

J. Patrick Kelly El Paso Cty, CO  
09/09/1999 07:43  
Doc \$0.00 Page  
Rec \$195.00 | of 39

099142910



## DECLARATION

of

Covenants, Conditions, Restrictions and Easements

for

UNIVERSITY PARK PROFESSIONAL CENTER FILING NO. 1

This Declaration of Covenants, Conditions, Restrictions and Easements is made as of September 8, 1999, by **Elite Properties of America, Inc.**, a Colorado corporation ("Declarant").

### ARTICLE I GENERAL

**Section 1.1 Property Affected.** Declarant is the owner of certain real property located in El Paso County, Colorado, comprising approximately 181,961 square feet (the "Property") as described on **Exhibit A** attached hereto, which is in the process of being platted as Lots 1, 2 and 3, University Park Professional Center, Filing No. 1, in the City of Colorado Springs, County of El Paso and State of Colorado. The entire Property is hereby made subject to this Declaration as provided herein. In addition to the Property, **Lot 4, University Park Professional Center, Filing No. 1 (the "City Lot")**, is hereby made subject to this Declaration solely for purposes of the restrictions and obligations described in Article XII of this Declaration and, failing compliance therewith, the provisions of Article VI and Article IX.

195.0

are declared to be a part of and in furtherance of a common and general plan of development, improvement, enhancement and protection of the Property. The provisions of this Declaration are intended to and shall run with the land and, until their expiration in accordance with Section 13.1 hereof, shall bind, be a charge upon and inure to the mutual benefit of (a) all of the Property and each part or parcel thereof; (b) Declarant and its successors and assigns; (c) the Association and its successors and assigns; and (d) all other persons and entities having or acquiring any right, title or interest in the Property, or any part or parcel thereof, or any Improvement thereon, and their mortgagees, encumbrancers, claimants, heirs, personal representatives, successors and assigns.

## ARTICLE 2 DEFINITIONS

Unless otherwise expressly provided in this Declaration, the following words and phrases, whenever used in this Declaration, shall have the meanings specified in this Article 2.

Section 2.1 Architectural Committee. "Architectural Committee" shall mean the approving authority described in Section 4.1 of this Declaration.

Section 2.2 Assessment. "Assessment" shall mean a "Common Assessment," pursuant to Section 9.3, a "Special Assessment," pursuant to Section 9.8 or a "Site Assessment," pursuant to Section 9.9.

Section 2.3 Association. "Association" shall mean University Park Professional Center Owner's Association, a Colorado non profit corporation, its successors and assigns.

Section 2.4 Association Documents. "Association Documents" shall mean the various operative documents of the Association, whether recorded or adopted at this time or as the same have been or may be amended, modified, supplemented, or otherwise changed from time to time, all of which are incorporated herein by this reference, and shall include the following:

- (a) the Articles of Incorporation of the Association;
- (b) the Bylaws of the Association;
- (c) this Declaration and all amendments to this Declaration;
- (d) the Plat and any Supplemental Plat;
- (e) the Building Guidelines, if any are adopted by the Architectural Committee; and
- (f) the Rules and Regulations, if any are adopted by the Association.

Section 2.5 Board of Directors. "Board of Directors" or "Board" shall mean the Board of Directors of the Association.

Section 2.6 Building Guidelines. "Building Guidelines" shall mean such building guidelines as the Architectural Committee may elect, in its sole discretion, to adopt and promulgate pursuant to Section 4.2. The Building Guidelines may be changed by the Architectural Committee from time to time as provided in Section 4.2. Building Guidelines, if adopted, must be consistent with the terms of this Declaration.

Section 2.7 Building Site or Lot. "Building Site" or "Lot" shall mean a parcel of land within the Property that is established and identified as a Building Site or Lot by Declarant by means of an instrument signed by Declarant, duly acknowledged and recorded with the El Paso County Clerk and Recorder, which contains a legal description of the parcel in question and specifically designates it as a Building Site or Lot. Such instrument may be a deed conveying a parcel to an Owner, a plat or any other document that satisfies the foregoing requirements.

Section 2.8 City. "City" shall mean the City of Colorado Springs, Colorado.

