and severally liable with the prior Owner for any and all unpaid Assessments, interest, costs, expenses, and attorneys' fees against such Lot or Unit.

6.3. Liens for Unpaid Assessments.

6.3.1. The Association has a statutory lien on a Lot or Unit for Assessments levied against the Lot or Unit or fines imposed against its Owner from the time the Assessment or fine becomes due. Fees, charges, late charges, fines, and interest charged pursuant to CCIOA and the Association Documents are also enforceable as Assessments under this Section. If an Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations. Recording of the Declaration constitutes record notice and perfection of the lien. Further recording of a claim of lien for an Assessment is not required.

6.3.2. As provided in CCIOA, a lien under this Section is prior to all other liens and encumbrances on a Lot or Unit except: (a) liens and encumbrances recorded before the recordation of the Declaration; (b) a first Security Interest on the Lot or Unit recorded before the date on which the Assessment sought to be enforced became delinquent; and (c) liens for real estate taxes and other governmental assessments or charges against the Lot or Unit. A lien under this Section is also prior to all Security Interests described in subdivision (b) of this subsection to the extent that the Assessments are based on the periodic budget adopted by the Association pursuant to Section 5.2.1 and would have become due in the absence of acceleration, during the six (6) months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association's lien of an action or a non-judicial foreclosure either to enforce or extinguish the Association's lien. This subsection does not affect the priority of mechanic's or materialmen's liens or the priority of a lien for other assessments made by the Association. A lien under this Section is not subject to the exemptions provided by Colorado homestead laws, which are specifically waived by an Owner as evidenced by acceptance of a deed to a Lot or Unit.

## 7. INSURANCE AND ASSUMPTION OF RISK

7.1. Authority to Purchase. The Board, or its duly authorized agent, shall have the authority and the duty to purchase insurance policies on behalf of the Association in accordance with the provisions of CCIOA and the terms of this Declaration. The Board will not be liable for failure to obtain any coverage required by this Section or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at demonstrably unreasonable costs. Notwithstanding the foregoing, if the insurance described in Sections 7.2 and 7.3 below is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy having been obtained, the Association promptly will cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners and any other parties in interest.

7.2. General Insurance Provisions. All such insurance coverage obtained by the Board will be governed by the following provisions:

7.2.1. The deductible, if any, on any insurance policy purchased for the benefit of the Association may be treated as a Common Expense payable from Annual Assessments or Special Assessments (allocable to all of the Lots and Units or to only some of the Lots and Units, if the claims for damages arise from the negligence of particular Owners, or if the repairs benefit only particular Owners), or as an item to be paid from working capital reserves established by the Board.

7.2.2. Any loss covered by the physical damage insurance policy described in Section 7.3 must be adjusted with the Association or its agent, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, Owners, and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the common interest community is terminated.

7.3. Physical Damage Insurance on Common Areas. The Association will obtain insurance for all insurable common improvements, if any, in an amount equal to the full replacement value (i.e., 100% of the current "replacement cost" exclusive of land, foundation, excavation, depreciation on personal property, and other items normally excluded from coverage), which will include all buildings, building service equipment and the like, common personal property and supplies, and any common fixtures or equipment. In addition, such policy will afford protection against at least the following:

7.3.1. Loss or damage by fire and other hazards covered by the standard extended coverage endorsement with the standard "all-risk" endorsement covering sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damage.

7.3.2. Such other risks as will customarily be covered with respect to projects similar in construction, location, and use to the Property.

7.4. Liability Insurance. The Association will obtain a comprehensive policy of commercial general liability insurance (including libel, slander, false arrest, and invasion of privacy coverage) and property damage insurance with such limits as the Board may determine, insuring each member of the Board, the Association and the respective employees, agents, and all persons acting as agents against any liability to the public or the Owners (and their guests, invitees, tenants, agents, and employees) arising in connection with the ownership, operation, maintenance, or use of the Common Areas within the Property and any other areas under the control of the Association. The Owners will be included as additional insureds, but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Areas. The Board will review the coverage limits at least once every two years, but generally the Board will carry such amounts of insurance usually required by private institutional mortgage lenders on projects similar to the Property, and in no event will such coverage be less than \$1,000,000.00 for all claims for bodily injury or property damage arising out of one occurrence.

