

After Recording Return to:

LGI HOMES – COLORADO, LLC

3401 Quebec Street, Suite 4060

Denver, CO 80207

**COVENANTS AND RESTRICTIONS
OF COTTONWOOD GREENS**

THESE COVENANTS AND RESTRICTIONS OF COTTONWOOD GREENS (“Covenants”) are made and entered into the date and year hereinafter set forth by LGI HOMES - COLORADO, LLC, a Colorado limited liability company (as hereinafter more fully defined, the “Developer”).

WITNESSETH:

A. The Developer is the owner of that certain real property in the City of Fort Lupton (the “City”), County of Weld (the “County”), State of Colorado, which is described on Exhibit A attached hereto and incorporated herein by this reference (as hereinafter more fully defined, the “Property”).

B. The Developer intends to develop the Property as a residential community. The name of the community to be developed on the Property is “Cottonwood Greens”. All of the Property is located within the service area of Cottonwood Greens Metropolitan District No. 2, a quasi-municipal corporation and political subdivision of the State of Colorado.

C. The Developer desires to subject and place upon the Property certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other provisions (i) to further a common and general plan for the development of the Property; (ii) to protect and enhance the quality, value, aesthetics, desirability and attractiveness of the Property; (iii) to provide for and define certain duties, powers and rights of the ARC (as hereinafter defined); (iv) to define certain duties, powers and rights of the Metropolitan District under these Covenants; and (v) to define certain duties, powers and rights of Owners of Lots within the Property.

D. These Covenants do not create a Common Interest Community, as defined by the Colorado Common Interest Ownership Act at C.R.S. §38-33.3-103(8), as ownership of a Lot (as hereinafter defined) does not obligate the owner to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in these Covenants; therefore, these Covenants shall not be governed by the Colorado Common Interest Ownership Act, and Developer confirms its intention that the Colorado Common Interest Ownership Act will not apply to these Covenants.

E. Pursuant to C.R.S. § 32-1-1004(8), and other provisions of Title 32 of C.R.S., it is the intention of the Developer to empower the Metropolitan District (as hereinafter defined) to provide certain services to the residents of the Metropolitan District (collectively, the “Services,” as hereinafter more fully defined), which shall include covenant enforcement and design review services, and which may also include, without limitation, trash collection services.

F. The Developer reserves the right to add additional real property to these Covenants by recording an annexation document as more particularly described and set forth herein.

G. Pursuant to the service plan for the Metropolitan District, as amended (the "**Service Plan**"), the Metropolitan District may furnish covenant enforcement and design review services and the Metropolitan District intends to exercise its powers to provide covenant enforcement and design review services, as defined in C.R.S. Section 32-1-1004(8), for the Property.

H. The board of directors of the Metropolitan District (the "**Board**") has or will adopt a resolution acknowledging its power to provide covenant enforcement, design review services and trash collection services pursuant to state statute, and authorizing the Metropolitan District to provide covenant enforcement, design review services and trash collection services within the service area of the Metropolitan District using revenue derived from the areas in which the services are to be furnished.

DECLARATION:

NOW, THEREFORE, the Developer hereby declares that the Property shall be held, sold, and conveyed, subject to the following covenants, conditions, restrictions, easements, architectural guidelines, reservations, rights-of-way, obligations, liabilities, and other provisions, as set forth herein.

GENERAL

A. Declarations. The Developer, for itself and its successors and assigns, hereby declares that the Property, and all other real property that becomes subject to these Covenants in the manner hereinafter provided from the date the same becomes subject to these Covenants, shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in these Covenants. The provisions of these Covenants run with the land and, until their expiration in accordance with the terms hereof, shall bind, be a charge upon and inure to the mutual benefit of: (i) the Property and all property that becomes part of the Property; (ii) the Developer and its successors and assigns; (iii) the Metropolitan District and its successors and assigns; and (iv) all Persons having or acquiring any right, title or interest in any portion of the Property or in any property that becomes part of the Property, or any Improvement (as hereinafter defined) thereon, and their heirs, personal representatives, successors or assigns. These Covenants will be recorded in the County.

B. Metropolitan District Authority. The Developer, through these Covenants, grants authority to the Metropolitan District to act on behalf of the Developer for certain matters specifically set forth in these Covenants, including implementing these Covenants, enforcing these Covenants, providing design review services and providing trash collection services. The Developer grants the Metropolitan District authority as provided herein to adopt Rules and Regulations (as hereinafter defined), and Guidelines (as hereinafter defined) pertaining to architectural and design review, each for the effective governance of the Property to implement these Covenants. The Developer grants to the Metropolitan District authority to review and

approve Improvements in compliance with the Guidelines and these Covenants and to enforce the Guidelines. The Developer grants to the Metropolitan District authority to appoint the ARC (subject to the provisions of Section 2.1 herein) and to exercise all other powers necessary and proper to implement and enforce these Covenants and provide design review services.

ARTICLE 1. DEFINITIONS

Section 1.1 *Affiliate*

“**Affiliate**” means any Person that, directly or indirectly, is in control of, is controlled by or is under common control with Person for whom an affiliate is being determined. For purposes hereof, control of a Person means the power, direct or indirect, to (i) vote 20% or more of the ordinary voting power of such Person, or (ii) direct or cause the direction of the management and policies of such Person whether by contract or otherwise, and either alone or in conjunction with others.

Section 1.2 *ARC*

“**ARC**” means the architectural review committee which shall be appointed by the Developer until conveyance of all of the Lots to the first Owners thereof, other than the Developer or any Builder or any other Person who acquires one or more Lots for the purpose of constructing at least one residence on each such Lot, and thereafter appointed by the Metropolitan District, all as provided in Section 2.1 of these Covenants. The ARC shall review, consider and approve, or disapprove, requests for architectural approval, as more fully provided in these Covenants.

Section 1.3 *Builder.*

“**Builder**” means any Person who: (i) acquires one or more Lots for the purpose of constructing at least one residence on each such Lot for sale, and/or rental, to the public, and/or (ii) acquires one or more Lots of the Property for sale to any Person fitting the description in clause (i) above and is designated as a “**Builder**” under these Covenants in a written designation that is signed by the then-Developer and recorded in the office of the Clerk and Recorder of the County (the “**Records**”).

Section 1.4 *Contractor.*

“**Contractor**” means any general contractors, subcontractors, or other parties engaged at any time in the construction of the initial Improvements on the Lots or elsewhere in the Property.

Section 1.5 *Covenants.*

“**Covenants**” means these Covenants and Restrictions of Cottonwood Greens, as amended and supplemented from time to time.

Section 1.6 *Design Consultant.*

“**Design Consultant**” means any architects, engineers and similar design professionals at any point in time engaged or assisted in the design of the initial Improvements on the Lots or elsewhere in the Property.

Section 1.7 Developer.

“**Developer**” means LGI Homes – Colorado, LLC, a Colorado limited liability company and/or any other Person to whom the Developer may assign one or more of the Developer’s rights under these Covenants (which will be the extent of the Developer's rights to which such assignee succeeds); provided, that no assignment of any Developer rights is effective unless such assignment is duly executed by the assignor Developer and recorded in the Records.

Section 1.8 District Property.

“**District Property**” means any real or personal property, including any infrastructure or other Improvements, owned, leased or being constructed by or on behalf of the Metropolitan District in connection with Cottonwood Greens, including any easements for access to, ingress and egress to and from, and for installation of utilities within, the Cottonwood Greens which are held by or assigned to the Metropolitan District. Notwithstanding anything to the contrary, including the location of the District Property within the Property, the District Property shall not be subject to this Declaration. The use and operation of District Property shall be subject to rules and regulations promulgated by the District from time to time.

Section 1.9 Governing Documents.

“**Governing Documents**” means these Covenants, any Guidelines (as hereinafter defined), any Rules and Regulations (as hereinafter defined), and any other documents now or hereafter adopted by or for the Metropolitan District or ARC, as amended and supplemented.

Section 1.10 Improvements.

“**Improvements**” means all exterior improvements, structures, and any appurtenances thereto or components thereof of every type or kind and all landscaping features, including but not limited to buildings, outbuildings, swimming pools, hot tubs, satellite dishes, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, driveways, dog runs, fences, basketball backboards and hoops, swingsets and other play structures, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, groundcover, exterior light fixtures, poles, signs, exterior tanks, exterior air conditioning, cooling, heating and water softening equipment. Improvements do not include any District Property.

Section 1.11 Lot.

“**Lot**” means each portion of the Property which is designated as a lot on a recorded subdivision plat, including each residence (attached or detached) now or hereafter located thereon.

