

19 PAGE DOCUMENT

**DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
OF
SIENA VIEW SUBDIVISION**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS of SIENA VIEW SUBDIVISION (the "Declaration") is made as of this 17 day of November, 2005, by Siena View LLC, a Colorado Limited Liability Company.

RECITALS

Declarant hereby declares that he is owner of real property described in Exhibit A attached. Declarant names the property Siena View Subdivision, (the "Property"). The Property shall be held, sold, and conveyed subject to the following covenants, restrictions and easements which are for the purpose of protecting the value and desirability of the Property, and which shall run with the land and be binding on all parties and all heirs, successors, and assigns of parties having any right, title, or interest in all or any part of the Property.

**ARTICLE I
DEFINITIONS**

1.1 Definitions. The following words, when used in this Declaration or in any Supplemental Declaration, unless inconsistent with the context of this Declaration, shall have the following meanings:

- A. "Association" shall mean and refer to the Siena View Homeowners Association, Inc., a Colorado non-profit corporation, its successors and assigns acting through its Board.
- B. "Board" shall mean and refer to the Executive Board of the Association.
- C. "Building" shall mean and refer to any Building, including all fixtures and improvements thereto, situate on the Property.
- D. "Declarant" shall mean and refer to Siena View LLC, a Colorado limited liability company ("the Declarant"), and any successor or assign as may hereafter be designated by the Declarant by a written instrument duly recorded in the office of the Clerk and Recorder of Mesa County, Colorado.
- E. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Restrictions and Easements.
- F. "Design Review Committee" shall mean and refer to the committee created pursuant to this Declaration.
- G. "Improvements" shall mean and refer to any and all Buildings, parking areas, fences, screening fences, retaining walls, stairs, decks, hedges, windbreaks, planting trees, shrubs, signs, objects of art, mailboxes, irrigation facilities such as pumps, pipelines and sprinklers and other structures or landscaping of every type and kind situate on the Property.

- H. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map, including all or a portion of the Property, with the exception of any common elements.
- I. "Member" shall mean and refer to every person or entity who holds membership in the Association.
- J. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Vacant Lot or Dwelling Unit located on a Lot which is a part of the Property, including contract sellers, but excluding those having such an interest merely as security for the performance of an obligation.
- K. "Property" shall mean and refer to all of the real estate situate within the area described in Exhibit A.
- L. "Single Family Lot" shall mean and refer to a Lot which may be used solely for residential purposes and upon which not more than one (1) Building with not more than two (2) garage/accessory Buildings, may be constructed, as so designated on a recorded plat of all or part of the Property.
- M. "Vacant Lot" shall mean and refer to a Lot which does not have one (1) or more completed Building constructed thereon.

ARTICLE II

GENERAL DECLARATION

2.1 Intent. By making the Declaration hereunder, Declarant specifically intends to enhance, perfect and preserve the value, desirability and attractiveness of the Property and, provide for the maintenance of the Common Elements, Improvements and Buildings on the Property in a manner beneficial to all Owners.

2.2 Estate Subject to Declaration. By this Declaration, Declarant expressly intends and does hereby subject the Property to the provisions of the Declaration. All easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant to and running with the land and shall at all times inure to the benefit of and be binding upon any person having at any time any interest or estate in the Property, and their respective heirs, successors, representatives or assigns. The recording of this Declaration or reference in any deed, conveyance, lease, mortgage, deed of trust, other evidence of obligation or any other instrument pertaining to any part or all of the property shall be sufficient to create and reserve all of the easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges which are granted, created, reserved or declared herein as though fully and completely set forth in their entirety in any such document.

2.3 Recording Data. The recorded easements and licenses appurtenant to, or included in, Siena View, or to which any portion of Siena View may become subject by virtue of a reservation herein will be found on the Plat to be recorded in the Mesa County Clerk and Recorder's Records.

ARTICLE III USE REGULATIONS

3.1 Land Uses. The Lots in the Property fall within the following land use categories:

Single Family Lots as depicted on the plat of Siena View Subdivision.

3.2 Height Restrictions. Each and every Building shall be subject to a height restriction of 35 feet.

3.3 Stucco. Each and every Building shall be required to incorporate stucco or like material into every side of every building.

3.4 Drainage and Grading. All plans and specifications for the construction of improvements on a Lot, and the actual construction of such improvements shall be subject to review by the Design Review Committee, shall maintain drainage easements and rights-of-way within the Property clear and unobstructed. Further, all grading on a Lot shall be done with a minimum of disruption to the Lot and shall not drain surface water to adjoining Lots unless along a natural drainage path, nor shall grading cause soil erosion. Grading shall be confined to each Lot.

