

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF SUNDOWN VILLAGE SUBDIVISION

THIS DECLARATION, Made on the date hereinafter set forth by SUNDOWN LIMITED LIABILITY COMPANY, hereinafter referred to as "Declarant."

WHEREAS, Declarant is the owner of certain property in the County of Mesa, State of Colorado, which is more particularly described as:

See attached Exhibit "A" and by this reference incorporated herein.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association: shall mean and refer to Sundown Village Homeowners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. Such Common Area shall include the drainage retention pond located in the southwest corner of Sundown Village.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Sundown Limited Liability Company, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Architectural Control Committee" shall mean and refer to the Architectural Control Committee set forth at Article VI of this Declaration.

ARTICLE II

PROPERTY RIGHTS

Section 1. Irrigation Water Delivery System. Every Owner shall have a right to access and use the irrigation water delivery system located in the utility and irrigation easement located along the boundary of each Lot, subject to the following provisions:

a. The right of the Association to charge reasonable fees for the use and maintenance of the irrigation water delivery system; and the right of the Association to promulgate rules, regulations and schedules related to the use of the irrigation water system, and,

b. The right of the Association to suspend the voting rights and right to use of the irrigation water delivery system by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations.

Section 2. Délegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of use to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Ownership of Water Rights. The Association shall hold title to at least ten (10) shares of stock in Grand Valley Irrigation Company for the use and benefit of the Lot Owners. Each Lot Owner shall be entitled to install one (1) irrigation water pump with a flow restriction limiting flow to 15 gpm.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have one class of voting membership, being all Owners of Lots within Sundown Subdivision who shall be entitled to one vote for each Lot owned. When more

than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants and each Owner of any 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 for capital improvement, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, 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 his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to provide and maintain irrigation water and an irrigation water delivery system to the Properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of 75% of the lots to nondeclarant Owners the maximum annual assessment shall be One Hundred Dollars (\$100.00) per Lot.

a. From and after January 1 of the year immediately following the conveyance of 75% of the lots to nondeclarant Owners the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

b. From and after January 1 of the year immediately following the conveyance of 75% of the lots to nondeclarant Owners the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

c. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 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 the irrigation water delivery system, 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 the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purposes of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of the 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 at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Date. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of a Lot to a nondeclarant Owner. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 18 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay

the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the irrigation water delivery system or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payment which became due prior to such sale or transfer. No sale or transfer shall relive such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

USE RESTRICTIONS

A. There will be only one dwelling per Lot to be used by one family only.

B. No rear yard fencing may be erected or maintained in excess of 6 feet in height. The style of all rear yard fences shall be chain link fence or cedar picket fence.

C. No obnoxious, offensive or other activity which would constitute a public or private nuisance or annoyance to the neighborhood will be permitted, including, but not limited to, the repair of automobiles other than minor tune-ups performed by an Owner on his own vehicle.

D. Dangerous or wild animals, livestock, including rabbits or poultry will not be kept. A reasonable number of household pets will be permitted so long as they remain in control of the Lot Owner.

E. No firearms, fireworks, explosives, air rifles, BB guns, crossbows or similar devices shall be discharged on the Properties.

F. No advertising signs, billboards or unsightly objects shall be maintained or erected. "For Sale" signs may be posted if no larger than those allowed by Mesa County Zoning Resolution.

G. No junk or trash, including inoperable automobiles, will be allowed to accumulate and the same must be regularly removed.

H. The Association or Declarant upon the failure of the Owner or tenant of any site to maintain his site 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 or tenant in a manner inconsistent with these covenants, may enter upon the site and repair, maintain, rehabilitate, and restore the premises and/or improvements or abate the improper use or pay the taxes thereon and any costs shall be charged against the Owner or tenant of said site and collected in the manner set forth in Article IV hereof.

I. It is specifically understood and recognized that agricultural land uses and practices are being conducted on properties adjoining the subdivision and that such routine practices of plowing, spraying and cultivating said properties are not to be interfered with or objected to by the Owners of the properties in the subdivision.

J. Recreational vehicles, boats and trailers shall not be parked on the streets adjacent to each Lot.

ARTICLE VI

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Appointment of Architectural Control Committee. The Architectural Control Committee shall consist of three (3) persons to be appointed by the majority of the Board. The initial Architectural Control Committee is chaired by Terry L. Larson, c/o Sundown Limited Liability Company, 1250 N. 3rd, Grand Junction, CO 81501

Section 2. Submission of Plans. Duplicate copies of plans and specifications relating to an improvement, including, but not limited to residences, fences, garages, and outbuildings, shall be submitted to the Architectural Control Committee for review and final approval. Plans and specifications shall contain, without limitation, the plot plans showing layout, including setbacks, flow and manner of surface drainage, finish and natural grade elevations, floor plans showing overall dimensions, roof plans showing pitch, roof materials, color, exterior elevations showing doors, windows and exterior materials and colors, and a perspective sketch if requested, and other details necessary to explain any feature or component of the Improvement.

Section 3. Matters Considered. The Architectural Control Committee shall consider the aesthetic and functional design of any Improvement as to the quality of workmanship and materials, harmony of exterior design with existing Improvements, location with respect to topography and finished grade elevation, and the preservation and enhancement of the value and the visual appearance of existing Improvements.

Section 4. Approval. The Architectural Control Committee shall approve or disapprove all written plans within thirty (30) days after submission. In the event the Architectural Control Committee fails to take any action within such thirty (30) day period, the proposed Improvement shall be deemed approved. The majority of vote of the Architectural Control Committee shall be required for the approval or disapproval of any proposed Improvement.

Section 5. Limitation on Liability. The Architectural Control Committee shall not be liable in damage to any person submitting requests for approval or to any Owner within the Property by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such request. The actions of the Architectural Control Committee shall be deemed conclusively binding upon the Owners.

GENERAL PROVISIONS

Section 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.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property may be annexed to the Properties with the consent of two-thirds (2/3) of the members.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 10th day of November, 1993.

SUNDOWN LIMITED LIABILITY COMPANY

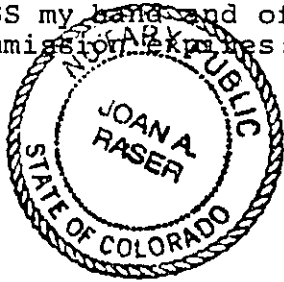
By Terry L. Larson MGR
Terry L. Larson, General Manager

DECLARANT

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing was acknowledged before me this 10th day
of November, 1993, by Terry L. Larson as General
Manager of Sundown Limited Liability Company.

WITNESS my hand and official seal.
My commission expires: 6-14-97



Joana A. Raser
Notary Public

EXHIBIT "A"

E 1/2 of the West 30 acres of the NE 1/4 NW 1/4 of Section 15,
Township 1 South, Range 1 East of the Ute Meridian,
Mesa County, Colorado.