Section 1.12 Metropolitan District

“**Metropolitan District**” means Cottonwood Greens Metropolitan District No. 2, and/or any other metropolitan district(s), to which the then-Metropolitan District may transfer or assign any or all of the rights and duties of the Metropolitan District under these Covenants. Each such

assignment or transfer, if any, will be effective upon recording in the Records of a document of transfer or assignment, duly executed by the then—Metropolitan District. In addition to the authority to provide the Services (defined below), the Metropolitan District has such other authority with respect to the provision of services as may be permitted by the Special District Act, C.R.S. 32-1-101 et seq., including but not limited to the right to adopt rules and regulations, fees, rates, tolls, penalties and charges, and undertake enforcement actions (but these Covenants do not limit in any way the authority of the Metropolitan District under the statutes of the State of Colorado).

Section 1.13 Owner.

“**Owner**” means each fee simple title holder of a Lot, including the Developer, any Builder and any other Person who owns a Lot, but does not include a Person having an interest in a Lot solely as security for an obligation.

Section 1.14 Person.

“**Person**” means a natural person, a corporation, a limited liability company, a partnership, a trust, a joint venture, an unincorporated association, or any other entity or any combination thereof, and includes each Owner, the Developer, each Builder, the ARC, the Metropolitan District, and the governing body of the Metropolitan District.

Section 1.15 Property.

“**Property**” means the real property described on Exhibit A attached hereto, as supplemented and amended, and all other real property, if any, made subject to the terms and provisions of these Covenants after the date hereof, and as the Developer, any Builder or Owner or other person may now or hereafter subdivide or re-subdivide any portion thereof; provided, however, that the “**Property**” does not include any real property that has been withdrawn as provided in Section 6.1.5 hereof or any District Property.

Section 1.16 Services.

“**Services**” means the services that the Metropolitan District is empowered to provide pursuant to C.R.S. §32-1-1004, as amended, and other provisions of Title 32 of C.R.S., as amended, including but not limited to covenant enforcement and design review.

ARTICLE 2. ARCHITECTURAL REVIEW

Section 2.1 Composition of ARC

The ARC shall consist of three (3) or more natural Persons. The Developer has the exclusive authority to appoint and the remove the individual members of the ARC, and/or to delegate some or all architectural authority (as provided in Section 2.2 hereof), from the date of recording of these Covenants until the date of conveyance of all the Lots to the first Owners thereof other than: (i) the Developer, or (ii) any Builder; or (iii) any other Person who acquires one or more Lots of the Property for the purpose of constructing at least one residence on each such Lot. Subsequent to such date, the governing board of the Metropolitan District will have the

exclusive authority to serve as or appoint members to the ARC and/or to delegate some or all architectural authority (as provided in Section 2.2 hereof). The appointments of all then-current members of the ARC who were appointed by the Developer will automatically terminate at such time as the Developer's power to appoint members of the ARC expires (as provided earlier in this Section).

Section 2.2 *Delegation of Some or All Architectural Authority.*

The Person with the authority to appoint the ARC, as provided in the preceding Section 2.1, has the right and authority to: (i) delegate, in writing, some or all architectural authority, to one or more other Persons, including one or more management companies, metropolitan or other district(s), such as by entering into intergovernmental agreement(s) or other document(s) or agreement(s); and (ii) withdraw, in writing, any delegated authority.

Section 2.3 *Architectural Review Requirements; Authority of the ARC*

2.3.1 No Improvements may be constructed, erected, placed, altered, planted, applied, installed or modified, upon any Lot, and no Person shall disturb the subsurface of the Lot unless said Improvements or plans for disturbance of the subsurface are in full compliance with all provisions of the Governing Documents, and unless such Improvements are approved in writing by the ARC. At least two (2) sets of complete plans and specifications of proposed Improvements (said plans and specifications to show exterior design, height, materials, color, and location of such Improvements, plotted horizontally and vertically, location and size of driveways, location, size, and type of landscaping, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the ARC), and a written description of any intended disturbance of the subsurface of the Lot must be submitted to the ARC for review and consideration.

2.3.2 The ARC shall endeavor to exercise its judgment in an attempt to provide for each proposed Improvement to generally harmonize with the existing surroundings, residences, landscaping and structures. However, the ARC shall not review or approve any proposed Improvements regarding whether the same complies with governmental requirements. Rather, as provided in Section 2.3.3 below, the applicant is also required to submit proposed Improvements to the applicable governmental entities for a determination of compliance with governmental requirements. In its review of such plans, specifications and other materials and information, the ARC may require, as a condition to its considering an approval request, that the applicant(s) pay, and/or reimburse the ARC, for the expenses incurred in the process of review and approval or disapproval.

2.3.3 In addition to the foregoing review and approval, and notwithstanding anything to the contrary in these Covenants, the construction, erection, addition, deletion, change or installation, of any Improvements shall also require the applicant to obtain the approval of all governmental entities with jurisdiction thereover, and shall require issuance of all required permits, licenses and approvals by all such entities.

2.3.4 In addition to the authority that is given to the ARC in these Covenants, as well as such authority as may be implied from any provision(s) of these Covenants, the ARC has

all authority and powers that are given by Colorado statute and case law, to a corporation, a limited liability company, or any other legal entity. The foregoing shall include the power to receive and review complaints from one or more Owners, Developer, one or more Builders, or any other Person(s), alleging that a violation of any of the Governing Documents has occurred or is occurring.

2.3.5 The ARC may, at any time, appoint a representative or committee to act on its behalf. If so, then the actions of such representative or committee shall be the actions of the ARC. However, if such a representative or committee is appointed, then the ARC will have full power over such representative or committee, including the power to at any time withdraw from such representative or committee, any authority to act on behalf of the ARC, and the power to at any time remove or replace such representative or committee.

Section 2.4 Guidelines.

The Developer may promulgate, adopt, enact, modify, amend, repeal, and re-enact, architectural standards, rules, regulations and/or guidelines, regarding architectural and design matters and matters incidental thereto (collectively the "Guidelines"); and the ARC (once the Metropolitan District has the authority to appoint the ARC as provided in Section 2.1 of these Covenants) may modify, amend, repeal, and re-enact the Guidelines, but the Guidelines may not be in conflict with these Covenants. The Guidelines may include: clarifying the designs and materials that may be considered in architectural approval; requirements for submissions, procedural requirements, specification of acceptable Improvement(s) that may be installed without prior review or approval; and permitting the ARC, with respect to any violation(s) or alleged violation(s) of any of the Governing Documents, to send demand letters and notices, levy and collect fines and interest, and negotiate, settle and take any other actions. In addition, the Guidelines may provide for blanket approvals, interpretations, or restrictions. By way of example, and not by way of limitation, the Guidelines may state that a certain type of screen door will be acceptable and will not require approval or may state that only one or more types of fences are acceptable, and no other types will be approved. All Improvements proposed to be constructed, erected, placed, altered, planted, applied, installed or modified, upon any Lot by any Owner must be done and used in accordance with the Guidelines and these Covenants. The Guidelines (as amended from time to time in accordance with their terms) may not be recorded against the Property but are hereby incorporated into these Covenants as if fully set forth herein.

Section 2.5 Procedure.

The ARC shall review each request for architectural approval in accordance with the design review procedures set forth in the Guidelines or the Rules and Regulations and approve (which may be with conditions and/or requirements), or disapprove, each request in writing within forty-five (45) days after the complete submission to the ARC along with a receipt acknowledgement by the ARC of the plans, specifications and other materials and information, which the ARC may require in conjunction therewith. If the ARC fails to give its written approval (which may be with conditions and/or requirements) or disapproval within forty-five (45) days after the complete submission of all plans, specifications, materials and other information with respect to a written request for architectural approval, then such request is deemed disapproved by the ARC.

Section 2.6 *Vote.*

The affirmative, majority vote of the ARC is required for approval (which may be with conditions and/or requirements) of each matter, unless the ARC has appointed a representative or committee to act for it, in which case the written decision of such representative or committee shall control unless the disapproval of the ARC is appealed by the applicant to the Board within thirty (30) days of the date of the ARC written decision of disapproval in which case the written decision of the Board shall control.

Section 2.7 *Prosecution of Work After Approval*

After approval by the ARC (which may be with conditions and/or requirements) of any proposed Improvement, the proposed Improvement must be constructed and completed as promptly and diligently as possible, and in complete conformity with all conditions and requirements of such approval. Failure to complete the proposed Improvement within the time period set forth in the Guidelines or, if not set forth in the Guidelines, then within one (1) year after the date of approval of the application by the ARC, or to complete the Improvement in complete conformance with the conditions and requirements of such approval, constitutes non-compliance; provided, however, that the ARC may grant extensions of time for completion of any proposed Improvements, either (i) at the time of initial approval of such Improvements, or (ii) upon the request of any Owner, provided such request is delivered to the ARC in writing and the Owner is diligently prosecuting completion of the subject Improvements or other good cause exists at the time such request is made. Builders are exempt from this Section 2.7.