7.5. Fidelity Insurance. The Association shall obtain fidelity insurance that meets or exceeds the requirements of CCIOA. If the Property consists of thirty 30 or more Lots and Units, and any Owner or employee of the Association controls or disburses funds of the Association, the Association must obtain and maintain fidelity insurance, to the extent reasonably available, and the coverage amount shall be not less than two month's current assessments plus reserves, as calculated from the current budget of the Association.

7.6. Provisions Common to Physical Damage Insurance, Liability Insurance, and Fidelity Insurance. Any insurance coverage obtained by the Association under the provisions of this Section above will be subject to the following provisions and limitations:

7.6.1. The named insured under any such policies will include the Association, as attorney-in-fact for the Owners, or the authorized representative of the Association (including any trustee with whom the Association may enter into any insurance trust agreement, or any successor trustee, each of which is sometimes referred to in this Declaration as the Insurance Trustee), who will have exclusive authority to negotiate losses under such policies.

7.6.2. Each Owner will be an insured person with respect to liability arising out of the Owner's interest in the Common Areas or membership in the Association.

7.6.3. In no event will the insurance coverage obtained and maintained pursuant to this Section be brought into contribution with insurance purchased by the Owners or their Mortgagees.

7.6.4. The policies will provide that coverage will not be prejudiced by (a) any act or neglect of any Owner (including an Owner's family, tenants, servants, agents, invitees and guests) when such act or neglect is not within the control of the Association, or (b) any act or



neglect or failure of the Association to comply with any warranty or condition with regard to any portion of the Property over which the Association has no control.

7.6.5. The policies will contain the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Property is located, and provide that coverage may not be cancelled in the middle or at the end of any policy year or other period of coverage or substantially modified or reduced (including cancellation for nonpayment of premiums) without at least thirty (30) days' prior written notice mailed to the Association and to each Owner, Mortgagee to whom a certificate or memorandum of insurance has been issued, at their respective last known address.

7.6.6. The policies will contain a waiver by the insurer of any right to claim by way of subrogation against the Board, the Association, the Manager, and any Owner and their respective agents, employees, or tenants, and in the case of Owners, members of their households.

7.6.7. The policies described in Sections 7.3 and 7.4 above will provide that any "no other insurance" clause will expressly exclude individual Owners' policies from its operation so that the physical damage policy or policies purchased by the Board will be deemed primary coverage, and any individual Owners' policies will be deemed excess coverage.

7.7. Personal Liability Insurance of Officers and Directors. To the extent obtainable at reasonable cost, appropriate officers' and directors' personal liability insurance will be obtained by the Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and directors on behalf of the Association.

7.8. Workers' Compensation Insurance. The Association will obtain workers' compensation or similar insurance with respect to its employees, if any, in the amounts and forms as may now or hereafter be required by law.

7.9. Other Insurance. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it deems appropriate with respect to the Association's responsibilities and duties.

7.10. Insurance Obtained by Owners. Each Owner will have the right to obtain insurance for such Owner's benefit, at such Owner's expense, covering the Owner's Lot or Unit and improvements, personal property and personal liability. However, no insurance coverage obtained by an Owner will operate to decrease the amount which the Board, on behalf of all Owners, may realize under any policy maintained by the Board or otherwise affect any insurance coverage obtained by the Association or cause the diminution or termination of that coverage. Any such insurance obtained by an Owner will include a waiver of the particular insurance company's right of subrogation against the Association and other Owners, if reasonably available.

7.11. Limitation of Liability. Neither the Association nor any officer or Board Director or Committee member will be liable to any party for any action or failure to act with respect to any matter arising by, through or under Association Documents if the action or failure to act was made in good faith. The Association will indemnify all of the officers, Directors, ACC members, and other Committee members with respect to any act taken in their official capacity to the fullest extent provided by law, and as further provided in the Association Documents.

## 8. ROADS AND EASEMENTS

8.1. Future Street Connection. The roads within the subdivision are public roads and the applicable governing authorities may grant use of the roads to serve property which adjoins the subdivision. The Association may not regulate the use of the public roads.

