

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 on the Lot 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 owners, Declarant, or adjoining land owners, shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet. 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 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, and except for the rights reserved to Declarant to alter or change drainage patterns.

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 pick ups 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 front of your property 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 only be placed in front of properties 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 does not litter the surrounding areas.

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 on Lots 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 4 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. There shall be no exterior signage or advertising on the Lots in conjunction with any use of the Lot.

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 (including satellite dishes) shall be allowed on any parcel, except any satellite dish or similar antennae which when installed is less than thirty-six (36) inches in diameter which is directly attached to the exterior of the residence.

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 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 established by the Committee.

4.25. Mailboxes. Owners shall not place mailboxes in the front yard of the dwelling unit. The Association shall maintain a mailbox facility at the north end of the Private Park and Pathway shown on the Plat.

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 shall cause, permit, or allow anything which will increase the rate charged for or cause the cancellation of any insurance maintained by Declarant, 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 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, except alarm devices used exclusively for security purposes, are strictly prohibited.

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. OWNERS' OBLIGATIONS FOR MAINTENANCE

5.1. Owner's Responsibility for Lot. Except as provided in the Cottonwood Green Association Documents or by written agreement with Cottonwood Green Association, Inc., all maintenance of a Lot and the Improvements located on it will be the sole responsibility of the Owner of the Lot. Each Owner will maintain his Lot in accordance with the community wide standard of Cottonwood Green Subdivision. Cottonwood Green Association, Inc. will, at the discretion of the Board, assume the maintenance responsibilities of such Owner if, in the opinion of the Board, the level and quality of maintenance being provided by such Owner does not satisfy such standard.

Before assuming the maintenance responsibilities, the Board will notify the Owner in writing of its intention to do so, and if the Owner has not commenced and diligently pursued remedial action within thirty (30) days after the mailing of such written notice, then Cottonwood Green Association, Inc. will proceed. The expenses of the maintenance by the Board will be reimbursed within the thirty (30) day period that follows the Board's action.

## 6. ASSESSMENTS

6.1. Personal Obligation for Assessments. Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot, by accepting a deed for a Lot, are deemed to covenant to pay to Cottonwood Green Association, Inc. (i) the Annual Assessments imposed by the Board of Directors as necessary to fund the maintenance of the Common Areas (as shown on the Plat of Cottonwood Green Subdivision) and to generally carry out the functions of Cottonwood Green Association, Inc.; (ii) Special Assessments for capital improvements and other purposes as stated in this Declaration; and (iii) Default Assessments which may be assessed against a Lot pursuant to the Cottonwood Green Association Documents for the Owner's failure to perform an obligation under the Cottonwood Green Association Documents or because Cottonwood Green Association, Inc. has incurred an expense on behalf of the Owner under the Cottonwood Green Association Documents.

### 6.2. Annual Assessments.

6.2.1. Calculation of Annual Assessments. The Board of Directors shall prepare a budget prior to the beginning of each fiscal year of the Association, and not less than ninety (90) days prior to the commencement of each fiscal year, the Board shall adopt a final budget and shall determine, levy, and assess the Association's Assessments for the following year in accordance with the Colorado Common Interest Ownership Act as now existing or as the same may be amended, modified, or changed. Annual Assessments for Common Expenses will be based upon the estimated net cash flow requirements of Cottonwood Green Association, Inc. to cover items including, without limitation, the cost of routine maintenance, repair and operation of the Common Areas; expenses of management; and premiums for insurance coverage as deemed desirable or necessary by Cottonwood Green Association, Inc.; landscaping, care of grounds and common lighting within the Common Areas; routine renovations within the Cottonwood Green Subdivision Common Areas; wages; common water and utility charges for the Common Areas; legal and accounting fees; management fees; expenses and liabilities incurred by Cottonwood Green Association, Inc. 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.