3.5 Roofs. All roofs shall be constructed with a minimum pitch of 5 in 12.

3.6 Building Restrictions.

- A. Uses. No Lots shall be used except for residential purposes. Only single-family dwellings, 2 car garage, and other outbuildings directly incidental to residential use shall be erected, altered, placed or permitted to remain on any Lot. At no time shall there be more than one single family residential Building situate upon any Lot.
- B. Buildings. Only new, site-built Buildings shall be permitted within the Property and no Building for occupancy shall be moved upon the Property. Further, no temporary Building or structure of any type whatsoever shall be used at any time for a residence, either temporary or permanent. No manufactured homes, mobile homes, trailer homes or other moveable structures shall be permitted as dwellings within the Property.
- C. Floor Area. The floor area of the main structure on any Lot, exclusive of open porches and garages, shall not be less than one thousand (1000) square feet, outside measurement. Each residence will include a double car enclosed garage.
- D. Setbacks. All Buildings shall meet or exceed required setbacks, standards and requirements. Currently governing requirements are as mandated by the City of Grand Junction
- E. Construction. Once the construction of a Building has begun, construction of the Building must be completed and a certificate of occupancy must be obtained within twelve (12) months.
- F. Building Material. All exterior building materials used must be approved by the Design Review Committee. Only pre-textured composite asphalt shingle roofing is permitted. Exterior siding shall be stucco. Exterior color scheme must blend with the natural surroundings of the area. Samples

of material and colored chips are to be included at the time of planned submittal for the Design Review Committee review. Any variance must be approved by the Design Review Committee.

- G. Modifications. An Owner shall not change, modify, paint, decorate, alter or in any way make any change to any exterior wall, surface, roof, deck, patio, entry, landscaping, paving, trees, shrubbery or other Improvements without the approval of the Design Review Committee.
- H. Location of Outbuildings. No outbuildings shall be constructed prior to written approval from the Design Review Committee as to location, size, use and materials. Currently governing requirements are as mandated by the City of Grand Junction.
- I. Driveways. Driveways shall be surfaced with a hard surface such as concrete, asphalt, masonry or similar materials.
- J. Miscellaneous Structures. No advertising, billboards or signs of any character shall be erected, placed, permitted or maintained on any Lot unless the prior written consent of the Committee has first been obtained.
- K. Underground Utility Lines. All electric, television, radio, telephone and other utility line installations and connections from an Owner's property line to a residence or other structures shall be placed underground, except that during the construction of a residence, the contractor or builder may install a temporary overhead utility line which shall be promptly removed upon completion of construction.
- L. No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon the Property nor shall anything be done or placed on any of the Property which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others.
- M. No Hazardous Activities. No activities shall be conducted on the Property or on improvements constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any of the Property and no open fires shall be lighted or permitted on the Property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designated interior fireplace or except such campfires or picnic fires on property designated for such by the Committee. No hazardous wastes shall be kept or disposed upon any lots.
- N. No Annoying Lights, Sounds or Odors. No light shall be emitted from any Lot or Dwelling Unit which is unreasonably bright or causes unreasonable glare; no sound shall be emitted on any Lot or Dwelling Unit which is unreasonably loud or annoying; and no odor shall be emitted on any Lot or Dwelling Unit which is noxious or offensive to others.
- O. Clothes Lines and Storage. No clothes lines, drying yards, service yards or storage areas shall be so located on any Lot so as to be visible from a street and/or public way and/or from any common area.

- P. Garbage and Refuse Disposal. No garbage, refuse, rubbish or cuttings shall be deposited on any street nor on any Lots, unless placed in a suitable container suitably located in a concealed manner. All equipment for the storage or disposal of such materials shall be kept in clean and sanitary condition.
- Q. Repair. No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, or servicing of any kind may be performed on any Lot unless it is done within completely enclosed garages or other structures located on the Lot which screen the sight and sound of the activity from the street and from adjoining property. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer or motor driven cycle together with those activities normally incident and necessary to such washing and polishing.
- R. Tanks. No tanks of any kind, either elevated or buried, shall be erected, placed or permitted upon any Lot without the prior written approval of the Committee.
- S. Wood Storage. Firewood storage is permitted on a Lot only in the event same is neatly stacked or stored, and no firewood shall be stored on any common area.

3.7 Lots, Buildings, Improvements and Common Elements.

- A. The Owners shall keep, maintain and repair their Lots, Buildings and Improvements, including landscaping and vegetation in a neat, clean, cultivated, attractive and well maintained condition, free from the accumulation of trash or debris or visual deterioration. In the event any Owners fails to keep, maintain or repair a Lot, Building or Improvement in accordance herewith, the Association may conduct such maintenance, repairs or restoration and assess the cost thereof to the Owner(s) on whose Lot, Building or Improvement for which the maintenance or repairs were conducted as a reimbursement assessment pursuant to Section 5.4 hereof
- B. No Lot shall be used as a dumping ground for rubbish. No garbage, rubbish or trash shall be allowed to accumulate on any Lot or the Common Elements. All garbage, rubbish and trash shall be placed and kept in covered containers. All containers shall be kept within garages or enclosed backyards so as to not be visible from neighboring property, except to make the same available for collection during regular trash collection days, and then only for a period of from 7:00 A.M. through 8:00P.M. on such trash collection day. The Owners shall not cause or permit any damage, deterioration or the accumulation of trash and debris upon the Common Elements.
- C. The Association or Declarant, upon the failure of the Owner of any Lot to maintain his/her Lot and Improvements, including the payment of any taxes assessed thereon, in a reasonable satisfactory manner as determined by the Association, or upon use by the Owner in a manner inconsistent with these covenants, may enter upon the site and repair, maintain, rehabilitate, and restore the Lot and/or Improvements, or abate the improper use, or pay the taxes thereon, and any costs incurred, including reasonable attorney's fees, shall be charged against the Owner of said lot and collected in the manner set forth in this Declaration.