Section 2.8 *Notice of Completion.*

Upon the completion of an Improvement, the applicant for approval of the same shall give a written "Notice of Completion" to the ARC (in form and substance acceptable to the ARC, or on forms provided by the ARC). Until the date of receipt of such Notice of Completion, the ARC shall not be deemed to have notice of completion of any Improvement on which approval (which may be with conditions and/or requirements) has been sought and granted as provided in this Article.

Section 2.9 *Inspection of Work*

The ARC, or its duly authorized representative, has the right to inspect any Improvement at any time, including prior to or after completion, in order to determine whether or not the proposed Improvement is being completed or has been completed in compliance with the approval granted pursuant to this Article. Such inspections may be made in order to determine whether or not the proposed Improvement is being completed, or has been completed, in compliance with the approval granted pursuant to this Article. However, such right of inspection terminates ninety (90) days after the ARC has received a Notice of Completion from the applicant and no action has been initiated by the ARC. The 90-day period to perform inspections after the ARC has received a Notice of Completion does not apply to or limit the right or authority of the ARC or the Board to enforce these Covenants, including but not limited to the requirements pertaining to the maintenance of Improvements.

Section 2.10 *Notice of Non-compliance.*

If, as a result of inspections or otherwise, the ARC determines that any Improvement has been done without obtaining all required approvals (which may be with conditions and/or requirements), or was not done in substantial compliance with the approval that was granted, or is not in compliance with the Guidelines, or has not been completed within the time period set forth in the Guidelines or, if not set forth in the Guidelines, then within one (1) year after the date of approval (except landscaping, as provided below), subject to any extensions of time granted pursuant to Section 2.7 hereof, or for any other reason(s), then the ARC shall notify the applicant in writing of the non-compliance. Such notice of non-compliance must be given not later than sixty (60) days after (as applicable), (i) the ARC receives a Notice of Completion from the applicant, or (ii) the ARC discovers any such noncompliance. The notice of non-compliance must specify the particulars of the noncompliance.

Section 2.11 *Correction of Non-compliance.*

If the ARC determines that a non-compliance exists, the Person responsible for such non-compliance shall remedy or remove the same within the time period set forth in the Guidelines or, if not set forth in the Guidelines, then not more than forty-five (45) days from the date of such Person's receipt of the notice of non-compliance. If such Person does not comply with the ruling within such period, the ARC may, at its option, record a notice of non-compliance against the Lot on which the non-compliance exists, may impose fines, penalties and interest, may remove the non-complying Improvement, or may otherwise remedy the non-compliance, and the Person responsible for such non-compliance shall reimburse the ARC, upon demand, for all costs and expenses, as well as anticipated costs and expenses, with respect thereto.

Section 2.12 *Cooperation.*

The ARC has the right and authority to enter into agreements and otherwise cooperate with any architectural review or similar committees, any metropolitan or other districts, or one or more boards or committees that exercise architectural or design review functions, or any other Person, in order to increase consistency or coordination, reduce costs, or as may otherwise be deemed appropriate or beneficial by the ARC. The costs and expenses for all such matters, if any, shall be shared or apportioned between such Persons and the ARC, as the ARC may determine. The foregoing includes collection, payment, and disbursement of fees, charges, and/or any other amounts.

Section 2.13 *Access Easement; Landscape.*

The Developer hereby reserves, and each Owner hereby grants, to the ARC, the Metropolitan District and the Person who then has the authority to appoint the ARC, as provided in Section 2.1 of these Covenants, including the agents, employees and contractors of each such Person (including the ARC), on, over, under and across the Lots, and each of them, excluding any habitable structure and the interior of any residence thereon, easements for performing any of the actions contemplated in the Governing Documents, including inspections pursuant to Section 2.9 of these Covenants, and including enforcement of each of the terms and provisions of the Governing Documents. Such rights must be exercised in a way that does not materially interfere

with the use, access or occupation of a Lot or residence on a Lot. If damage is inflicted on any property or Lot, then the Person responsible for such damage is liable for the cost of prompt repair. Further, the rights and easements granted in this Section may be exercised only during reasonable hours after reasonable notice to the Owner(s) or occupant(s) of any affected Lot; except that no such notice is required in connection with any exterior, non-intrusive inspections and maintenance; and except that, in emergency situations, entry upon a Lot may be made at any time, provided that the Owner(s) or occupant(s) of each affected Lot is given notice of the emergency entry as early as is reasonably possible. The interior of any residence is not subject to the easements that are provided for in this Section.

Section 2.14 No Liability.

The ARC, the Metropolitan District, the Person who then has the authority to appoint the ARC, as well as any representative or committee appointed by the ARC, shall not be liable in equity or damages to any Person by reason of any action, failure to act, approval (which may be with conditions and/or requirements), disapproval, or failure to approve (which may be with conditions and/or requirements) or disapprove, in regard to any matter. In reviewing or approving any matter, the ARC is not responsible for the safety, whether structural or otherwise, of any Improvements submitted for review, nor the conformance with applicable building codes or other governmental laws or regulations, nor compliance with any other standards or regulations, and any approval (which may be with conditions and/or requirements) of an Improvement by the ARC does not constitute an approval of any such matters and does not constitute a warranty by the ARC to any applicant of the adequacy of design, workmanship or quality of such work or materials for any applicants' intended use. No Owner or other Person is a third-party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval granted by, the ARC.

Section 2.15 Variance.

The ARC may grant reasonable variances or adjustments from any conditions and restrictions imposed by Article 2 of these Covenants, or by the Guidelines, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments may be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or improvements in the neighborhood and does not militate against the general intent and purpose hereof. However, any variance that may be granted under this Section is only a variance from the requirements of the applicable Governing Document for the individual applicant or Lot and is not a variance from the requirements of any applicable governmental or quasi-governmental agency or entity. No granting of a variance or adjustment to any one applicant/Owner shall constitute a variance or adjustment, or the right to a variance or adjustment, to any or all other applicants, Owners or Lots.

Section 2.16 Waivers; No Precedent

The approval or consent of the ARC, or any representative or committee thereof, to any application for approval does not constitute a waiver of any right to withhold or deny approval or consent by such Person, or any Person, as to any application or other matters whatsoever, as to

which approval or consent may subsequently or additionally be required. Nor does any such approval or consent constitute a precedent as to any other matter.

Section 2.17 *Developer and Builder Exemption.*

2.17.1 The Developer is exempt from this Article and all provisions of the Governing Documents that require ARC review or approval, except for the requirement to obtain approval from all governmental entities with jurisdiction thereover (as provided in Section 2.3.3 of these Covenants).

2.17.2 Notwithstanding anything to the contrary, as long as, and to the extent that, a Builder has received written architectural approval from the Developer for one or more matters, such Builder is, as to Developer-approved Improvements, exempt from this Article and all provisions of the Governing Documents that require ARC review or approval of such matters, except for the requirement to obtain approval from all governmental entities with jurisdiction thereover (as provided in Section 2.3.3 of these Covenants).

ARTICLE 3. RESTRICTIONS

Section 3.1 *General*

The Property is subject to all covenants, conditions, restrictions, requirements, easements, licenses, and other provisions of all documents recorded in the Records, as amended from time to time, including those stated on the recorded plats of the Property, or any portion thereof, but only as and to the extent provided in such documents. In addition, the Developer declares that, subject to Section 5.4 hereof, all of the Lots shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in these Covenants.

Section 3.2 *Compliance with Law.*

All Owners, and all other Persons, who reside upon or use any Lot or any other portion of the Property, shall comply with all applicable statutes, ordinances, laws, regulations, rules and requirements of all governmental and quasi-governmental entities, agencies and authorities; but, neither the Developer, the ARC or the Metropolitan District has any obligation or duty whatsoever to enforce compliance with the statutes, ordinances, laws, regulations, rules and requirements of governmental and quasi-governmental entities, agencies and authorities.

Section 3.3 *Residential Use; Professional or Home Occupation.*

Subject to Section 5.4 of these Covenants, Lots may be used for residential use only, including uses which are customarily incident thereto (including but not limited to home office and remote working), and may not otherwise be used business, commercial or professional purposes. However, an Owner will not have the right to use his Lot for any or home office or remote work use where the applicable zoning prohibits such use, there is external evidence

thereof, or such use constitutes or results in an unreasonable inconvenience to other residents of the Lots thereby. Timeshare estates may not be created and are not permitted within the Property.