Section 2.9 Common Elements. "Common Elements" shall mean all land and Improvements now or hereafter owned by the Association and all other areas and easements specifically designated by Declarant as Common Elements in this Declaration, on a recorded plat, in a deed conveying a portion of the Property from Declarant to another Owner or in any other written instrument executed by Declarant, duly acknowledged and recorded with the El Paso County Clerk and Recorder. Common Elements may also be referred to as "Common Areas," which terms shall be synonymous. Common Elements shall specifically include but not be limited to:

- (a) all University Park Professional Center general signage, landscaped areas and landscaped materials;
- (b) all irrigation equipment, water irrigation lines and sprinklers now or hereafter designated as Common Elements by Declarant as provided above or installed within any Common Elements (including but not limited to easements which are Common Elements), but not including any public water lines dedicated to the City;
- (c) any signs, other than Building Signs, lighting, landscaping and erosion control, including, but not limited to, retaining walls, vegetation, rock "rip-rap," or slope stabilization materials installed within any areas now or hereafter designated as Common Elements as provided above; and
- (d) all sidewalks and parking lots and areas.

The Common Elements shall be maintained by the Association as provided in this Declaration.

Section 2.16 Person. "Person" shall mean a natural person, a corporation, a general or limited partnership (including limited liability partnerships and limited liability limited partnerships), a limited liability company, a trust, an association or any other public or private entity recognized as being capable of owning real property under Colorado law.

Section 2.17 Plat. "Plat" shall mean the plat or plats of the Property that are duly recorded in the records of the El Paso County Clerk and Recorder. A copy of the initial plat is attached hereto as **Exhibit B**. "Plat" shall also mean and include any amendments to such Plat or Plats and any supplemental plats in which other portions of the Property are platted, and which are duly recorded in the records of the El Paso County Clerk and Recorder.

Section 2.18 Property. "Property" shall mean and include the real property described in **Exhibit A** attached hereto.

Section 2.19 Related User. "Related User" shall mean: (a) any Person occupying a Building Site or portion thereof pursuant to a lease or other agreement with an Owner; (b) a guest or invitee of an Owner; and (c) any guest, employee, agent, representative, licensee, contractor, or invitee of any of the foregoing Persons.

### ARTICLE 3 USE OF PROPERTY

#### Section 3.1 Permitted Uses; Prohibited Uses.

The Property will only be used for those non-residential uses permitted under the OC zone of the City, as from time to time defined by the zoning regulations of the City, and which have been previously approved in writing by Declarant. In addition, the Declarant's prior written consent shall be required for any change, conditional use or variance in the zoning for the Property.

Section 3.2. Performance Standards. Notwithstanding any other provision of this Declaration, no use or activity shall be established, maintained, conducted or permitted on any portion of the Property which will cause or result in any of the following conditions:

- (a) emission of smoke, fumes, odors (other than typical restaurant cooking odors), gases, vapors, steam, dust, sweepings, dirt, cinders or other particles or substances into the atmosphere which is detectable outside the boundaries of the Building Site or Common Element where created, and which is detrimental to the health or safety of persons occupying other Building Sites or to the physical condition of any other portion of the Property or Improvements thereon;

- (b) discharge of liquids, gases, solid wastes or other harmful materials into any street, driveway, sewer line, drainage channel, pond or other waterway which adversely affects the health or safety of persons occupying other Building Sites or the physical condition of any other portion of the Property or Improvements thereon;
- (c) recurrent or continuous emission of light, sound or noise from any Building Site or Common Element (not including sounds emanating from mechanical or electrical Common Elements that are properly functioning), which can be seen or heard outside the boundaries of the Building Site or Common Element of origination without instruments and which, in the reasonable discretion of Declarant, interfere with the reasonable quiet enjoyment and use of other Building Sites;
- (d) recurrent or continuous ground vibration perceptible without instruments at any point exterior to the Building Site or Common Element of origination and which, in the opinion of Declarant, interfere with the reasonable quiet enjoyment and use of other Building Sites;
- (e) physical hazard by reason of fire, radiation, explosion or similar cause to Improvements on the Property, Common Elements or the surrounding area; or
- (f) violation of any applicable statute, ordinance, rule, regulation, permit or other validly imposed requirement of any governmental body.

ARTICLE 4  
REGULATION OF IMPROVEMENTS

Section 4.1 Architectural Committee. Until Declarant elects, in its sole discretion, to assign the right to appoint the Architectural Committee to the Board, the Architectural Committee shall consist of three members appointed by Declarant. After the right to appoint the Architectural Committee has been transferred to the Board, the Architectural Committee shall consist of at least three and not more than five individuals, all of whom shall be appointed by the Board. The members of the Architectural Committee need not be Members of the Association. The Architectural Committee shall exercise the functions assigned to it by this Declaration and the Building Guidelines, including reviewing and approving all plans for Improvements as provided in this Declaration.