3.8 Home Occupations and Offensive Activities.

- A. No Lot or Building shall be used for commercial purposes of any type whatsoever excepting for home occupations. For purposes of this section, "home occupations" shall mean an occupation by the resident conducted entirely within the residential building which does not entail the employment of third persons on the premises, does not entail the delivery of goods or services to customers upon the premises, and does not entail visits by customers to the premises. For example, but not by limitation, an insurance agent may use his residence as a personal office so long as his customers are not permitted to come to the residence; however, the establishment of a barber shop or a beauty shop would be prohibited.
- B. No obnoxious, offensive or other activity which would constitute a public or private nuisance or annoyance to the neighborhood shall be permitted including, but not limited to, the repair of automobiles other than minor tune-ups performed by an Owner on his own vehicle.
- C. No firearms, illegal fireworks, explosives, air rifles, BB guns, crossbows or similar devices shall be discharged on the Property.

3.9 Restrictions on Occupants and Pets.

- A. At no time shall any single family residence be occupied by more than one family.
- B. No animals shall be allowed other than domestic pets. No cattle, sheep, goats, pigs, rabbits, poultry, or other animals of any description shall be kept or maintained on any Lot. Not more than two (2) dogs and not more than five (5) pets in cumulative total (including dogs) shall be kept on the premises and only then if they are kept solely as household pets for private use and not for commercial purposes. No such animal may be kept which is a nuisance or annoyance to other Owners' property. Household pets shall be contained on their Owner's property or on a leash and not permitted to run loose. At the request of any Owner, the Board of the Association shall determine whether a particular animal shall be considered a household or yard pet, a nuisance, or whether the number of any such animals on any Lot is in compliance. Habitually barking dogs and vicious breeds are prohibited, at the sole discretion of the Association. Household pets shall be kept and raised only for private use and not for commercial purposes. No horses or livestock of any type shall be kept on any Lot. Household pets shall be under the control of their owners at all times.

3.10 Parking.

- A. All residences shall be constructed so as to provide sufficient off street parking to accommodate not less than two automobiles.
- B. No Lot roadway or easement shall be used as a parking, storage or accommodation area for any type of junk vehicles or vehicles under repair. Only those cars and trucks incidental to residential family use will be permitted. Recreational vehicles shall be screened by fences, plantings or otherwise kept from public view. Fences approved by the Design Review Committee per the guidelines of this Declaration shall be deemed to meet this requirement.

- C. No vehicles, boats, campers, trailers, snowmobiles, motorcycles or other recreational vehicles, devices or equipment, or vehicles used for business (other than normal passenger-type vehicles) shall be stored or permitted to remain on the premises unless garaged, placed in an Design Review Committee-approved outbuilding or screened storage facility or parked behind a sight-obstructing fence or barrier approved by the Design Review Committee no closer to the front line of the Lot than the Building on the Lot, which is closest to the front line of the Lot. Recreational vehicles, boats and trailers shall not be parked on the streets adjacent to each Lot.
- D. No Lot, streets, private streets, drives or parking areas, unless specifically designated by the Association therefore, shall be used as a parking, storage, display or accommodation area for any type of house trailer, camping trailer, boat trailer, hauling trailer, boat or accessories thereto, truck larger than a one (1) ton pick-up truck, or any type of motor home except as a temporary expedience for loading, delivery, emergency, etc. (however, this restriction shall not restrict trucks or other commercial vehicles within the Property which are necessary for the construction of structures or maintenance of any common area), unless the same shall be stored, parked or maintained wholly within a garage area of a Lot with the garage door in a closed position or behind a six-foot sight obstructing fence built no closer to the street than the front of the residence.

3.11 Landscaping.

- A. During the course of construction, all precautions shall be taken to provide for a minimum disturbance of the land. To preserve and enhance the neat character of the Siena View area, native landscaping is encouraged.
- B. Each Owner shall grade, landscape and plant those portions of his Lot not graded, landscaped or planted on the date such Lot was first conveyed to the Owner by Declarant within one (1) year after completion of construction of any Building on the Lot. All grading, landscaping and planting performed or conducted by the Owner shall be first approved by the Design Review Committee, and once installed in accordance with the approval of the Design Review Committee shall not be changed from its appearance. All vegetation shall be properly cultivated and neatly trimmed. Should the Owner of any Lot fail to comply with the landscaping guidelines as set forth herein, the Association may, at its sole discretion, cause such landscaping to be completed upon subject Lot and assess the Owner for all costs incurred.
- C. No Owner shall remove, alter, injure or interfere in any way whatsoever with any tree, shrub or other landscaping or Improvement placed upon the Property by Declarant or the Association. All fruit tress shall be cared for and maintained specifically for, but not limited to, any and all agricultural pests.
- D. No tree, shrub or planting of any type shall be permitted to overhang or otherwise encroach upon or above any easement created pursuant to this Declaration or the Replat such as to hinder, or interfere with the purposes for which such easement was created.