Section 3.4 *Animals.*

No animals, livestock (pigs, cattle, horses, goats, llamas, etc.), birds, poultry, reptiles or insects of any kind may be raised, bred, kept or boarded in or on the Lots; provided, however, that the Owners of each Lot may keep a reasonable number of dogs, cats or other domestic animals which are bona fide household pets, so long as such pets are not kept for any commercial purpose and are not kept in such number or in such manner as to create a nuisance to any resident of the Lots or in violation of ordinances of the City and any Guidelines and/or the Rules and Regulations that do not conflict with such the ordinances of the City, as applicable. The Board shall have, and is hereby given, the right and authority to determine, that dogs, cats or other household pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance, or that an Owner is otherwise in violation of the provisions of this Section, and to take such action(s) as it may deem appropriate to correct the same. An Owner's right to keep household pets is coupled with the responsibility for collecting and properly disposing of any animal waste and to pay for all damage caused by such pets.

Section 3.5 *Temporary Structures; Unsightly Conditions.*

Except as hereinafter provided, no structure of a temporary character, including a house trailer, tent, shack, storage shed, or outbuilding shall be placed or erected upon any Lot; provided, however, that during the Developer's actual construction, alteration, repair or remodeling of a structure or other Improvements, necessary temporary structures, offices and trailers for construction, marketing, sales or storage of materials may be erected and maintained by the Person doing such work. The work of constructing, altering or remodeling any structure or other Improvements shall be prosecuted diligently from the commencement thereof until the completion thereof. Further, no unsightly conditions, structures, facilities, equipment or objects, shall be so located on any Lot as to be visible from a street or from any other Lot.

Section 3.6 *Miscellaneous Improvement&*

3.6.1 No advertising or signs of any character may be erected, placed, permitted, or maintained on any Lot other than a name plate of the occupant and a street number, and except for a "For Sale," "Open House," "For Rent," or security system signs of not more than one hundred (100) square inches each; except that signs advertising garage sales, block parties, or similar community events, may be permitted if the same are in accordance with the Guidelines and applicable laws or have been submitted to the ARC for review and written approval (which may be with conditions and/or requirements), prior to posting of such signs. Notwithstanding the foregoing, any signs, billboards or other advertising may be placed by the Developer or by any Builder (with the prior, written approval of the Developer), without regard to the foregoing or any limitations, requirements, specifications or other provisions of the Governing Documents, the ARC, or the Metropolitan District, and without any approval of the foregoing (except as stated earlier in this sentence).

3.6.2 No service yards, wood piles or storage areas may be so located on any Lot as to be visible from a street or from the ground level of any other Lot. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Developer, its agents, employees, and contractors, or a Builder with the express written approval of the Developer, to maintain during the period of construction and sale of any Lots, upon such portion of the Property as Developer may choose, such facilities as in its sole opinion may be reasonably required, convenient or incidental to the construction and sale or rental of Lots, including, without limitation, a business office, storage area, construction yard, signs, model homes, sales office, construction office, parking areas, and lighting.

3.6.3 No types of refrigerating, cooling or heating apparatus shall be placed, allowed or maintained anywhere on a Lot, other than on the ground, except with the prior, written approval of the ARC.

3.6.4 No exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type may be placed, erected or maintained on any Lot, except inside a residence or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Developer or by any Builder during its sales or construction of the Lots and improvements thereon; and provided further, however, that the requirements of this Section 3.6.4 do not apply to those “antenna” (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 and/or applicable regulations, as amended. As to “antenna” (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 and/or applicable regulations, as amended, the ARC is empowered to adopt Rules and Regulations governing the types of “antenna” (including certain satellite dishes) that are permissible hereunder and, to the extent permitted by the Telecommunications Act of 1996 and/or applicable regulations, as amended, establish reasonable, non-discriminatory restrictions relating to appearance, safety, location, maintenance, and other matters.

3.6.5 No fences, other than any fences constructed or installed by the Developer or a Builder (with the prior, written approval of the Developer), are permitted, except with the prior, written approval (which may be with conditions and/or requirements) of the ARC. Any fence(s) constructed on a Lot shall be maintained, repaired and replaced by the Owners of that Lot.

3.6.6 The ARC may not effectively prohibit renewable energy generation devices or the installation or use of any energy efficient measures, provided that the ARC may adopt reasonable aesthetic rules and regulations concerning dimensions, placement or external appearance of such devices or measures to the extent such rules and regulations do not conflict with or violate applicable laws.

Section 3.7 *Vehicular Parking, Storage and Repairs.*

3.7.1 Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, golf carts and boat trailers, may only be parked in enclosed garages or specific areas,

if any, which may be designated by the ARC. This restriction, however, does not restrict trucks or commercial vehicles which are necessary for construction or for the maintenance of any portion of the Property, or any Improvements located thereon, and such restriction does not prohibit vehicles that may be otherwise parked as a temporary expedient for loading, delivery or emergency, or emergency service vehicles. Stored vehicles and vehicles which are inoperable or do not have current operating licenses are not be permitted on the Property except within enclosed garages. For purposes of this Section, the ARC may determine whether a vehicle is considered "stored". For example, a vehicle may be considered to be "stored" if it is up on blocks or covered with a tarpaulin and remains on blocks or so covered for seventy-two (72) consecutive hours without the prior approval (which may be with conditions and/or requirements) of the ARC.

3.7.2 No activity, including maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Property unless it is done within completely enclosed structure(s) which screen the sight and sound of the activity from the street and from adjoining property. Any Owner or other Person undertaking any such activities shall be solely responsible for, and assumes all risks of, such activities, including adoption and utilization of any and all necessary safety measures, precautions and ventilation. However, the foregoing restrictions do not prevent washing and polishing of any motor vehicle, boat, trailer, motor-driven cycle, or other vehicle on a Lot, together with those activities normally incident and necessary to such washing and polishing.

3.7.3 In the event the ARC determines that a vehicle is parked or stored in violation of Sections 3.7.1 or 3.7.2 hereof, then the ARC shall deliver a written notice describing said vehicle to the owner thereof (if such owner can be reasonably ascertained) or shall conspicuously place such notice upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the ARC, then the ARC may have the vehicle removed at the sole expense of the owner thereof.

3.7.4 THE DEVELOPER, EACH BUILDER, THE METROPOLITAN DISTRICT, AND THE ARC, HEREBY DISCLAIM ANY AND ALL OBLIGATIONS REGARDING, RELATING TO OR ARISING OUT OF, THE PERFORMANCE OF ANY MAINTENANCE, SERVICING, REBUILDING, REPAIR, DISMANTLING, OR REPAINTING OF ANY TYPE OF VEHICLE, BOAT, TRAILER, MACHINE OR DEVICE OF ANY KIND, BY ANY OWNER OR OTHER PERSON.

Section 3.8 Nuisances.

No nuisance is permitted which is visible within or otherwise affects any portion of the Property, nor any use, activity or practice which interferes with the peaceful enjoyment or possession and proper use of any portion of the Property. A "nuisance" includes violation of Section 3.2 of these Covenants, but shall not include any activities of Developer or a Builder which are reasonably necessary to the development and construction of, and sales activities within the Property.

Section 3.9 *No Hazardous Activities; No Hazardous Materials or Chemicals.*

No activities shall be conducted on any Lot or within Improvements constructed on any Lot which are unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged and no open fires shall be lighted or permitted on any Lot (except in a contained barbecue unit while attended and in use for cooking purposes or within an interior fireplace or outdoor fire pit powered by natural gas, propane or something similar). Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Lot, except such as may be contained in household products normally kept at homes for use of the residents thereof, and in such limited quantities so as not to constitute a hazard or danger to person or property.

Section 3.10 *Lights, Sounds or Odors.*

No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare; no sound shall be emitted from any Lot which is unreasonably loud or annoying; and no odor shall be permitted from any Lot which is noxious or unreasonably offensive to others.

Section 3.11 *Restrictions on Trash and Materials.*

No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate on a Lot, unless placed in a suitable, tightly-covered container that is suitably located solely for the purpose of garbage, trash or recycling pickup. Further, no trash or materials shall be permitted to accumulate in such a manner as to be visible from any Lot. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner.

Section 3.12 *Trash Removal Services and Recycling.*

Without limiting its authority, and to the extent authorized by its Service Plan and applicable law, the Metropolitan District will have the right, but not the obligation to levy and collect fees, charges, and other amounts to be imposed upon the Lots for such household trash removal and recycling services; provided, however that such fees, charges and other amounts must be derived from within the Metropolitan District boundaries where the household trash removal and recycling services are required or performed. The scope, frequency, and all other matters with respect to such trash removal and recycling services, shall be determined by the Metropolitan District. Without limiting the generality of the foregoing, the Metropolitan District may, for example, as a part of establishing rules and regulations related to the enforcement of the covenant to provide centralized household trash removal and recycling services, elect to provide for regularly scheduled trash pick-ups and recycling, but may require each Owner to be responsible for scheduling, and paying for, any extraordinary trash pick-ups and/or other recycling and may limit the items eligible for trash pick-up and/or recycling from time to time. In the event that the Metropolitan District does not administer trash removal and/or recycling services for the Property, the Metropolitan District shall enforce this covenant by coordinating the centralized trash removal and recycling services for the Lots, including, without limitation, the levy and

collection of fees, charges, and other amounts to be imposed upon the Lots for such trash removal and recycling services; provided, however that such fees, charges and other amounts must be derived from within the applicable Metropolitan District boundaries where the trash removal and recycling services are required or performed.

