



**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
The Heights at Jackson Creek Filing #1**

**ARTICLE 1
GENERAL**

1.1 Description of Interest. Elite Properties of America, Inc., a Colorado Corporation is the Declarant ("Declarant") under this Declaration of Covenants, Conditions and Restrictions ("Declaration"). Declarant owns that certain parcel of land located in the Town of Monument, El Paso County, Colorado, and known as Lots 1 – 161, inclusive, of The Heights at Jackson Creek Filing #1, Town of Monument, County of El Paso, State of Colorado and consisting of a maximum of 161 single family residential building lots (individually, a "Lot" or collectively, the "Property").

1.2 Purposes of Declaration. This Declaration is executed a) to protect and enhance the quality, value, aesthetic, desirability and attractiveness of the Property; b) to define certain duties, powers, and rights of owners of Lots within the Property; and c) to define certain duties, powers and rights of Declarant.

1.3 Declaration. Declarant, its successors and assigns, hereby declares that the Property described in Section 1.1 above shall be owned, held, transferred, conveyed, sold, encumbered, used, occupied, maintained, altered and improved subject to the terms and conditions of this Declaration and the Design Standards for the Property (as hereinafter defined). The provisions of this Declaration are intended to and shall run with the land and, until their expiration in accordance with the terms hereof, shall bind, be a charge upon and inure to the mutual benefit of a) the Property; b) Declarant and its successors and assigns; and c) all persons or entities having or acquiring any right, title or interest in the Property. This Declaration shall be recorded in the offices of the Clerk and Recorder of El Paso County.

1.4 Term. Unless sooner terminated as provided in Section 3.2 hereof, the restrictions and other provisions set forth in this Declaration and any accompanying Design Standards shall remain in force until the year 2015 and shall be automatically renewed for successive periods of ten years, unless before the year 2015 or before the end of any ten year extension, there is filed for record with the Clerk and Recorder of El Paso County an instrument stating that extension is not desired, signed and acknowledged by the owners of not less than 75% of the Lots contained within the Property.

**ARTICLE 2
GENERAL RESTRICTIONS APPLICABLE TO THE PROPERTY**

All real property in The Heights at Jackson Creek Filing #1 shall be held, used, and enjoyed subject to this Declaration and the Design Standards (as hereinafter defined).

2.1 Design Standards. Declarant may elect, in its sole discretion, to promulgate and adopt, from time to time, Design Standards applicable to all improvements now or hereafter to be located, installed, or built upon or within any Lot or the Property ("Design Standards"). The Design Standards may regulate, among other items, matters pertaining to site location, architectural design, site accessories, fencing design, fencing materials and maintenance responsibilities, roofing and building materials, satellite antennas, landscape design, approval processes applicable to all of the foregoing and, to the extent not inconsistent with the terms of this Declaration, enforcement procedures applicable to this Declaration and the Design Standards. Any and all improvements within the Property shall be constructed or installed in compliance with the requirements of this Declaration and the Design Standards, as they exist at the time of approval of any plans, specifications or materials. The Design Standards shall apply prospectively to all matters submitted for approval to any Design Review Committee established under the Design Standards following the date on which the applicable Design Standard shall have been adopted by the Declarant and notice thereof sent to all affected owners. The Declarant shall have the right to modify or supplement the Design Standards from time to time in its reasonable discretion; provided, however, that no modification to the Design Standards may result in a provision that conflicts with any express provision of this Declaration. In the event of any dispute concerning the Design Standards, or any amendment thereto, the determination by the Declarant shall be final and conclusive as to whether the Design Standards conform to the intent and purposes of this Declaration. Declarant shall have the sole right to promulgate, adopt or amend the Design Standards, in its sole discretion, until Declarant no longer owns any Lot within the Property. From and after such time as Declarant no longer owns any Lot within the Property, the owners of the Lots within the Property shall elect a committee of three individuals, each of whom owns a Lot within the Property, to act as the Design Review Committee under this Declaration. The Design Standards shall further set forth the terms, voting rights and procedures for conducting such election subsequent to Declarant no longer owning a Lot within the Property. The Declarant and any future member of any Design Review Committee shall not be liable to any party whatsoever for any act or omission in implementing, interpreting or enforcing this Declaration or the Design Standards, unless such act or omission is in bad faith and amounts to fraud.

ARTICLE 3
AMENDING OR REPLACING THIS DECLARATION

3.1 Amendment and Extensions. From time to time any one section of this Declaration may be amended or a new section may be added to this Declaration by an instrument signed and acknowledged by the Owners of at least two-thirds of the Lots within the Property and filed for record with the Clerk and Recorder of El Paso County; provided, however, that until December 31, 2008 or such earlier time as Declarant shall elect by recorded notice, Declarant shall be permitted to reject any such amendment or modification.

3.2 Termination. All sections of this Declaration may be terminated at any time by an instrument signed and acknowledged by the owners of not less than 75% of the Lots within the Property and filed for record with the Clerk and Recorder of El Paso County.

ARTICLE 4
ENFORCEMENT

4.1 The Declarant or any Design Review Committee established under this Declaration or the Design Standards, shall have the right to enter upon any Lot within the Property when necessary and shall not be deemed a trespass for the purposes of:

- (a) inspection of the Property to determine compliance with this Declaration and the Design Standards;
- (b) to deliver notification of breach of this Declaration or the Design Standards; or
- (c) upon the failure of an owner to cure a breach within thirty days of written notification, the Declarant or any Design Review Committee (acting by or through its agents) may, at its option, make repairs or perform maintenance or otherwise undertake action to cure the breach or to restore the appearance of the property involved to a reasonably attractive condition or otherwise bring such property into compliance with this Declaration or the Design Standards. In the event the Declarant or the Design Review Committee elects to perform maintenance pursuant to this Section, Declarant or the Design Review Committee will submit to the owner or persons responsible for the property upon which or for whose benefit such maintenance was performed, a written statement of the costs incurred in connection with performing the maintenance. These costs shall be paid to the Declarant or the Design Review Committee, as applicable, within thirty days after receipt of such notice. If these costs have not been paid after expiration of this thirty day period, Declarant or the Design Review Committee, as applicable, may thereafter record a lien against the Lot (including the improvements thereon) for all costs, including reasonable attorneys fees, incurred in performing the maintenance and in collecting such costs and foreclosing the lien. This lien shall be junior to all other liens or encumbrances of record with respect to the Lot on the date this lien is recorded. This lien may thereafter be foreclosed in the manner provided by Colorado law for enforcing real estate mortgages. This lien shall provide that all sums expended by Declarant or the Design Review Committee, as applicable, in foreclosing the lien and collecting the amounts due, including reasonable attorneys fees, shall be additional indebtedness secured by the lien.

This Declaration is for the joint and several benefit of the Declarant, any Design Review Committee established under the Design Standards, and all owners of Lots within the Property. This Declaration may also be enforced by an action for damages, suit for injunction, mandatory and prohibitive, and other relief, and by any other appropriate legal remedy instituted by the Declarant, any Design Review Committee or one or more owners. All costs, including reasonable attorneys fees, incurred by any party in connection with successful enforcement proceedings shall be paid by the party determined to have violated this Declaration. Any party exercising its right to enforce this Declaration shall not be required to post any bond as a condition to the granting of any restraining order, temporary or permanent injunction or other order. The rights and remedies for enforcement of this Declaration shall be cumulative, and the exercise of any one or more of such rights and remedies shall not preclude the exercise of any of the others.