3.12 Signs. No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than four (4) square feet, a sign of not more than five (5) square feet advertising the Lot for sale or rent, or signs used and erected by a builder to advertise the Property during the period when

construction and sales of any dwelling occur and other incidental signs deemed appropriate by the Association. Signs on the Common Elements are governed by the Association.

3.13 Fences. No fence shall be erected on a Lot without the approval of the Design Review Committee. Fences greater than three (3) feet in height but not exceeding six (6) feet in height will be considered for placement around outdoor living areas such as patios, decks, and hot tub areas to provide for privacy or to screen from public view vehicles as provided for in this Declaration., the location of which is specifically subject to Design Review Committee approval. All fences shall be of wood, masonry or other materials as approved by Design Review Committee, except that wire mesh may be used for the purpose of kennel space for household pets.

3.14 Miscellaneous.

- A. No Lot shall be used in any manner whatsoever to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substances or other mineral of any type.
- B. All facilities for permanent utilities service shall be kept or maintained underground, or in the original condition at such time the Lot and Improvements thereupon are first conveyed to the Owner by Declarant,
- C. No antenna for transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained out of doors, except as shall be permitted by the Design Review Committee.
- D. No hunting, shooting, trapping or harming of wildlife shall be permitted, it being the intent to conserve and protect all wildlife to the utmost.
- E. No recreational vehicles, motorcycles, dirt bikes, off-road vehicles, etc. shall be operated in the development at any time except for ingress and egress to and from the development and upon established roads.

3.15 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents and contractors of improvements, structures or signs necessary or convenient to the development, sale, operation or other disposition of the Lots or Improvements situate within the Property.

ARTICLE IV
THE ASSOCIATION

4.1 Purpose and Membership. By acceptance of a deed to a Lot, each Owner shall be a member of the Association, which is Colorado nonprofit corporation, organized for the general purpose of being and constituting an entity for the furtherance of the mutual interests of the Owners of the Property pursuant to this Declaration and the Articles and Bylaws, including without limitation, enforcement of the Declaration; maintenance and use of any Lots, Buildings and Improvements; levying and enforcing assessments to defray

the cost and expenses of operation; and providing other duties and services pursuant to the Articles of Incorporation and Bylaws of the Association. This is a Colorado Common Interest Community as defined by the Colorado Common Interest Community Act. The business of the Association will be conducted according to the Act.

4.2 Directors of the Association. The affairs of this Association shall be managed by a board of three (3) directors (the "Board") initially. When Declarant relinquishes control of the Board to the Owners, the Board shall be managed by at least three (3) directors. Directors shall meet the qualifications described in the Articles of Incorporation and Bylaws of the Association.

4.3 Voting Rights.

- A. A membership shall be appurtenant to any may not be separated from ownership of any Lot which is subject to assessment.
- B. The Association shall have one class of voting membership, each Owner being entitled to vote one vote for each Lot owned upon matters subject to vote by the Members as provided in the Articles of Incorporation and Bylaws of the Association. A vote for each Lot shall be exercised as the Owner determines, but in no event shall more than one vote be cast with respect to any Lot.
- C. From date of formation of the Association until the termination of Declarant's control as provided below, Declarant shall have the right to appoint and remove all members of the Board and all officers of the Association. The period of Declarant's control of the Association shall terminate upon the first to occur of either sixty (60) days after conveyance of seventy-five percent (75%) of the Lots to Owners other than Declarant or two (2) years after the last conveyance of a Lot by Declarant in the ordinary course of business. Declarant may voluntarily surrender the right to appoint and remove officers of the Association and members of the Board before termination of the period of Declarant's control, but in that event Declarant may require, for the duration of the period of Declarant's control, that specified actions of the Association or Board, described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots that may be created to Owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Board must be elected by Owners other than Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots that may be created to Owners other than Declarant, not less than thirty-three and one-third percent (33⅓%) of the members of the Board must be elected by Owners other than Declarant. Within sixty (60) days after Owners other than Declarant elect a majority of the Board, Declarant shall deliver to the Association all property of the Owners and the Association held or controlled by Declarant, including, without limitation, those items specified in section 38-33.3-303(9), C.R.S. (1997).

4.4 Limitation Upon Liability.

- A. Indemnification of Officers and Board Members. Neither the Association, any member of the Board, any officer of the Association, nor any agent or employee of the Association shall be liable to any Owner or other person or entity for any action of for any failure to act with respect to any matter if the action taken or failure to act in good faith and without willful or intentional

misconduct. The Association shall indemnify and hold harmless any member of the Board, any officer of the Association or any agent or employee of the Association from any and all reasonable costs, damages, charges, liabilities, obligations, fines, penalties and claims, demands, or judgments and any and all expenses, including, without limitation, attorneys' fees, incurred in the defense or settlement of any action arising out of or claimed on account of any act, omission, error or negligence of such person or of the Association, the Board, or any committee of the Association, provided that such person has acted in good faith and without willful, wanton and intentional misconduct.