6.2.2. Apportionment of Annual Assessments. Each Owner will be responsible for that Owner's share of the Common Expenses, which will be divided equally among the Lots included in the Subdivision under this Declaration from time to time. 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 owned by the Owner, and the denominator of which is the number of Lots then platted and incorporated in the Subdivision.

6.2.3. Collection. Annual Assessments will be collected as the Board may determine from time to time, but until the Board directs otherwise, they will be payable annually within thirty (30) days of mailing of assessment notice.

6.3. Special Assessments.

6.3.1. Determination by Board. The Board of Directors 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 Cottonwood Green Association, Inc. as may be required by the Act, to make up any shortfall in the current year's budget.

6.3.2. 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.

7. ENFORCEMENT OF ASSESSMENTS

7.1. Nonpayment of Assessments. Any Assessment, whether Regular, Special, or Default Assessment, which is not paid within thirty (30) days of the due date shall be deemed delinquent. In the event that any Assessment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

7.1.1. Assess a late charge of not more than five percent (5%) of the amount due and owing per each delinquency.

7.1.2. Assess an interest rate charge from the date of delinquency at the rate of one and one-half percent (1½ %) per month, or such other rate as shall be established by the Board of Directors.

7.1.3. Suspend the voting rights of the Owner during any period of delinquency.

7.1.4. Bring an action against any Owner personally obligated to pay the delinquent Assessment.

7.1.5. File a Statement of Lien with respect to the Lot 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, setting forth the name of the Owner, the legal description of the Lot, the name of the Association and the amount of the delinquent Assessments then owing, which Statement of Lien shall be signed and acknowledged by the President, Vice President, or Secretary of the Association and which shall be sent by certified mail, postage prepaid, to the Owner of the Lot at the latest address the Association may have in its records as to the Owner. Thirty days following the mailing of such notice, the Association may proceed to foreclose the Statement of Lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Colorado. 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. 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.

7.1.6. The Lien shall be superior to all other liens and encumbrances on such Lot, except only any tax and assessment liens levied by any government entity and the lien of any First Mortgage. Provided, however, at all times the lien of the Association shall have priority and status over any other lien or Mortgage as provided by the Colorado Common Interest Ownership Act, as it now exists and as it may hereafter be amended.

7.2. Successors' Liability for Assessment. In addition to the personal obligation of each Owner of a Lot to pay all Assessments and the Association's lien on a Lot for such Assessments, all successors to the ownership of a Lot 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.

7.3. Liens for Unpaid Assessments.

7.3.1. The Association has a lien on a Lot for an Assessment levied against the Lot or fines imposed against its Lot Owner from the time the Assessment or fine becomes due. Fees, charges, late charges, fines, and interest charged pursuant to the Act and the Documents are 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.

7.3.2. A lien under this Section is prior to all other liens and encumbrances on a Lot except: (i) liens and encumbrances recorded before the recordation of the Declaration; (ii) a first Security Interest on the Lot recorded before the date on which the Assessment sought to be enforced became delinquent; and (iii) liens for real estate taxes and other governmental assessments or charges against the Lot. A lien under this Section is also prior to all Security Interests described in subdivision (ii) of this subsection to the extent that the Assessments are based on the periodic budget adopted by the Association pursuant to Section 6.2.1 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 nonjudicial 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 a Lot Owner as evidenced by acceptance of a deed to a Lot.

### 8. INSURANCE AND ASSUMPTION OF RISK

8.1. Authority to Purchase. All insurance policies relating to Cottonwood Green Association, Inc., will be purchased by the Board of Directors or its duly authorized agent. The Board of Directors and Declarant will not be liable for failure to obtain any coverage required by this Article 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 8.3 and 8.4 below is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy having been obtained, Cottonwood Green Association, Inc. promptly will cause notice of that fact to be hand delivered to or otherwise delivered to all Owners and any other parties in interest.

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

8.2.1. The deductible, if any, on any insurance policy purchased by the Board of Directors may be treated as a Common Expense payable from Annual Assessments or Special Assessments (allocable to all of the Lots or to only some of the Lots, 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 of Directors.

