

FIRST AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
FOREST GLEN SECOND FILING - REPLAT C,
A REPLAT OF FOREST GLEN SECOND FILING - LOT 45
CITY OF BOULDER, COUNTY OF BOULDER,
STATE OF COLORADO

This First Amendment to Declaration of Covenants, Conditions, and Restrictions of Forest Glen Second Filing - Replat C, a Replat of Forest Glen Second Filing – Lot 45, City of Boulder County of Boulder, State of Colorado (“First Amendment”) is entered into the date and year hereinafter set forth by Cunningham Farm, Inc., a Colorado corporation (“Declarant”).

WITNESSETH:

THAT, WHEREAS, a certain to Declaration of Covenants, Conditions, and Restrictions of Forest Glen Second Filing - Replat C, a Replat of Forest Glen Second Filing – Lot 45, City of Boulder County of Boulder, State of Colorado (the “Declaration”) was recorded on September 10, 2010, at Reception No. 03098074, in the office of the Clerk and Recorder of Boulder County, Colorado; and

WHEREAS, Section 13.4 of the Declaration permits amendment of the Declaration by execution of a written document by the Owners of not less than sixty-seven (67%) of the Units actually in existence at the time of said amendment; and

WHEREAS, the Declarant currently owns more than sixty seven percent (67%) of the Units actually in existence at the time of this First Amendment; and

WHEREAS, the Declarant desires to amend the Declaration as provided in this First Amendment.

NOW THEREFORE, the Declarant hereby amends the Declaration as follows:

1. Article 1 is hereby amended in its entirety to read as follows:

ARTICLE 1 DEFINITIONS

As used in this Declaration, unless the context otherwise requires, the terms hereinafter set forth shall have the following meanings:

Section 1.1. Association.

"Association" shall mean the homeowners association known as SPRING LEAF OWNERS ASSOCIATION, a Colorado Non-profit Corporation, its successors and assigns.

Section 1.2. By Laws.

"By Laws" shall mean any instrument designated as By Laws which is adopted by the Association for the regulation and management of the Association, including any amendments to said instrument.

Section 1.3. Common Elements.

"Common Elements" shall mean Outlots A, B, C and D, and all improvements located thereon, together with all roads, streets, fences, rights-of-way, and easements located within the Properties which are owned by the Owners as tenants in common, are required to be maintained by the Association or dedicated to the City of Boulder or the public but are to be maintained by the Association.

Section 1.4. Common Expenses.

"Common Expenses" means any expenditures, costs or expenses and all liabilities incurred by or on behalf of the Association for all of the Units, together with any allocation to reserves.

Section 1.5. Common Expense Assessment.

"Common Expense Assessment" means the assessment made against each Unit in the Properties by the Association for the Common Expenses.

Section 1.6. Declarant.

"Declarant" shall mean Cunningham Farms, Inc., a Colorado corporation, its successors or assigns, if such successors or assigns shall acquire any portion of the Properties described for the purpose of development and be designated by the Declarant or a successor Declarant by a duly recorded written instrument.

Section 1.7. Declaration.

"Declaration" shall mean this Declaration of Covenants, Conditions, and Restrictions of Forest Glen Second Filing - Replat C, a Replat of Forest Glen Second Filing - Lot 45, City of Boulder, County of Boulder, State of Colorado as may be amended from time to time.

Section 1.8. Executive Board.

"Executive Board" shall mean the Executive Board of the Association duly elected pursuant to the By Laws of the Association or appointed by the Declarant as provided in this Declaration.

Section 1.9. First Mortgagee.

"First Mortgagee" shall mean any person, corporation, partnership, trust, company, association, or other legal entity which owns, holds, insures, or is a governmental guarantor of a mortgage or deed of trust, which mortgage or deed of trust is a first lien encumbering a Unit or parcel within the Properties described.

Section 1.10. Lot.

"Lot" shall mean and refer to any plot of land shown upon the recorded subdivision plat or later amended plats of the Properties and which is subject to this Declaration, with the exception of the Common Elements, public streets, or other public property. Lot shall include any dwelling unit or structure constructed thereon.