- B. Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the property, the Association shall not be liable for injury or damage, other than normal costs of the maintenance and repair, caused by any latent condition of the Property or by the conduct of other Owners or persons or by casualties for which insurance pursuant to this Declaration is not required, or for which insurance is not provided by the Association.

4.5 Association Insurance. The Association shall be empowered to obtain and maintain insurance so far as such insurance coverage is obtainable for:

- A. Property insurance.
- B. Commercial general liability insurance against claims and liabilities. Declarant shall be included as an additional insured in such Declarant's capacity as an Owner and Board Member. The Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties.
- C. Insurance policies carried pursuant to both immediately preceding subsections of Section 4.5 must provide that:
- (1) Each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Association;
 - (2) The insurer waives its rights to subrogation under the policy against any Owner or member of his household;
 - (3) No act or omission by an Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and
 - (4) If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.
- D. Workers' Compensation coverage upon employees.

- E. Fidelity bonds to protect against dishonest acts on the part of those who handle receipt and disbursement of Association funds. Such bonds shall (1) name the Association as an obligee; (2) be written in an amount not less than Fifty Thousand Dollars (\$50,000.00); (3) contain waivers of any defense based upon the exclusion of persons serving without compensation from any definition of "employee" or similar expression; (4) provide that no modification in any substantial manner, or cancellation shall be had without thirty (30) days prior notice to the Association.
- F. Such other insurance as the Board may deem desirable for the benefit of the Owners.

4.6 Association Water.

- A. All irrigation water to be furnished to the Property shall be furnished by the Association. All Owners of Lots with lawns shall be required to install sprinkler systems to maintain their lawns. The Association shall have the right to limit the use of irrigation water as it determines in its sole discretion to the Lots and Common Elements and may institute and enforce rules regarding which days irrigation water may be used for any given Lot.
- B. It shall be the obligation of the Association to own, operate, maintain and repair the irrigation facilities for the distribution of water to the Common Elements and all Lots. Owners shall be responsible for operation and maintenance and repair of the sprinkler system installed on their lot.
- C. The irrigation facilities of the Association shall consist of a system of pipes and pipelines and pumps, so as to provide irrigation water to the Common Elements and all Lots. The irrigation facilities, including any easements in connection therewith, shall be solely owned, operated and maintained by the Association
- D. The Association shall have an easement across Siena View Subdivision and all Lots as reasonably necessary to operate, maintain, and repair the irrigation facilities.

4.7 Duty of Association. The Association shall have the duty of maintaining and repairing the Subdivision and water. The cost of all such maintenance shall be a common expense to all of the Owners. The Association shall not be required to obtain the prior approval of the Owners to cause such maintenance or repairs to be accomplished, regardless of the cost thereof.

4.8 Specific Powers and Duties of the Association. In addition to all other rights, duties, privileges and liabilities of the Association, as provided by this Declaration and the Articles of Incorporation and Amendments, the Association shall have the following specific powers and duties and shall provide to the Owners the following services, all of which shall be paid as part of the common expense assessments.

- A. Maintenance, repair and restoration of the irrigation facilities and other property.
- B. The obtaining and maintaining of all required insurance as provided herein.
- C. Collection of assessments for irrigation water and maintenance and repair of the irrigation system and other property.

ARTICLE V DESIGN REVIEW COMMITTEE

5.1 Composition of Committee. The Design Review Committee ("Committee") shall consist of between three and seven persons, as determined by the Board of the Association from time to time, appointed by the Board; provided, however, that until all filings of the entire Siena View Subdivision project are completed and all Lots have been conveyed by Declarant, the Declarant shall appoint the Design Review Committee. A majority of the Committee may designate a representative to act for it.

5.2 Review by Committee. No building, home, a structure or any attachment to an existing structure, whether a residence, garage, recreation vehicle parking area, an accessory building, a tennis court, swimming pool, fence, wall, barrier, exterior lighting facility, athletic facility, or other improvement or attachment sign, shall be constructed upon the Property, and no alteration of the exterior of a structure shall be made, and no change in the final grade, nor the installation of any landscaping shall be performed, unless complete plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, location of the structure or addition to the structure, plotted horizontally and vertically, location and size of driveways, general plan of landscaping, fencing, walls, windbreaks and the grading plan) shall have been first submitted to and approved in writing by the Committee. The Committee shall exercise its best judgment to the end that all attachments, improvements, height of improvements, construction, landscaping and alterations to structures and on land within the Property conform to and harmonize with existing surroundings and structures.

5.3 Procedures. The Design Review Committee shall approve or disapprove all plans within thirty (30) days after submission. In the event that the Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully satisfied.

5.4 Vote. A majority vote of the Committee is required to approve a proposed improvement, unless the Committee has designated a representative to act for it, in which case the decision of the representative shall control.