Section 3.13 *Lots to be Maintained.*

Subject to Section 3.5 hereof, each Lot (including the roof, exterior walls, and windows of any Improvements thereon, and any adjacent tree lawn areas) shall at all times be maintained, repaired and replaced in a good, clean and slightly condition by the Owners of such Lot.

Section 3.14 *Leases.*

The term "lease," as used herein, includes any agreement for the leasing or rental of a Lot, or any portion thereof, and shall specifically include month-to-month rentals and subleases of not less than thirty (30) consecutive days. Any Owner has the right to lease such Owner's Lot, or any portion thereof, as long as all leases provide that the terms of the lease and lessee's occupancy of the leased premises are subject in all respects to the Governing Documents; and that any failure by the lessee to comply with any of the Governing Documents, in any respect, constitutes a default under the lease.

Section 3.15 *Landscaping.*

Each Owner shall maintain all landscaping on such Owner's Lot, and on any adjacent tree lawn areas, in a neat and attractive condition, including periodic and horticulturally correct pruning, removal of weeds and debris, and replacement of landscaping.

Section 3.16 *Grade and Drainage; Irrigation Recommendations; Drainage Easement; Maintenance of Surface Drainage Improvements and Underdrains; Utility Services.*

3.16.1 Each Owner shall maintain the grading upon such Owner's Lot, and grading around the building foundation, at the slope and pitch fixed by the final grading thereof, so as to maintain the established drainage. Each Owner agrees that such Owner will not in any way interfere with the established drainage pattern over such Owner's Lot. In the event that it is necessary or desirable to change the established drainage over any Lot, then the Owner thereof shall submit a plan to the ARC for review and approval which may be with conditions and/or requirements), in accordance with Article 2 of these Covenants, and any such change shall also be made in accordance with all laws, regulations, requirements and resolutions of all applicable governmental entities. For purposes of this Section, "established drainage" is defined as the drainage which exists at the time final grading of a Lot by the Developer, or by a Builder, is completed.

3.16.2 The Developer reserves to itself and to the Metropolitan District the right to enter in and upon each rear, front and side yard drainage easement of record, at any time, to construct, repair, replace or change drainage pipes, structures or drainage ways, or to perform such grading, drainage or corrective work as the Developer or the Metropolitan District may determine reasonable or necessary.

ARTICLE 4. ALTERNATIVE DISPUTE RESOLUTION

Section 4.1 *Mandatory Binding Arbitration.*

4.1.1 To the fullest extent permitted by law, all claims by an Owner or the Metropolitan District against (i) Developer (or any affiliate, agent, employee, executing officer, manager, or owner of thereof), (ii) a Builder (or any affiliate, agent, employee, executing officer, manager, or owner of thereof), (iii) a Contractor (including general contractors, subcontractors, engaged for the construction of the initial Improvements on the Lots or elsewhere in the Property), or (iv) a Design Consultant (including architects, engineers and similar design professionals engaged to assist in the design of the initial Improvements on the Lots or elsewhere in the Property) (individually, an "**Applicable Party**"), or any affiliate, agent, employee, executing officer, manager, or owner of an Applicable Party, which an Owner, or the Metropolitan District or any other Person may have arising from or in any way related to the sale, design or construction of a Lot or Lots and the Improvements thereon, or any other portion of the Property (a "**Dispute**") shall be submitted to final and binding arbitration. In addition to the foregoing, Disputes shall include all claims regarding the interpretation, application or enforcement of any of the Governing Documents or the rights, obligations or duties of any Bound Party under any of the Governing Document; provided, that Disputes shall not include (i) any suit by the Metropolitan District, or Developer, to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as a court may deem necessary in order to enforce any of the provisions of this Declaration, (ii) any suit between or among Owners, which does not also include an Applicable Party, the Metropolitan District, or the Board as a party, if such suit asserts a claim which would constitute a cause of action independent of the Governing Documents. The provisions of this Article shall be the sole remedy for resolving Disputes between an Applicable Party and any Owner, the Metropolitan District and/or any other Person, or any of them. Disputes subject to binding arbitration include but are not limited to:

- (a) Any disagreement, claim or action that a condition of the Lot, the Improvements thereon or of any other portion of the Property constitutes a construction defect;
- (b) Any disagreement as to whether a construction defect has been corrected in compliance with any written limited warranty agreement provided by or issued on behalf of Developer (a "**Limited Warranty**");
- (c) Any alleged breach of a Limited Warranty;
- (d) Any alleged violations of consumer protection, unfair trade practice, or other statutes;
- (e) Any allegation of negligence, strict liability, fraud, and/or breach of duty of good faith, and all other claims arising in equity or from common law;

(f) the interpretation, application or enforcement of any of the Governing Documents or the rights, obligations or duties of any Bound Party under any of the Governing Documents;

(g) Any disputes concerning the issues that should be submitted to binding arbitration;

(h) Any disputes concerning timeliness of performance and notifications under a Limited Warranty;

(i) Any dispute as to the payment or reimbursement of the arbitration filing fee;

(j) Any dispute as to whether a Limited Warranty, or any provision thereof, including, but not limited to any waiver under such Limited Warranty, is unenforceable;

(k) Any other claim arising out of or relating to the sale, design, or construction of a Lot and the Improvements thereon, or any other portion of the Property, including, but not limited to any claim arising out of, relating to or based on any implied warranty or claim for negligence or strict liability.

Section 4.2 Dispute Resolution by and between Bound Parties.

4.2.1 The Developer, the Metropolitan District, any Applicable Party and all Owners (collectively, the "**Bound Parties**," and each a "**Bound Party**") hereby covenant and agree to submit all Disputes between or among them to the following procedures for binding arbitration in lieu of litigation. No Dispute may be initiated after the date when institution of legal or equitable proceedings based on such Dispute would be barred by the applicable statute of limitation or statute of repose.

4.2.2 The arbitration shall be conducted by the Judicial Arbitrator Group in Denver, Colorado or such other reputable arbitration service (which shall be selected as provided in any applicable Limited Warranty if the arbitration involves a claim under the Limited Warranty, at the time the request for arbitration is submitted). The rules and procedures of the designated arbitration organization that are in effect at the time the request for arbitration is submitted will be followed.

4.2.3 The arbitration shall be governed by and shall be specifically enforceable under the applicable arbitration law of the State of Colorado. The arbitration award (the "**Award**") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Colorado.

4.2.4 To the extent not prohibited by law, the Bound Parties agree to pay a pro rata share (based on the number of Parties) of the costs and expense of the arbitrator. The payment shall be made to the person or persons responsible for collecting such costs and expenses on behalf

of the arbitrator prior to the applicable alternative dispute resolution process. Each Bound Party shall bear its own costs (including expert costs), expenses and attorneys' fees incurred in the arbitration.

4.2.5 If any Owner, the Metropolitan District, or the Developer files a proceeding in any court to resolve any Dispute, such action shall not constitute a waiver of the right of such party or a bar to the right of any other party to seek arbitration of that or any other Dispute, and the Court shall, upon motion of any party to the proceeding, direct that such Dispute be arbitrated in accordance therewith, and the Court shall award reasonable costs and attorney's fees to a Bound Party that successfully moves to have the Dispute resolved by arbitration.

4.2.6 If the Bound Parties resolve any Dispute through negotiation or mediation, and any Bound Party thereafter fails to abide by the terms of such agreement, or if any Bound Party fails to comply with the Award, then any other Bound Party may file suit or initiate administrative proceedings to enforce such agreement or Award without need to comply with the provisions of this Article. In such event, the Bound Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Bound Party (or if more than one non-complying Bound Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including without limitation, attorney's fees and costs.

4.2.7 The obligations of this Article to submit all Disputes to final, binding arbitration is wholly independent and separate from the rights and obligations under a Limited Warranty. In the event any Lot is not issued a Limited Warranty, all Disputes shall be resolved by final, binding arbitration conducted by the Judicial Arbitrator Group in Denver, Colorado, or such other organization as the parties to the Dispute may agree upon, pursuant to the terms of this Article 4.