8.3. Physical Damage Insurance on Common Area. Cottonwood Green Association, Inc. 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 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:

8.3.1. 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.

8.3.2. Such other risks as will customarily be covered with respect to projects similar in construction, location, and use to Cottonwood Green Subdivision.

8.4. Liability Insurance. Cottonwood Green Association, Inc. will obtain a comprehensive policy of public liability insurance (including libel, slander, false arrest, and invasion of privacy coverage) and property damage insurance with such limits as the Board of Directors may from time to time determine, insuring each member of the Board of Directors, Cottonwood Green Association, Inc. 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 Cottonwood Green Subdivision and any other areas under the control of Cottonwood Green Association, Inc. Declarant will be included in the coverage as an additional insured. 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.

Such comprehensive policy of public liability insurance will include the following:

8.4.1. Coverage for contractual liability, liability for non-owned and hired automobiles, and, if applicable, host liquor liability, employer's liability, and such other risks as will customarily be covered with respect to developments similar to Cottonwood Green Subdivision in construction, location, and use.

8.4.2. A cross liability endorsement under which the rights of a named insured under the policy will not be prejudiced with respect to an action against another insured.

8.4.3. A "severability of interest" endorsement which will preclude the insurer from denying liability coverage to an Owner because of the negligent act of Cottonwood Green Association, Inc. or another Owner.

The Board of Directors 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 Cottonwood Green Subdivision, 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. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits will also be obtained in an amount not less than \$2,000,000.00.

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

8.5.1. The named insured under any such policies will include Declarant, until all of the Lots in Cottonwood Green Subdivision have been conveyed, and Cottonwood Green Association, Inc., as attorney-in-fact for the Owners, or the authorized representative of Cottonwood Green Association, Inc. (including any trustee with whom Cottonwood Green Association, Inc. 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.

8.5.2. 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 Cottonwood Green Association, Inc.

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

8.5.4. The policies will provide that coverage will not be prejudiced by (i) 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 Cottonwood Green Association, Inc., or (ii) any act or neglect or failure of Cottonwood Green Association, Inc. to comply with any warranty or condition with regard to any portion of the Property over which Cottonwood Green Association, Inc. has no control.

8.5.5. 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 and ditch owner to whom

a certificate or memorandum of insurance has been issued, at their respective last known address.

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

8.5.7. The policies described in Sections 8.3 and 8.4 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.

8.6. 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 Cottonwood Green Association, Inc. 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 Cottonwood Green Association, Inc.

8.7. Workmen's Compensation Insurance. Cottonwood Green Association, Inc. will obtain workmen's 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.

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

8.9. 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 and Improvements, personal property and personal liability. However, no insurance coverage obtained by an Owner will operate to decrease the amount which the Board of Directors, on behalf of all Owners, may realize under any policy maintained by the Board or otherwise affect any insurance coverage obtained by Cottonwood Green Association, Inc. 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 Cottonwood Green Association, Inc. and other Owners.

8.10. Security and Safety. Each owner and occupant of a Lot, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the community. The Association may, but shall not be obligated to, maintain or support certain activities within the Subdivision designed to enhance the level of safety or security which each person provides for himself and his

property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of safety or security within the Subdivision, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Property, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and shall be responsible for informing its tenants and all occupants of its Lot that the Association, its board and committees, and Declarant are not insurers or guarantors of security or safety and that each person within the Subdivision assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

**9. SPECIAL DECLARANT RIGHTS AND  
ADDITIONAL RESERVED DEVELOPMENT RIGHTS AND EASEMENTS**

9.1. 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.

9.2. Reservation of Withdrawal Rights. Declarant reserves the right for itself and any Successor Declarant at any time and from time to time to withdraw from the provisions of this Declaration individual Lots and/or Common Areas, provided however that none of the real estate may be withdrawn after any Lot has been conveyed by Declarant to a purchaser.