5.5 Records. The Committee shall maintain written records for the last ten (10) years of all applications submitted to it and of all actions taken by it and such records shall be available to any and all Owners for inspection at reasonable hours.

5.6 Liability. The Committee and the members thereof shall not be liable in damages to any person submitting requests for approval or to any owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder. In addition, the Committee specifically disclaims any liability arising from any implied warranty based upon approval of any designs hereunder.

5.7 Variance. Variance request may also require and additional review by a governmental entity. The Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration in order to overcome practical difficulties and prevent unnecessary hardships arising by reason of the application of the restrictions contained herein. Such variances or adjustments shall 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 shall not militate against the general intent and purpose hereof.

5.8 Fees. The Committee, upon approval of the Board, shall be authorized to levy and collect a reasonable fee for the review of final plans and specifications, to be paid at the time approval is applied for.

5.9 Landscaping. In order to receive approval of the Design Review Committee, landscape plans must:

- A. Minimize disruption of the natural terrain by grading;
- B. Provide for re-vegetation and restoration of ground cover disturbed by grading;
- C. Use only those man-made elements that blend with, or complement the natural landscape;
- D. Use existing or natural drainage paths whenever possible;
- E. Provide for adequate snow storage and control of surface runoff;
- F. Conserve and protect topsoil, vegetation, rock formations, and unique landscape features; and
- G. Use native / low water plants.

ARTICLE VI EXTERIOR MAINTENANCE

6.1 General. The structures and grounds of each Lot shall be maintained in a neat and attractive manner by the Owner(s) thereof.

6.2 Failure to Maintain. Upon the Owner's failure to maintain the exterior of any structure or grounds on his Lot in good repair and appearance, the Board may, at its option, after giving the Owner thirty (30) days' prior written notice, make repairs and improve the appearance in a reasonable and workmanlike manner.

6.3 Completion of Landscaping. Each Owner shall complete the landscaping of his Lot in accordance with plans approved by the Committee, at the time of his construction of improvements thereon, or, if weather conditions then prohibit such installation, as soon as possible thereafter. If any Owner fails to timely complete the landscaping of a Lot as aforesaid, the Board may, at its option, after giving the Owner thirty (30) days' prior written notice forwarded to such Owner [unless within said thirty (30) day period the Owner of the Lot shall proceed and thereafter pursue with diligence the completion of such landscaping] undertake and complete the landscaping of the Lot in accordance with the approved landscaping plan.

6.4 Assessment of Cost. The cost of such maintenance and landscaping referred to in Sections 6.2. and 6.3. of this Article shall be assessed against the Lot upon which such maintenance or landscaping is done and shall be added to and become part of the regular assessment or charge to which such Lot is subject. Such assessment or charge shall become a lien upon the Lot in accordance with this declaration.

6.5 Access at Reasonable Hours. For the purpose solely of performing the maintenance or landscaping referred in Sections 6.2. and 6.3. of this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours.

ARTICLE VII EASEMENTS AND RESERVATIONS BY DECLARANT

7.1 Recorded Easements. The Property shall be subject to all easements as shown on any recorded plats affecting the Property and to any other easements of record or of use as of the date of recordation of this Declaration.

7.2 Reservation of Easements, Exception, and Exclusions. Declarant reserves to itself and hereby grants the Association the concurrent right to establish from time to time, by declaration or otherwise, utility and other easements, permits, or licenses over the property, for reasonable necessary purposes including, but not limited to, streets, paths, walkways, utilities drainage, recreation areas, parking areas, ducts, shafts, flues, conduct installation areas, and to create other reservations, exceptions, and exclusions for the best interest of all the Owners and the Association, in order to serve all the Owners within Siena View Subdivision.

7.3 Emergency Access Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons to enter upon all streets and upon the Property in the proper performance of their duties.

7.4 General Reservations. Declarant reserves (a) the right to dedicate any access roads and streets serving the Property for and to public use, to grant to the public a road easement with respect thereto and to allow such street or road to be used by owners of adjacent land; and (b) the right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance, or regulation of parking and/or recreational facilities, which may or may not be a part of the Property for the benefit of the Owners and/or the Association.

ARTICLE VIII ASSESSMENTS

8.1 Owner's Obligation. By accepting a deed to any Lot, each Owner agrees to pay to the Association all the assessments, to be fixed and levied from time to time as provided in the Articles of Incorporation and Bylaws of the Association. Such assessments, together with interest accruing thereon and the costs of collection in the event of a delinquency of payment, shall be the personal obligation of the person who is the Owner, or the persons who are jointly and severally the Owner, at the time the assessment was made.

8.2 Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each Vacant Lot and/or Lot owned within the Property hereby covenants, and each owner of any such Vacant Lot and/or Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments,

such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest thereon, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Vacant Lot and/or Lot against which each such assessment is made. To evidence such lien the Board of Directors or Managing Agent shall prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner and a description of the Vacant Lot and/or Lot. Such a notice shall be signed by the President of the Association or one of the Directors and shall be recorded in the office of the Clerk and Recorder of the County of Mesa, Colorado. Such lien may be enforced by foreclosure of the defaulting Owner's property by the Association in like manner as a mortgage on real property, upon the recording of a notice or claim thereof. In any such foreclosure, the Owner shall be required to pay all the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorney's fees.