4.2.8 THE OWNERS, METROPOLITAN DISTRICT AND DEVELOPER WAIVE ANY RIGHTS TO JURY TRIAL FOR DISPUTES EVEN IF THE ABOVE DESCRIBED ALTERNATIVE DISPUTE RESOLUTION PROCEDURES AND PROVISIONS ARE OTHERWISE FOUND UNENFORCEABLE. BY DELIVERY AND ACCEPTANCE OF A DEED TO A LOT, EACH OWNER AND DEVELOPER MAKE THIS WAIVER KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, AND ACKNOWLEDGE THAT NO ONE HAS MADE ANY REPRESENTATION OF FACT TO INDUCE THEM TO MAKE THIS WAIVER OR IN ANY MANNER OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT AND SUCH PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE HAD THE OPPORTUNITY TO BE ADVISED BY INDEPENDENT LEGAL COUNSEL IN CONNECTION WITH THIS DECLARATION AND IN MAKING THIS WAIVER. EACH OWNER, METROPOLITAN DISTRICT AND THE DEVELOPER ACKNOWLEDGE HAVING READ AND UNDERSTOOD THE MEANING AND RAMIFICATIONS OF THIS JURY WAIVER, AND INTEND THIS JURY WAIVER BE READ AS BROADLY AS POSSIBLE AND EXTEND TO ALL DISPUTES.

4.2.9 Notwithstanding anything to the contrary herein, the terms and provisions of this **Error! Reference source not found.** shall not be amended, modified or repealed without the prior written consent of the Developer, regardless of whether Developer continues to own any portion of the Property.

4.2.10 Notwithstanding anything to the contrary in this Declaration, the Metropolitan District may not sue anyone or arbitrate claims on behalf of two or more Owners with respect to any claims or issues on individual homes, including without limitation, construction and warranty claims.

4.2.11 Notwithstanding anything in this Declaration to the contrary, the Developer may, in its sole discretion, elect to resolve any Dispute involving the Developer as a plaintiff or defendant by court proceeding instead of through arbitration. If the Developer elects to resolve any such Dispute by court proceeding, the Developer may file and commence a proceeding in a court, or upon initiation of arbitration by another Bound Party and motion of the Developer, the arbitrator shall direct that such Dispute be litigated in a court of law, in which event the Court shall not grant any motion requesting that the Dispute be arbitrated over the objection of the Developer.

Section 4.3 No Presumption of Unobserved Construction Defects. The Developer, the Metropolitan District and the Owners agree that if the Metropolitan District or any Owner alleges that any Lot(s) or portions thereof, or any other portion of the Property, or any or Improvements, are subject to or alleged to be subject to a construction defect, then in any arbitration, mediation or other proceeding regarding such matters, there shall be no presumption that an alleged construction defect is prevalent or consistently present in other Lots or other portions of the Property or Improvements where such alleged construction defect has not been observed.

ARTICLE 5. GENERAL PROVISIONS

Section 5.1 Rules and Regulations.

Rules and regulations, if any, concerning and governing the Property, may be promulgated, adopted, enacted, modified, amended, repealed, and re-enacted by the governing board of the Metropolitan District (the “**Rules and Regulations**”) and such actions shall not be construed as an amendment to these Covenants requiring processing under Section 5.6, hereof. The Rules and Regulations, if any, may state procedural requirements, interpretations, clarifications and applications of any provision(s) of these Covenants or the Guidelines and law, and may include blanket requirements, blanket interpretations, and blanket applications. The governing board of the Metropolitan District has the authority to adopt or vary one or more Rules and Regulations that are different for different types residences constructed on Lots, if any. Any Rules and Regulations, if any, shall not be inconsistent with or contrary to these Covenants.

Section 5.2 Enforcement

5.2.1 Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in these Covenants, as amended, may be by any proceeding at law or in equity against any Person(s) violating or attempting to violate any such provision and possible remedies include all of those available at law or in equity, but Claims subject to Article 4 will be subject to the alternative dispute resolution procedures set forth in Article 4. The Developer, the ARC and the Metropolitan District, has the right, but not the duty, to institute, maintain and prosecute any such proceedings. No remedy is

exclusive of other remedies that may be available. Failure by the Developer, the ARC, the Metropolitan District, or any Owner, to enforce any covenant, restriction or other provision contained in these Covenants, shall in no event give rise to any liability, nor shall such non-enforcement be deemed a waiver of the right to thereafter enforce any covenant, restriction or other provision of these Covenants, regardless of the number of violations or breaches that may occur.

5.2.2 The foregoing includes the right of the Metropolitan District to: send demand letters and notices; charge interest and/or late charges; levy and collect fines; impose liens (as provided in C.R.S. Section 32-1-1001(g)(1), as amended); and negotiate, settle and/or take any other actions, with respect to any violation(s), or alleged violation(s), of any of the Governing Documents.

5.2.3 The decision of the Metropolitan District or the ARC to pursue enforcement action in any particular case shall be left to their discretion, subject to the duty to exercise judgment and be reasonable, and further restricted in that the Metropolitan District or the ARC shall not be arbitrary or capricious in taking enforcement action. A decision of the Metropolitan District or the ARC not to pursue enforcement action shall not be construed as a waiver of their right to enforce such provisions at a later time under other circumstances or preclude them from enforcing any other covenant, restriction or rule. Without limiting the generality of the foregoing, the Metropolitan District or the ARC may determine that, under the circumstances of a particular case:

- (a) the Metropolitan District's or the ARC's legal position is not strong enough to justify taking any or further action;
- (b) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or
- (c) that it is not in the Metropolitan District's or the ARC's best interest, based upon hardship, expense, limited effect on other Owners or other reasonable criteria, to pursue enforcement action.

Section 5.3 Severability.

All provisions of these Covenants are severable. Invalidation of any of the provisions by judgment, court order or otherwise, shall in no way affect or limit any other provisions, which shall remain in full force and effect.

Section 5.4 Rights and Easements of Developer and Builders.

Notwithstanding anything to the contrary contained in the Governing Documents, it is expressly permissible and proper for the Developer and each Builder, and their respective employees, agents, and contractors, to perform all activities, and maintain Improvements, tools, equipment, and facilities, on the portion of the Property owned by them and also on public property, incidental to development, construction, use, rental, sale, occupancy, and/or advertising. The foregoing includes locating, maintaining and relocating management offices,

construction offices, signs, model residences and sales offices, in such numbers, of such sizes, and at such locations on the portion of the Property owned by them and also on public property, as determined by the Developer or applicable Builder.

5.4.1 In addition, nothing contained in these Covenants limits the rights of the Developer, or require the Developer, to obtain approvals:

(a) to excavate, cut, fill or grade any property (with the consent of the Owner thereof), or to construct, alter, demolish or replace any Improvements; or

(b) to use any Improvements on any property (with the consent of the Owner thereof) as a construction, management, model home or sales or leasing office, in connection with the development, construction or sale of any property.

5.4.2 Nothing contained in these Covenants requires the Developer to seek or obtain any approvals under these Covenants for any such activity above.

Section 5.5 Conflict of Provisions

In the case of any conflict between any of the Governing Documents, these Covenants control.

Section 5.6 Duration, Revocation and Amendment

5.6.1 Each and every provision of these Covenants run with and bind the Property perpetually from the date of recording of these Covenants. Subject to Sections 5.6.2 and 5.6.5 of these Covenants, these Covenants may be amended, supplemented and/or terminated, by the affirmative vote or agreement of the Owners of sixty-seven percent (67%) of the Lots, but the Metropolitan District shall not be required to comply with or enforce any Owner-adopted amendments, supplements or termination, until such time as the Board receives a recorded copy of such amendment, supplement and/or termination, and shall not be required to enforce any such amendments or supplements that are ultra vires.

5.6.2 Until all of the Lots have been conveyed to the first Owners thereof other than the Developer or a Builder, no amendment, supplement or termination of these Covenants shall be effective, without the prior written approval of the Developer, which may be with conditions and/or requirements. This Section 5.6.2 will remain in effect until conveyance of all of the Lots to the first Owners thereof, other than the Developer or any Builder.

5.6.3 These Covenants may be amended, in whole or in part, by the Developer without the consent or approval of any other Owner, the Metropolitan District, or any other Person, in order to comply with the requirements, standards, or guidelines of any recognized secondary mortgage markets, including the department of housing and urban development, the federal housing administration, the veterans administration, the federal home loan mortgage corporation, the government national mortgage association, and the federal national mortgage

association. This Section 5.6.3 will remain in effect until conveyance of all of the Lots to the first Owners thereof, other than the Developer or any Builder.

5.6.4 Notwithstanding anything to the contrary, these Covenants may be amended, in whole or in part, by the Developer without the consent or approval of any other Owner, any Builder, the Metropolitan District, or any other Person, in order to correct any clerical, typographical, technical or other errors in these Covenants and/or to clarify any provision(s) of these Covenants. This Section 5.6.4 shall be in effect until conveyance of all of the Lots to the first Owners thereof, other than the Developer or any Builder.