Section 1.11. Master Association.

"Master Association " shall mean and refer to Forest Glen Recreational Association.

Section 1.12. Master Declaration.

"Master Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions for Forest Glen Recreational Association.

Section 1.13. Member.

"Member" shall mean all those who are members of the Association as provided in this Declaration.

Section 1.14. Owner.

"Owner" means the Declarant or other person or entity that owns a Unit, but does not include a person having an interest in a Unit solely as security for an obligation. The Declarant is the Owner of any Unit created by the Declaration until that Unit is conveyed to a third party.

Section 1.15. Party Wall.

"Party Wall" means each wall of a Townhouse which is built as a part of the original construction within the Properties and which wall constitutes the dividing wall between the living space of any other Townhouse.

Section 1.16. Properties.

"Properties" shall mean the entire real property and the improvements located thereon which is the subject of this Declaration, as more fully described on Exhibit A attached hereto.

Section 1.17. Residential Lot.

"Residential Lot" means any of Lots 1 through 6, Block 2 of the Properties and the residential dwelling and other improvements located thereon.

Section 1.18. Security Interest.

"Security Interest" means an interest in real estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership

interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.19. Townhouse.

“Townhouse” means any of Lots 1 through 6, Block 1 of the Properties and the improvements located thereon.

Section 1.20. Townhouse Expenses.

“Townhouse Expenses” means all expenditures, costs or expenses and all liabilities incurred by or on behalf of the Association solely for the Townhouses and not the Units as a whole, together with any allocation to reserves.

Section 1.21. Townhouse Expense Assessment.

“Townhouse Expense Assessment” means the assessment made against each Townhouse in the Properties by the Association for the Townhouse Expenses.

Section 1.22. Unit or Units.

“Unit or Units” means a Residential Lot or Townhouse within the Properties and which is subject to this Declaration. Unit shall include any structure constructed or contained thereon.

2. section 4.8 is hereby amended to delete item (b) in its entirety.

3. Section 4.16 is hereby amended in its entirety to read as follows:

Section 4.16. Common Access Easement – Lots 3 and 4, Block 2.

Lots 3 and 4, Block 2 of the Properties share a Common Access Easement as shown on the recorded plat for the Properties. Only the Owners of said Lots shall have the non-exclusive right to use said Common Access Easement. No Owner of either of said Lots shall obstruct the Common Access Easement. Each Owner shall be solely liable for the cost to maintain said Common Access Easement on each Owner’s Lot. In the event that an Owner damages the Common Access Easement on the other Owner’s Lot, said Owner shall be responsible to pay the cost and expense to repair the damage to the Common Access Easement on the other Lot. Failure of an Owner to pay for any damage caused to the other Owner’s Common Access Easement shall cause that Owner to be liable to the Association for an Individual Assessment and/or Fine as set forth in Section 7.8 hereof. Each Owner shall be responsible for snow removal, if desired, on each Owner’s portion of the Common Access Easement on said Owner’s Lot.

4. Section 7.4 is hereby amended in its entirety to read as follows:

Section 7.4. Annual Assessment/Commencement of Common Expense Assessments and Townhouse Expense Assessments.

(a) The Common Expense Assessment shall be made on an annual basis against all Units and shall be based upon the charges imposed on all Units within the Properties by the

Master Association, together with the Association's advance budget of the cost requirements needed by it to provide for the administration and performance of its duties during such assessment year. Common Expense Assessments may be collected in the manner as determined by the Executive Board. Common Expense Assessments shall begin on the first day of the month after a Temporary or Permanent Certificate of Occupancy for a Unit is issued by the City of Boulder, Colorado.

(b) Within ninety (90) days after adoption of any advance budget or proposed budget, the Executive Board shall mail, by ordinary first class mail, or otherwise deliver a summary of the budget to all Owners and shall set a date for a meeting of Owners to consider ratification of the budget within a reasonable time after mailing or other delivery of the summary. Unless at that meeting sixty-seven percent (67%) of the votes entitled to be cast by Owners of Units are cast to reject the budget, the budget shall be ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board.