9.3. Other Reserved Rights. Declarant reserves the right for itself and any Successor Declarant at any time and from time to time to: (i) complete improvements indicated on the Plats and Maps, (ii) maintain and relocate sales offices, management offices, signs advertising the Subdivision and models, of any size, within one or more Lots and within the General Common Elements so long as Declarant or Successor Declarant continues to be an Owner of a Lot or, if earlier, five (5) years from the recording of this Declaration with the Clerk and Recorder, (iii) to subject the Subdivision to a master association, (iv) to make merge or consolidate the Subdivision with a common interest community of the same form of ownership, (v) to appoint or remove any officer of the association or any Executive Board member during the period of Declarant control set forth in Article 2 above.

9.4. Termination of Rights Reserved. Except as otherwise expressly reserved in this Declaration, all rights reserved by and to the Declarant terminate seven (7) years after the date upon which this Declaration is recorded or upon the sale of all Lots which are within the Subdivision up to the maximum number of Lots, whichever shall first occur; provided, however, such reserved rights may be: (i) reinstated or extended by the

Association, subject to whatever terms, conditions, and limitations the Executive Board may impose; (ii) extended as allowed by law; or (iii) terminated in whole or in part by a written instrument executed by the Declarant in such manner as provided in the Act.

9.5. Utility Easements. Limited to underground utilities only, there is hereby created a general easement upon, across, in, and under the Property for ingress and egress and for installation, replacement, replat, and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electrical, television and a master communications system. 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, Cottonwood Green Association, Inc. and Declarant; 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, either Declarant or Cottonwood Green Association, Inc. will have, and are 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.

9.6. Maintenance Easement. An easement is hereby reserved to Declarant for itself and its successors and assigns and granted to Cottonwood Green Association, Inc., and any member of the Board of Directors, and their respective officers, agents, employees and assigns, 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 for the purpose of performing maintenance to the landscaping or the exterior of Improvements to such Lot, as required by the Cottonwood Green Documents.

9.7. Drainage Easement. An easement is hereby reserved to Declarant for itself and its successors and assigns and granted to 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, Cottonwood Green Association, Inc. and Declarant, 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. Declarant, or its officers, agents, employees, successors and assigns must inform and obtain the approval of the Board of Directors prior to undertaking such drainage work, which approval will not be unreasonably withheld.

9.8. Emergency Access Easement. A general easement is hereby 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.

9.9. Easements. Each Lot 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 are reserved as shown on the recorded Plat. Within these easements and the Briscoe irrigation ditch easement, no structures, 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.

9.10. Golf Course Easements. Every Lot and the Common Area 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 Area, 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 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: Declarant; the Association or its Members (in their capacities as such); the golf course owner, its successors, successors-in-title to the golf course, 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 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).

#### 10. ENFORCEMENT

10.1. Violation Deemed a Nuisance. Every violation of this Declaration for the Cottonwood Green Subdivision, the Articles and Bylaws of the Association, Design Guidelines or any Rules and Regulations adopted by the Association shall be deemed to be a nuisance and is subject to all the remedies provided for the abatement thereof.

10.2. Failure to Comply. The failure to comply with this Declaration, the Design Guidelines, or any Rules and Regulations adopted by the Board of Directors or the Design Review Committee shall be grounds for an action to recover damages, or for injunctive relief or for specific performance, or any of them under the following terms and conditions:

10.2.1. Written notice of any violation or failure to comply with this Declaration, the Design Guidelines, or any Rules and Regulations adopted by the Board of Directors or the Design Review Committee shall first be given to any Owner or person as to such violation or failure to comply.

10.2.2. Such Owner or person shall be given ten (10) days from the date of such notice to correct such violation or failure to comply.

10.2.3. In the event that any Owner or person believes that he or she is not in violation or failure to comply, he or she may request an opportunity for a hearing by the Board of Directors prior to the Association taking further action or commencing any legal proceeding against such Owner or person.