Each such assessment, together with interest thereon, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them. The assumption of the obligation by a successor shall not relieve the Owner in any event.

8.3 Regular Assessments.

- A. At least thirty (30) days prior to the commencement of each fiscal year, the Board shall estimate the cost and expenses to be incurred by the Association during such fiscal year in performing its functions, and shall subtract from such estimate an amount equal to the anticipated balance (exclusive of any reserves) in the operating fund at the start of such fiscal year which is attributable to the operation and maintenance assessments for the prior fiscal year. The annual assessments made for common expenses shall be based upon the advance estimate of the cash requirements by the Association to provide for the payment of all common expenses growing out of or connected with the maintenance and operation of the Common Elements, which sums may include, among other things, expenses of management, taxes and special assessments, premiums for all insurance which the Association is required or permitted to maintain, landscaping and care of grounds, common lighting and heating, repairs and renovations, legal and accounting fees, management fees, expenses and liabilities incurred by the Association under or by reason of this Declaration, the Articles of Incorporation and the Bylaws of the Association, any deficit remaining from a previous Assessment, the creation of a reasonable contingency or other reserve or surplus fund and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners. Subject to Section 5.2B. hereof, the sum or net estimate so determined shall be assessed to the Owners as an operation and maintenance assessment by dividing the total estimate by the total number of single family residential Lots and assessing the resulting amount to the Owner of each Lot. Assessments shall be paid in one (1) annual installment due on or before the 10th day of each March.
- B. Within ten (10) days after adoption of any proposed budget for the Association, the Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than six (60) days after mailing or other delivery of the summary. Unless at that meeting a majority of all Owners reject the budget, the budget is ratified, whether or not

a quorum is present. In the event that 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 Board.

8.4 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the common area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

8.5 Reimbursement Assessment. The Board may levy an assessment against any Owner as a result of such Owner's failure to landscape his Lot, including a sprinkler system, rebuild damaged Improvements or to restore or maintain his Lot or the Improvements situate thereon. Such assessment shall be for the purpose of reimbursing the Association for its actual costs and expenses incurred for the repair, maintenance or restoration of such Owner's Lot or Improvements, and shall be due and payable to the Association when levied.

8.6 Reserve Fund. The Association may establish a reserve fund in a reasonable amount. The amount of such fund shall be determined by the Association and shall be funded through annual payments of the common assessments and shall be held by the Association in a separate account, which may be an interest-bearing account to be held in trust for the Owners for such purposes.

8.7 Capital Improvements. In addition to regular and special assessments, the Association may levy, in any assessment year, a special assessment for the purposes of defraying in whole or in part the cost of any capital improvement upon the Common Elements, including fixtures, landscaping or personal property related thereto, provided that such assessment shall have the assent of a majority of the members of the Association subject to the assessment.

8.8 Enforcement. In the event any assessment is not paid when due, the Association may enforce payment of such obligation by any or all of the following remedies:

- A. The Association may elect to accelerate and declare immediately due and payable the remaining balance of regular or special assessments for such fiscal year.
- B. The Association may bring a suit at law to collect the delinquent assessments, including any accelerated assessment. Any judgment rendered in such action shall include a sum for costs of suit including a reasonable attorney's fees.
- C. All delinquent assessments shall be a lien on the Owner's Lot to which the provisions of section 38-33.3-316, C.R.S. (1993) or similar statute, shall apply.
- D. Beginning with second month of delinquency, a five percent (5%) penalty will be added to all delinquent amounts each month until payments are current.

8.9 Out-of-State Owners Who Are Not Occupants. In the event the Owner shall not occupy his residence and shall further maintain his principal residence outside of the State of Colorado, the Board may, to insure and guarantee payment of the assessments provided herein, require such out-of-state Owner who does not occupy his residence to:

- A. Post a surety bond with the Association indemnifying the Association against the default of such Owner in the payment of any assessment levied herein, the amount of such surety bond to be twice the amount of the regular assessment for the preceding fiscal year, or
- B. Pay the assessment in advance by the 10th day of the first month of the fiscal year; or

8.10 Notice and Quorum. Written notice of any meeting called for the purpose of taking any action authorized under Section 9.3. of this Article shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast thirty percent (30%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

8.11 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots which are subject to assessment, except those owned by Declarant, sufficient to meet the expected needs of the Association, provided that, the rate set for the Lots owned by Declarant shall be fixed at one-third (1/3) of the assessment rate for the other Lots, until such Lots are conveyed by Declarant.

8.12 Date of Commencement of Annual Assessments. The initial and all subsequent annual assessments shall commence on the first day of each month as determined by the Board of Directors of the Association, and shall be made due and payable in monthly installments on such dates as determined by the Board. Any Owner purchasing a Lot between installment due dates shall pay a pro rata share of the last installment due.