5.6.5 Each amendment to these Covenants enacted by a vote or agreement of Owners of Lots shall be applicable only to disputes, issues, controversies, circumstances, events, claims or causes of action that arose out of acts, omissions, events or other circumstances that occurred after the date of recording of such amendment in the Records, and no such amendment shall be applied retroactively (i) to any disputes, issues, controversies, circumstances, events, claims or causes of action that arose out of acts, omissions, events or other circumstances that occurred before the date of recording of such amendment in the County, or (ii) to impair the rights or obligations of any Person, including the Developer, as originally set forth in these Covenants. This Section 5.6.5 may not be amended without the written consent of the Developer.

5.6.6 Notwithstanding anything in these Covenants to the contrary, the terms and provisions of Article 5 inure to the benefit of the Developer, are enforceable by the Developer and shall not ever be amended without the prior written consent of the Developer and without regard to whether the Developer owns any portion of the Property at the time of such amendment.

Section 5.7 *Minor Violations of Setback Restrictions.*

If upon the erection of any structure, it is disclosed by survey that a minor violation or infringement of setback lines has occurred, such violation or infringement shall be deemed waived by the Owners of each Lot immediately adjacent to the structure which is in violation of the setback, and such waiver shall be binding upon all other Owners. However, nothing contained in this Section prevents the prosecution of a suit for any other violation of these Covenants or the Guidelines, if any. A **"minor violation,"** for the purpose of this Section, is a violation of not more than one (1) foot beyond the required setback lines or Lot lines. This provision applies only to the original structures and is not applicable to any alterations or repairs to, or replacements of, any of such structures.

Section 5.8 *Notices.*

Any notice permitted or required in these Covenants is effective upon the earlier to occur of (i) personal delivery upon the Person to whom such notice is to be given; or (ii) two (2) days after deposit in the United States mail, postage prepaid, addressed to the Owner at the address for such Owner's Lot.

Section 5.9 Limitation on Liability.

The Developer, any Builder, the Metropolitan District, the ARC, and their respective directors, officers, shareholders, members, partners, agents and employees, are not liable to any Person for any action or for any failure to act arising out of any of the Governing Documents, unless the action or failure to act was not in good faith and was done or withheld with malice. Further, the Metropolitan District does not waive, and no provision of these Covenants shall be deemed a waiver of, the immunities and limitations to which the Metropolitan District is entitled as a matter of law, including the Colorado Governmental Immunity Act, §24-10-101, et seq. C.R.S., as amended. The release and waiver set forth in Section 5.13 (Waiver) applies to this Section.

Section 5.10 No Representations, Guaranties or Warranties.

No representations, guaranties or warranties of any kind, express or implied, shall be deemed to have been given or made by the Developer, any Builder, the Metropolitan District, the ARC, or their respective officers, directors, shareholders, members, partners, agents or employees, in connection with any portion of the Property, or any Improvement, its physical condition, structural integrity, freedom from defects, zoning, compliance with applicable laws, fitness for intended use, or view, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as specifically set forth in writing. The release and waiver set forth in Section 5.13 (Waiver) applies to this Section.

Section 5.11 Disclaimer Regarding Safety.

THE DEVELOPER, EACH BUILDER, THE METROPOLITAN DISTRICT, THE ARC, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE PROPERTY BY ACCEPTING A DEED TO A LOT WITHIN THE PROPERTY, EACH OWNER ACKNOWLEDGES THAT THE DEVELOPER, EACH BUILDER, THE METROPOLITAN DISTRICT, THE ARC, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED IN THE GOVERNING DOCUMENTS, IF ANY, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE PROPERTY. THE RELEASE AND WAIVER SET FORTH IN SECTION 5.13(WAIVER) APPLIES TO THIS SECTION.

Section 5.12 Development Within and Surrounding the Property.

Each Owner acknowledges that development within and surrounding the Property may continue for an indefinite period, and that plans for the density, type and location of improvements, developments or land uses may change over time. Such development may entail changes to or alterations in the access to the Property, views of or from the Property or the Lots, surrounding land uses, open space or facilities, traffic volumes or patterns, privacy or other

aspects or amenities. Development also may entail noise, odors, unsightliness, dust and other inconveniences or disruptions. By accepting a deed to a Lot, each Owner accepts title to such Lot subject to the foregoing, and waives and releases any claim against the Developer, any Builders, the Metropolitan District, the ARC, and their respective officers, directors, members, partners, agents and employees, heirs, personal representatives, successors and assigns, arising out of or associated with any of the foregoing. The release and waiver set forth in Section 5.13 (Waiver) applies to this Section.

Section 5.13 Waiver.

By acceptance of a deed to a Lot, each Owner hereby releases, waives, and discharges the Developer, each Builder, the Metropolitan District, the ARC, and their respective officers, directors, members, partners, agents and employees, heirs, personal representatives, successors and assigns, from all losses, claims, liabilities, costs, expenses, and damages, arising directly or indirectly from any hazards, disclosures or risks set forth in these Covenants, including but not limited to those contained in Sections 5.10, 5.11, and 5.12.

Section 5.14 Heading.

The Article, Section and subsection headings in these Covenants are inserted for convenience of reference only, do not constitute a part of these Covenants, and in no way define, describe or limit the scope or intent of these Covenants or any of the provisions hereof.

Section 5.15 Gender.

Unless the context requires a contrary construction, the singular includes the plural and the plural the singular and the use of any gender is applicable to all genders.

Section 5.16 Action.

Any action that has been or may be taken by the Developer, any Builder, the Metropolitan District, the ARC, or any other Person, may be taken **“at any time, from time to time”**. Each provision that authorizes, directs or permits action shall be deemed to include such language.

Section 5.17 Sole Discretion.

All actions which are taken by, or on behalf of, the Developer, any Builder, the Metropolitan District, the governing board of the Metropolitan District, the ARC, or any other Person, shall be deemed to be taken **“in the sole discretion”** of such Person.

Section 5.18 Use of “Include,” “Includes,” and “Including”.

All uses, in these Covenants, of the words **“include,” “includes,” and “including,”** will be construed to include the words **“without limitation”** immediately thereafter.

Section 5.19 *Runs with the Land; Binding Upon Successors.*

The benefits, burdens, and all other provisions contained in these Covenants are covenants running with and binding upon the Property and all Improvements which are now or hereafter located on the Property. The benefits, burdens, and all other provisions contained in these Covenants are binding upon, and inure to the benefit of the Developer, the Builders and all Owners, and upon and to their respective heirs, personal representatives, successors and assigns; but, no Person becomes a “Developer” or a “Builder” under these Covenants, except by written assignment or designation, as more fully provided in Sections 1.7 or 1.3 of these Covenants, respectively.

Section 5.20 *Easement for Encroachment.*

To the extent that any Improvement on any Lot encroaches onto another Lot, or any District Property, a valid easement for the encroachment exists. In addition, to the extent that any Improvement or utilities located within any District Property or a tract of land owned by any other governmental or quasi-governmental entity and adjacent to a Lot, as shown on a recorded subdivision plat, encroaches onto a Lot by no more than 24 inches, a valid easement for the encroachment exists. The Metropolitan District or other governmental or quasi-governmental entity that owns an Improvement or utility that encroaches onto a Lot shall be responsible for maintaining that portion of such Improvement or utility that encroaches into the Lot.

Section 5.21 *Governmental Immunity.*

Nothing herein shall be construed as a waiver of the rights and privileges of the Metropolitan District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, et seq., C.R.S., as amended from time to time.

ARTICLE 6. DEVELOPMENT RIGHTS

Section 6.1 *General Provisions.*

To the furthest extent permitted by law, upon the earlier of ten (10) years after recordation of these Covenants in the Records, or conveyance by the Developer of the last Lot to the first Owner thereof (other than the Developer), the Developer will have the following development rights (collectively, the “Development Rights”) with respect to all of the Property:

6.1.1 The right to complete or make Improvements as indicated on the recorded plat for the Property and any corresponding approved construction drawings.

6.1.2 The right to create Lots on the Property.

6.1.3 The right to subdivide Lots on any part of the Property, and the right to relocate boundaries between Lots.

6.1.4 The right annex to the Property additional real estate, including Improvements, and any real estate (including Improvements) which may previously have been withdrawn from the Property. Each such annexation, if any, shall be accomplished by recording

in the Records, of an annexation document that expressly states that the real estate (including Improvements) described therein shall be subject to these Covenants and all terms and provisions hereof.

6.1.5 The right to withdraw the Property, or any portion thereof, including one or more Lots, from these Covenants, so long as the Developer owns the portion of the Property to be withdrawn. Each withdrawal, if any, may be affected by the Developer recording a withdrawal document in the Records. A withdrawal as contained in this paragraph constitutes a divestiture, withdrawal, and de-annexation of the withdrawn real estate (including Improvements) from these Covenants so that, from and after the date of recording a withdrawal document, the real estate (including Improvements) so withdrawn is not a part of the Property. This Section 6.1.5 will remain in effect until conveyance of all the Lots to the first Owners thereof, other than the Developer or any Builder.