(c) Townhouse Expenses shall be assessed to each Townhouse as part of each Townhouse Expense Assessment. The Townhouse Expense Assessment shall be made on an annual basis against all Townhouses and shall be based upon the charges imposed on all Townhouses within the Properties by the Association's advance budget of the cost requirements needed by it to provide for the administration and performance of its duties to only the Townhouses during such assessment year. Townhouse Expense Assessments may be collected in the manner as determined by the Executive Board. Townhouse Expense Assessments shall begin on the first day of the month after a Temporary or Permanent Certificate of Occupancy for a Unit is issued by the City of Boulder, Colorado.

(d) Declarant shall pay all out of pocket Common Expenses and Townhouse Expenses incurred by the Association until such time as all Units are being assessed a Common Expense Assessment and/or a Townhouse Assessment.

5. Section 7.8 (a) is deleted and replaced with the following:

Section 7.8. Individual Assessments/Fines.

(a) The Executive Board or the Association shall have the right to assess against any Owner individually the amount as provided for in this Declaration, including, but not being limited to, charges assessed under Sections 4.14(a)-(c), 4.15, 5.1, 6.10, Article 10 and Section 11.9 hereof.

6. Article 11 is hereby deleted in its entirety and replaced with the following:

ARTICLE 11 INSURANCE

Section 11.1 Property Insurance.

- (a) The Association shall obtain and maintain at all times, to the extent obtainable, and pay the premiums upon, as a common expense, a "master" or "blanket" type policy of property insurance covering all of the Townhouses, the General Common Elements and Limited Common Elements (except land, foundation, excavation and other items normally excluded from coverage) including fixtures, to the extent they are part of the General Common Elements, building service equipment and supplies, and other common personal property belonging to the Association. All references herein to a "master" or "blanket" type policy of property insurance are intended to denote single entity townhouse insurance coverage. Coverage shall be at least equal to such coverage as is commonly required by prudent institutional mortgage investors in the Boulder County, Colorado, area. The policy shall be in an amount equal to one hundred percent (100%) of the current replacement cost of the Townhouses exclusive of land, foundation, excavation and other items normally excluded from coverage. Loss payables shall be in favor of the Association, as a trustee, for each Townhouse Owner and such Owner's mortgagee. The Association shall be required to hold any proceeds of insurance in trust for the Townhouse Owners and their first mortgage holders, as their interests may appear. Certificates of insurance shall be issued to each Townhouse Owner and mortgagee upon request. Such policies shall contain the standard mortgage clause or equivalent endorsement (without contribution) which is commonly accepted by private institutional mortgage investors in the Boulder County, Colorado, area. Such policies must also provide that they may not be canceled or substantially modified without at least ten days prior written notice to the Association and to each holder of a first mortgage listed as a scheduled holder of a first mortgage in the policies.
- (b) Policies are unacceptable where: (i) Under the terms of the insurance carrier's charter, bylaws or policy, contributions or assessments may be made against borrowers, mortgagees or their designees; or (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent the mortgagee or the borrowers from collecting insurance proceeds.
- (c) The policies must also provide for the following: (i) A waiver of the right of subrogation against Townhouse Owners individually; or (ii) that the insurance is not prejudiced by any act or neglect of any individual Townhouse Owners which is not in the control of such Owner's collectively; and (iii) that the policy is primary in the event the Townhouse Owner has other insurance covering the same loss.
- (d) The insurance policy shall afford, as a minimum, protection against the following: (i) Loss or damage by fire and other perils normally covered by the

standard extended coverage endorsement; and (ii) all other perils which are customarily covered with respect to condominiums similar in construction, location and use, including all perils normally covered by the standard "all-risk" endorsement, where such is available.