10.2.4. Any action by the Association as against any such Owner or person shall be by resolution of the Board of Directors following notice as above provided and granting to such Owner or person an opportunity to be heard before the Board of Directors.

10.3. Who May Enforce. Any action to enforce any violation of any provision of this Declaration may be brought as follows:

10.3.1. By the Association in name of the Association and on behalf of the Owners.

10.3.2. By the Owner of any Lot.

10.4. 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.

10.5. 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 Cottonwood Green Subdivision 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.

#### 11. DURATION OF THESE COVENANTS AND AMENDMENT

11.1. Amendment. Subject to amendment at any time as set forth herein, the covenants, conditions, restrictions and liens of the Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. Prior to the transfer of the first Lot to any third party not related to or associated with Declarant, Declarant may amend this Declaration and the Plat at the Declarant's sole discretion. In addition, Declarant hereby reserves and is granted the right and power to record minor and technical amendments to this Declaration and the Plat at any time for the purpose of correcting spelling, grammar, dates, typographical errors, or as may otherwise be deemed necessary by the Declarant to clarify the meaning of any provisions, without the consent of any of the Owners or first mortgagees. After the transfer of the first Lot as provided herein, this Declaration may be amended, at any time, by an instrument signed by the Owners of seventy-five percent (75%) of all Lots. 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.

11.2. Declarant's Approval. Notwithstanding the provisions of Section 11.1, no termination, extension, modification or amendment of this Declaration will be effective in any event during the Period of Declarant Control unless the written approval of Declarant is first obtained.

11.3. 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.

11.4. 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 necessary number of Owners (and by Declarant, as required).

## 12. MISCELLANEOUS PROVISIONS

12.1. 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.

12.2. Limitation of Liability. Neither Cottonwood Green Association, Inc. nor any officer or member of the Board will be liable to any party for any action or failure to act with respect to any matter arising by, through or under the Cottonwood Green Association Documents if the action or failure to act was made in good faith. Cottonwood Green Association, Inc. will indemnify all of the officers and Board members with respect to any act taken in their official capacity to the extent provided in this Declaration and by law and in the Articles of Incorporation and Bylaws.

12.3. 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.

12.4. Assignment. Subject to the requirement and limitation of the Colorado Common Interest Ownership Act, Declarant may assign all of any part of the Special Declarant Rights or any of Declarant's other rights and reservations hereunder to any successor who takes title to all or part of the Property in a bulk purchase for the purpose of development and sale. Such successor will be identified, the particular rights being assigned will be specified, and, to the extent required, concomitant obligations will be expressly assumed by such successor, all in a written instrument duly recorded in the records of the Clerk and Recorder of Chaffee County, Colorado.



CHAFFEE COUNTY, SALIDA CO REC \$176.00  
JOYCE M. RENO, COUNTY CLERK AND RECORDER  
EXHIBIT "A"

01/11/2005 RECPT-348398  
02:25:00PM 35 OF 35

A tract of land in the Northwest Quarter of the Southeast Quarter (NW¼SE¼) of Section 31, Township 50 North; Range 9 East of the New Mexico Principal Meridian, Chaffee County, Colorado, described as follows:

Beginning at the southeast corner of the said NW¼ SE¼;  
thence North 0°11' East 1029.3 feet to the southerly sideline of County Road No. 160;  
thence along said county road South 83°45' West 571.0 feet to an angle in fence;  
thence continuing along southerly sideline of said county road North 79°47' West 15.78 feet;  
thence leaving the southerly sideline of said county road South 0°12' West 966.21 feet to the south line of the said NW¼ SE¼;  
thence South 89°48' East along the south line, as fenced, 583.21 feet to the point of beginning.  
LESS the Northerly 15 feet previously conveyed to the County of Chaffee in Gift Deed recorded June 26, 1995, as Reception No. 279305.