6.1.6 The right to establish, from time to time, by dedication or otherwise, public streets, utility and other easements for purposes including, but not limited to, public access, access, paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions.

Section 6.2 *Developer Easements and Access Rights.*

6.2.1 These Covenants create for the benefit of Developer, a blanket easement upon, across, over and under the Property subject to this Declaration (except over and above that portion of the Property required for or designated as building envelopes) for utilities and the installation, replacement, repair and maintenance of utilities facilities, including, but not limited to, such facilities for providing and/or metering utility services to the Property or any Lots and/or Improvements thereon, such as water, sewer, gas, telephone, electricity, computer cable, and master television antenna or cable or satellite television systems, if any. By virtue of this blanket easement, it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances on the Property and to install, repair, and maintain water and sewer pipes, gas, electric, telephone, computer and television wires, cables, circuits, conduits and meters. In the event any utility or quasi-utility company, or the Metropolitan District furnishing a service or monitoring a service covered by the general easement created herein requests a specific easement by separate recordable document, the Developer reserves and is hereby given the right and authority to grant such easement upon, across, over or under any part or all of the Property without conflicting with the terms hereof, provided, however, that such right and authority shall cease and terminate upon the earlier of ten (10) years after recordation of these Covenants in the Records, or conveyance by the Developer of the last Lot to the first Owner thereof (other than the Developer). The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement(s), and does not apply to the area of a Lot occupied by the footprint of any building constructed on a Lot.

6.2.2 The Developer reserves for itself and its successors and assigns an easement to enter on any portion of the Property for the purpose of modifying the grade of any drainage channels on the Property to improve the drainage of water. Every Lot shall be burdened with easements for natural drainage of storm water runoff from the other portions of the Property; provided, no Person shall alter the natural drainage on any Lot so as to materially increase the

drainage of water onto adjacent portions of the Property without the consent of the ARC and the Owner of the affected property.

6.2.3 The Developer hereby reserves for itself and its successors and assigns a perpetual easement and right-of-way over, upon and across the Property for construction, utilities, drainage, and ingress and egress. The Developer may make the location of these easements and rights-of-way certain with the prior approval of the ARC, by instruments recorded in the real estate records of Weld County, Colorado. The Developer further reserves the right to establish from time to time, by dedication or otherwise, utility and other easements, reservations, exceptions and exclusions necessary or convenient for the development, use and operation of any other property of the Developer, as long as such action is approved by the ARC and does not hamper the enjoyment of the Property by the Owners.

6.2.4 The Developer expressly reserves the right to perform construction work and to store materials in secure areas, on Lots owned by it and the future right to control such work and repairs, and the right of access thereto, until its completion. The Developer may perform all work without the consent or approval of any Owner or mortgagee. The Developer reserves an easement through the Property as may be reasonably necessary for the purpose of discharging the Developer's obligations and exercising the Developer's Development Rights reserved in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the land not designated as reserved for future development in this Declaration or on any Plat for the purpose of furnishing utility and other services to the property so reserved for future development. The Developer's reserved construction easement includes the right to grant easements to public utility companies and to convey Improvements within those easements anywhere in the Property, other than within Improvements constructed on a Lot.

6.2.5 A blanket easement is hereby reserved to the Developer for the benefit of the Developer, Developer's Affiliates, successors and specific assigns, and granted to the Metropolitan District and any member of the Board or ARC, and their respective officers, agents, employees, contractors and assigns, upon, across, over, in and under the Property and any Lot, and a right to make such use of the Property or Lot as may be necessary or appropriate to make repairs or to perform the duties, obligations, functions and maintenance which the Metropolitan District, the Board or the ARC are obligated or permitted to perform pursuant to the Governing Documents and this Declaration, including the right to enter upon any Lot for the purpose of performing maintenance and repair thereon, as required by this Declaration, together with the right of access, ingress and egress necessary for such installation, maintenance, operation, repair, replacement and upkeep.

6.2.6 The Developer hereby authorizes the Metropolitan District to provide operations and maintenance services to the Property or portions thereof (as may be authorized or limited by law and the Service Plan for the Districts), which services may include, operation and maintenance of landscaping, fencing, paths and walkways, non-potable irrigation water facilities and improvements, and drainage facilities, and operations and maintenance services for public facilities and improvements not otherwise dedicated to the City. Nothing set forth herein shall require the Metropolitan District to perform any of the foregoing operations and maintenance services. Each Owner may be charged an annual fee, for such operation and maintenance services

provided by the Metropolitan District, if any. The annual fee shall subject to adjustment at the discretion of and as determined by the Board based upon the Metropolitan District's annual budget, and amendments thereto from time to time. The Board shall not be liable for any omission or improper exercise by any agent or independent contractor of any duty, power or function so delegated by written instrument executed by or on behalf of the Board.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned, being the Developer herein and the Owner of the Property, has hereunto set its hand and seal this 2nd day of September 2022.

DEVELOPER:

LGI HOMES – COLORADO, LLC, a Colorado limited liability company

By: *Patrick Tysell*
Name: Patrick R. Tysell
Its: Officer

STATE OF Colorado
~~Denver~~
COUNTY OF Denver) ss.

The foregoing instrument was acknowledged before me this 2nd day of September 2022, by Patrick Tysell as Officer of LGI Homes- Colorado, LLC, a Colorado limited liability company on behalf thereof.

WITNESS my hand and official seal.

Katherine A Picone
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID# 20104036223
MY COMMISSION EXPIRES SEPTEMBER 10, 2026

Katherine A Picone
Notary Public

My commission expires: 9/10/2026

CONSENT OF THE METROPOLITAN DISTRICT

The undersigned, Cottonwood Greens Metropolitan District No. 2, hereby consents to the aforesaid Covenants and Restrictions of Cottonwood Greens.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this ____ day of September 2022.

STATE OF COLORADO

ss.

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, by _____ as _____ of COTTONWOOD GREENS METROPOLITAN DISTRICT NO. 2.

WITNESS my hand and official seal.

Notary Public

My commission expires: _____

EXHIBIT A
(Property)

FILING 1

LOTS 1 THROUGH 19, INCLUSIVE, BLOCK 1;
LOTS 1 THROUGH 6, INCLUSIVE, BLOCK 2;
LOTS 1 THROUGH 12, INCLUSIVE, BLOCK 3;
LOTS 1 THROUGH 6, INCLUSIVE, BLOCK 4; AND
LOTS 1 THROUGH 18, INCLUSIVE, BLOCK 5

COTTONWOOD GREENS PUD FILING NO. 1, CITY OF FORT LUPTON, COUNTY OF WELD, STATE OF COLORADO, ACCORDING TO THE PLAT OF COTTONWOOD GREENS PUD FILING NO. 1 RECORDED IN THE OFFICE OF THE CLERK AND RECORDER OF WELD COUNTY, COLORADO ON FEBRUARY 10, 2021 AT RECEPTION NO. 4681484.

FILING 2

LOTS 1 THROUGH 4, INCLUSIVE, BLOCK 1;
LOTS 1 THROUGH 5, INCLUSIVE, BLOCK 2;
LOTS 1 THROUGH 6, INCLUSIVE, BLOCK 3;
LOTS 1 THROUGH 22, INCLUSIVE, BLOCK 4;
LOTS 1 THROUGH 8, INCLUSIVE, BLOCK 5; AND
LOTS 1 THROUGH 7, INCLUSIVE, BLOCK 6

COTTONWOOD GREENS PUD FILING NO. 2, CITY OF FORT LUPTON, COUNTY OF WELD, STATE OF COLORADO, ACCORDING TO THE PLAT OF COTTONWOOD GREENS PUD FILING NO. 2 RECORDED IN THE OFFICE OF THE CLERK AND RECORDER OF WELD COUNTY, COLORADO ON FEBRUARY 10, 2021 AT RECEPTION NO. 4681485.

FILING 3

LOTS 1 THROUGH 35, INCLUSIVE, BLOCK 1;
LOTS 1 THROUGH 12, INCLUSIVE, BLOCK 2; AND
LOTS 1 THROUGH 12, INCLUSIVE, BLOCK 3

COTTONWOOD GREENS PUD FILING NO. 3, CITY OF FORT LUPTON, COUNTY OF WELD, STATE OF COLORADO, ACCORDING TO THE PLAT OF COTTONWOOD GREENS PUD FILING NO. 3 RECORDED IN THE OFFICE OF THE CLERK AND RECORDER OF WELD COUNTY, COLORADO ON FEBRUARY 10, 2021 AT RECEPTION NO. 4681486.