8.2. Utility Easements. In accordance with the Original Declaration, there is a general easement upon, across, in, and under the Property for ingress and egress and for installation, repair, maintenance, and replacement of all utilities, including but not limited to water, sewer, gas, telephone, electrical, television and a master communications system, limited to underground utilities only. By virtue of this easement, it will be expressly permissible and proper for the companies providing electrical, television, telephone and other communication services to install and maintain necessary equipment on the property and to affix and maintain electrical, television, communications, and telephone wires, circuits, and conduits under the Property. Any utility company using this general easement will use its best efforts to install and maintain the utilities provided for without disturbing the uses of the Owners or Cottonwood Green Association, Inc.; will prosecute its installation and maintenance activities as promptly and expeditiously as reasonably possible; and will restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by the general easement request a specific easement by separate recordable document, Cottonwood Green Association, Inc. will have, and is hereby given, the right and authority to grant such easement upon, across, or under any part or all of the Property without conflicting with the terms of this Declaration. This general easement will in no way affect, avoid, extinguish, or modify any other recorded easement on the Property.

8.3. Maintenance Easement. In accordance with the Original Declaration, Cottonwood Green Association, Inc., and any Board Director, and their respective officers, agents, employees and assigns, has an easement upon, across, over, in and under the Property and a right to make such use of the Property as may be necessary or appropriate to make emergency repairs to perform the duties and functions which Cottonwood Green Association, Inc. is obligated or permitted to perform pursuant to the Cottonwood Green Documents, including the right to enter upon any Lot or Unit for the purpose of performing maintenance to the landscaping or the exterior of Improvements to such Lot or Unit, as required by the Cottonwood Green Documents.

8.4. Drainage Easement. In accordance with the Original Declaration, Cottonwood Green Association, Inc., its officers, agents, employees, successors and assigns to enter upon, across, over, in, and under any portion of the Property for the purpose of changing, correcting, or

otherwise modifying the trade or drainage channels of the Property so as to improve the drainage of water. Reasonable efforts will be made to use this easement so as not to disturb the uses of the Owners and Cottonwood Green Association, Inc., as applicable, to the extent possible; to prosecute such drainage work promptly and expeditiously; and to restore any areas affected by such work to a sightly and usable condition as soon as reasonably possible following such work.

8.5. Emergency Access Easement. In accordance with the Original Declaration, a general easement was granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon the Property in the proper performance of their duties.

8.6. Easements. Each Lot or Unit within Cottonwood Green Subdivision shall be encumbered by perpetual non-exclusive easements as shown or described on the Plat. Easements for installation or maintenance of utilities and irrigation ditch improvements are reserved as shown on the recorded Plat. Within these easements and the Briscoe irrigation ditch easement, no structures, obstructions, planting, or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the ditch or lateral, or which may change the directional flow of irrigation ditch in the easement, or may obstruct or retard the flow of water through the irrigation ditch, and or the easement. The easement area of each parcel and all improvements in it shall be maintained continuously by the Owner of the parcel, except for those improvements for which a public authority or utility company is responsible. The owners of the irrigation ditches have the right to ingress and egress in the designated access points to maintain and improve their irrigation ditch as well as an easement for access and egress to the designated access points as described on the Plat. The Association shall not be liable for any claims for injury or damage to person or property brought by Lot or Unit Owner(s), family members, guests, invitees, licensees, and any other persons arising out of the use of or in any way associated with the Briscoe irrigation ditch.

9.7. Golf Course Easements. Every Lot and the Common Areas are burdened with an easement permitting golf balls to unintentionally come upon such areas, and for golfers at reasonable times and in a reasonable manner to come upon the Common Areas or the exterior portions of a Lot to retrieve errant golf balls; provided, however, if any Lot is fenced or walled, the golfer shall seek the Owner's permission before entry. Golfers shall not be liable for damage caused by errant golf balls, unless due to the reckless, wanton or deliberate actions of a golfer, and each Lot or Unit Owner shall maintain insurance as desired to cover any such damage. Under no circumstances shall any of the following persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: the Association or its Members (in their capacities as such); the golf course owner, its successors, successors-in-title, or assigns; any builder or contractor (in their capacities as such); any officer, Director, shareholder, or partner of any of the foregoing, or any officer or director of any partner.