- (e) The policy shall include an "Agreed Amount Endorsement" and, if available, an "Inflation Guard Endorsement". These endorsements shall be required only if they are available and are commonly required by prudent institutional mortgage investors in the Boulder County, Colorado, area.

Section 11.2 Flood Insurance.

If the Properties are located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, and the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, a "blanket" policy of flood insurance on the Properties in an amount of the unpaid principal balances of the mortgages on the Units located within the Project.

Section 11.3 Liability Insurance.

Public liability and property damage insurance in such limits as the Association may, from time to time, determine, but coverage shall be for at least \$1,000,000.00, covering all claims for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with ownership, operation, maintenance, and other use of the Condominium. Said policy shall also contain a "severability of interest" endorsement.

Section 11.4 Worker's Compensation Insurance.

Worker's compensation and employer liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

Section 11.5 Fidelity Insurance.

Fidelity insurance may be obtained by the Association, and if so obtained, coverage shall be not less in aggregate than two months' current assessments, plus reserves as calculated from the current budget of the Association. Any person employed as an independent contractor by the Association for the purposes of managing the condominium must obtain and maintain fidelity insurance in an amount not less than set forth above, unless said independent contractor is covered under the Association's fidelity insurance.

Section 11.6 Directors' and Officers' Liability Insurance.

The Association may, in the Executive Board's reasonable discretion, obtain directors' and officers' liability insurance in such amounts and upon such terms as the Board shall determine appropriate.

Section 11.7 Insurance Against Other Risks.

The Association may obtain insurance against such other risks of a similar or dissimilar nature, as it shall deem appropriate with respect to the Condominium, including plate or other glass insurance and any personal property of the Association located thereon.

Section 11.8 Townhouse Owner's Obligation for Personal Property Insurance.

Insurance coverage on the contents of each Townhouse, and such other items of personal or other property belonging to an Owner within each Townhouse and public liability coverage for the Owner shall be the sole and direct responsibility of the Townhouse Owner thereof, and neither the Declarant nor the Association shall have any responsibility therefor. A Townhouse Owner may obtain and pay for such other or different policy or policies of insurance as the Owner or the Owner's Lender may require.

Section 11.9 Residential Lot Owner's Obligation for Property and Liability Insurance.

- (a) By virtue of taking title to a Residential Lot, each Owner of a Residential Lot covenants and agrees with all other Owners and with the Association to carry blanket "risks of direct physical loss" property insurance providing full replacement cost coverage less a reasonable deductible on the Owner's Residential Lot.
- (b) Each Owner further covenants and agrees that in the event of damage to or destruction of the improvements on a Residential Lot or to the appurtenant Common Elements for which the Association has not assumed primary maintenance responsibility pursuant to the terms of this Declaration, the Owner or Owners thereof shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Section 6.14 of this Declaration. The Owner or Owners of the Residential Lot shall pay any costs which are not covered by insurance proceeds.
- (c) Each Owner further covenants and agrees with all other Owners and with the Association to carry casualty and public liability insurance coverage on the Owner's Residential Lot.
- (d) In the event that any Owner fails to obtain and maintain the insurance coverages required by this Section 11.9, the Association reserves the right, but shall not have the obligation, to obtain and maintain such insurance coverages on such Owner's behalf. Any such insurance premiums paid by the Association shall be charged to the Residential Lot Owner as an Individual Assessment/Fine pursuant to Section 7.8 hereof.

Section 11.10 Allocation of Insurance Expenses.

That portion of the insurance premium for the insurance policy coverage required by Section 11.1 hereof which is attributable solely to the Townhouses shall be assessed as a Townhouse Expense Assessment. The remainder of the cost of the insurance premiums obtained by the Board pursuant to this Article 11 shall be assessed as a Common Expense Assessment.

IN WITNESS WHEREOF, the Declarant caused this First Amendment to be executed this ____ day of _____, 2011.

DECLARANT:
Cunningham Farms, Inc.
a Colorado corporation

By: _____
Terence Britton, President

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2011, by Terence Britton, as President of Cunningham Farms, Inc., a Colorado corporation.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public