8.13 Effect of Non-Payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date thereof shall bear interest from the due date at the rate of fifteen percent (15%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fees to be fixed by the court together with the costs of the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his Lot.

8.14 Subordination of the Lien to Mortgages. The lien for the assessments provided for herein shall be subordinate to the lien of any recorded first mortgage. The lien for the assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado. Transfer of actual or constructive possession of any Lot shall not affect the assessment liens.

ARTICLE IX WITHDRAWAL

9.1 Right of Declarant. Declarant reserves the right, to be exercised at any time or times before December 31, 2020, to withdraw from the jurisdiction of this Declaration any portion of the Property which Declarant has not sold or made subject to a contract of sale.

ARTICLE X DURATION OF COVENANTS AND AMENDMENT

10.1 Term. The covenants and restrictions of this Declaration shall run with and bind the land until December 31, 2020, after which time they shall be automatically extended for successive periods of time of 10 years each, subject to the following provisions.

10.2 Amendment. This Declaration, or any provision of it, may be amended at any time by an instrument signed by Owners holding not less than 60% of the votes possible to be cast under this Declaration. Any amendment must be recorded, and approval of such amendment may be shown by attaching a certificate of the Secretary of the Association to the recorded instrument certifying that signatures of a sufficient number of Owners approving the amendment are on file in the office of the Association.

10.3 When Modifications Permitted. Notwithstanding the provisions of Section 10.2. above or Section 10.5. below, no termination, extension, modification, or amendment of this Declaration made prior to December 31, 2006, shall be effective unless the prior written approval of Declarant is first obtained.

10.4 Amendment by Declarant. Declarant, acting alone, reserves to itself the sole right and power to modify and amend this Declaration by executing and recording an instrument setting forth the amendment; provided, however, that the written consent of Siena View, Inc., a Limited Liability Corporation, shall be required for any such amendment if the amendment modifies or changes the rights of the owners of Lots at Siena View concerning the delivery of water or other utilities to Siena View. The written consent of Siena View, Inc., a Limited Liability Corporation, shall be required for such amendments only for so long as Siena View, inc., a Limited Liability Corporation, shall own a Lot(s) at Siena View. Once Siena View, Inc., a Limited Liability Corporation, conveys all of its Lots, the requirement for its consent to an amendment shall cease. This right and power of the Declarant shall be effective only with respect to any amendments recorded on or before December 31, 2006.

10.5 Revocation. This Declaration shall not be revoked without the consent of ninety percent (90%) of the Owners evidenced by a written instrument duly recorded.

ARTICLE XI GENERAL PROVISIONS

11.1 Enforcement. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

11.2 Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect or limit any other provisions which shall remain in full force and effect.

11.3 Conflict of Provisions. In case of conflict between this Declaration and the Articles of Incorporation or Bylaws of the Association, this Declaration shall control.

11.4 Registration by Owner of Mailing Address. Each Owner shall register his mailing address with the Association, and except for statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the owner at such registered mailing address. All notices, demands, or other notices intended to be served upon the Board of Directors of the Association or the Association shall be sent by certified mail, postage prepaid, to: 3183 B½ Road, Grand Junction, Colorado 81503, until such address is changed by a notice of change of address mailed to each Owner by the Association.

11.5 Leases. Any lease agreements between an Owner and a lessee for a Lot and/or Dwelling Unit shall provide that the terms of such lease shall be subject in all respects to provisions of this Declaration and the Articles of Incorporation and Bylaws of the Association, and that any failure by the lessee to comply with the terms and provisions of such documents shall be a default under the lease. Further, all leases shall be in writing.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seal as of the day and year first above written.

Siena View LLC, a Colorado Limited Liability Company

By its Managers:

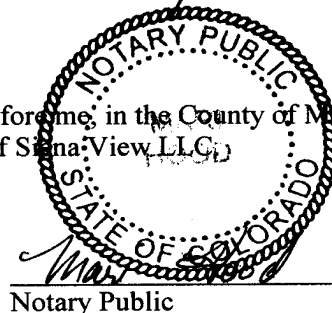
Gerry Dalton

Eric Daugherty

STATE OF COLORADO)
)ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me, in the County of Mesa, State of Colorado, on Nov. 17th 2005 by Gerry Dalton as Manager of Siena View LLC.

WITNESS MY HAND AND OFFICIAL SEAL.
MY COMMISSION EXPIRES: 8-16-06

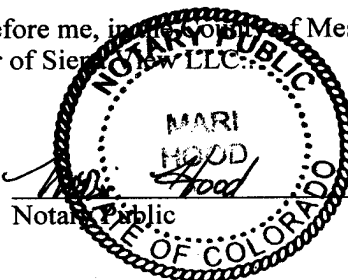


Notary Public

STATE OF COLORADO)
)ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me, in the County of Mesa, State of Colorado, on Nov. 17th 2005 by Eric Daugherty as Manager of Siena View LLC.

WITNESS MY HAND AND OFFICIAL SEAL.
MY COMMISSION EXPIRES: 8-16-06



Notary Public