9.10.1 Any portion of the Subdivision immediately adjacent to any golf course is hereby burdened with a non-exclusive easement in favor of the adjacent golf course for overspray of water from the irrigation system serving such golf course. Under no circumstances

shall the Association or the owner of such golf course be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

9.10.2 Each Owner acknowledges that by acquiring title to any Lot or Unit, or by acquiring a membership in the Association, that such Owner does not acquire any vested right or easement, prescriptive or otherwise, to use the golf course in any manner, nor does any Owner acquire any ownership or membership interest in any golf course. Owners, tenants and visitors are prohibited from entering and exiting the golf course except by the normal entrance used by other golf course paying guests. Each Owner and its tenants and visitors shall keep his, her or its pets and other animals off all golf courses (and out of any related facilities) at all times. No Owner shall (or permit his, her or its tenants and visitors, guests, invitees, employees, agents or contractors to) interfere in any way with play on the golf course (whether in the form of physical interference, noise, harassment of players or spectators, or otherwise).

## 9. ENFORCEMENT

9.1. Violation Deemed a Nuisance. Every violation of this Declaration, the Articles and Bylaws of the Association, or any Rules and Regulations adopted by the Board shall be deemed to be a nuisance and is subject to all the remedies provided for the abatement thereof, subject to the provisions of CCIOA, the Association's Responsible Governance Policies, Architectural Guidelines, and other Rules and Regulations of the Association.

9.2. Failure to Comply. The failure to comply with this Declaration, Architectural Guidelines, or any Rules and Regulations adopted by the Board shall be grounds for an action to recover damages, or for injunctive relief or for specific performance, subject to the provisions of CCIOA, the Association's Responsible Governance Policies, and other Rules and Regulations of the Association.

9.3. Who May Enforce. Any action to enforce any violation of any provision of this Declaration may be brought by the Association in name of the Association and on behalf of the Owners, or by the Owner of any Lot or Unit. Regarding restrictions and uses of the Property governed by the Town and regarding issues not specifically addressed by this Declaration, the Association and the Owners shall not have the duty nor the right to enforce any such restrictions.

9.4. No Waiver. The failure of the Board, the Association, or any Owner to enforce or obtain compliance as to any violation, shall not be deemed a waiver of the right to do so for any subsequent violation or the right to enforce any part of such documents.

9.5. Attorneys' Fees. If any legal action is commenced or maintained in court, whether in law or in equity, as to the interpretation, enforcement, construction, or the determination of the rights and duties of the parties to this Declaration for the Property or any provision of the Association Documents provided herein, the prevailing party in any such action shall be entitled to reasonable attorneys' fees together with all reasonable costs and expenses incurred in such action.

## 10. DURATION OF THESE COVENANTS AND AMENDMENT

10.1. Duration and Amendment. Subject to amendment at any time as set forth herein, the covenants, conditions, restrictions and easements of the Declaration shall run with and bind the land, in perpetuity. This Declaration may be amended, at any time, by an instrument signed by the Owners of at least sixty-seven percent (67%) of all Lots and Units or by any officer appointed by the Units to sign on behalf of the Owners of at least 67% of all Lots and Units. If an Owner consents to any amendment to this Declaration, it will be conclusively presumed that such Owner has the authority to so consent and that there is no contrary provision in any mortgage or contract between Owner and a third party that will affect the validity of such consent.

10.2. Notice of Amendment. No amendment or revocation of this Declaration will be effective unless a written notice of the proposed amendment is sent to every Owner reasonably in advance of any action taken or purported to be taken and such Owner has been given the opportunity to vote or give its consent thereto.

10.3. Effective on Recording. Any modification, amendment or revocation will be immediately effective upon recording in Chaffee County, Colorado, a copy of such amendment, modification, or revocation executed and acknowledged by the President of the Association or other Officer authorized by the Association to execute such amendment.

## 11. MISCELLANEOUS PROVISIONS

11.1. Severability. Any provision of this Declaration found to be prohibited by law or unenforceable will be ineffective to the extent of such prohibition or unenforceability without invalidating any other part hereof.

11.2. Conflicts Between Documents. In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration will control. In case of conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation will control.

ADOPTED BY THE ASSOCIATION AFTER APPROVAL OF OWNERS OF MORE THAN 67% OF THE LOTS AND UNITS IN COTTONWOOD GREEN SUBDIVISION:

SIGNATURE PAGE FOLLOWS



**EXHIBIT A  
TO  
AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR  
COTTONWOOD GREEN,  
CHAFFEE COUNTY, COLORADO**

Legal Description of the Property

**Cottonwood Green Subdivision  
Per the Plat thereof recorded at Reception No. 348399  
City of Salida, County of Chaffee, State of Colorado**