Section 4.2 Building Guidelines. The Architectural Committee may elect, in its sole discretion, to promulgate and adopt, from time to time, Building Guidelines applicable to all Improvements on the Property, which may regulate among other things, the following matters:

- (a) Site Location:
  - (1) location on a Building Site;
  - (2) site coverage;
  - (3) building and parking setbacks; and
  - (4) excavation or grade changes.
  
- (b) Architectural Design:
  - (1) building heights;
  - (2) exterior materials and colors;
  - (3) elevations; and
  - (4) exterior lighting.
  
- (c) Site Accessories:
  - (1) entrances to Building Sites and driveway layout;
  - (2) parking areas within Building Sites;
  - (3) signage; and
  - (4) fences.
  
- (d) Landscape Design:
  - (1) plant and landscape materials;
  - (2) amount of landscaping required; and
  - (3) maintenance guidelines.
  
- (e) Approval Processes:
  - (1) documentation required for review and approval; and
  - (2) time periods for review and approval.

All Improvements, including those on the Common Elements, shall be constructed or installed in compliance with the requirements of the Declaration and with the Building Guidelines, if any, as they exist at the time of approval of plans pursuant to this Article 4. The Architectural Committee shall have the right to modify or supplement any Building Guidelines from time to time in its reasonable discretion; provided, however, that no modification to the Building Guidelines may result in a provision that contradicts or conflicts with any express provision of this Declaration or that is contrary to the general intent or purposes of this Declaration. In the event of any dispute concerning the Building Guidelines, or any amendment thereto, the determination of the Board shall be final and conclusive as to whether the Building Guidelines conform to the intent and purposes of this Declaration. During all times that Building Guidelines are not in effect for the Property, the Architectural Committee shall have sole and absolute authority to review all proposed Improvements, including but not limited to those aspects thereof described above and to make binding determinations in connection therewith.

Section 4.3 Approval Required. No Improvement shall be placed, erected, installed or permitted to occur or exist on any Building Site, nor shall the exterior of any existing Improvements be altered, nor shall any construction be commenced on any Improvements, unless and until the plans and specifications for such Improvements shall have been submitted to and approved in writing by the Architectural Committee. Matters which require the approval of the Architectural Committee include but are not limited to:

- (a) the construction, installation, erection or expansion of any building, structure, or other Improvements (as defined in Section 2.14), including all landscaping, the location of all Improvements on or within any Lot, and the exterior color, textures, finish materials and exterior appearance of all Improvements;
- (b) the submission to governmental authorities or placement of record of any subdivision plat or replat of all or any portion of a Building Site;
- (c) the demolition or destruction, by voluntary action, of any building, structure or other Improvements;
- (d) the grading, excavation, filling or similar disturbance to the surface of the land;
- (e) any change or alteration of any previously approved Improvements, including any change of exterior appearance, finish material, color or texture;
- (f) the submission of any application for rezoning or for a zoning or use variance or waiver or development plan (as that term is defined in the zoning ordinances of the City); and
- (g) any change in the use of the Property, as further described in Section 3.1 of this Declaration.

Section 4.4 Plans Submissions. All plans, samples and other materials to be submitted to the Architectural Committee shall be submitted in duplicate. The required scale of various kinds of plans shall be as established from time to time by the Architectural Committee. The plot plan in this minimum scale shall comply with all requirements of the Architectural Committee and, at a minimum, shall show the location of all buildings, drives, walks, fences and any other Improvements. Proposed new contours throughout the Building Site and abutting street elevations on all sides shall be shown. Structure plans shall show all exterior elevations, and shall indicate and locate on each elevation the materials to be used and designate each exterior color to be used by means of actual color samples.

Section 4.5 Approval Process. All action required or permitted to be taken by the Architectural Committee shall be in writing and any such written statement shall establish the action of the Architectural Committee and shall protect any person relying on the statement. The procedure

for submitting requests and obtaining approvals shall be as established from time to time by the Architectural Committee. The Architectural Committee may charge reasonable fees to cover expenses incurred in review of plans, samples and materials submitted pursuant to this Declaration, not including reimbursement or compensation to the members of the Architectural Committee for their services. The Architectural Committee shall be entitled to retain one copy of all approved plans as part of its files and records. Approvals of all plans and specifications for an Improvement will automatically expire within one year after approval if construction is not commenced within one year after approval, and if approval so expires, the applicant must resubmit a request for approval of the Improvement.

Section 4.6 Approval Standards. All Improvements to be constructed or installed within the Property must comply with this Declaration and, if applicable, the Building Guidelines. In granting or withholding approval of matters submitted to it, the Architectural Committee shall consider the specific standards and specifications set forth in the Building Guidelines, if any. The Architectural Committee shall have the right to disapprove any plans, specifications or details submitted to it if it determines the proposed Improvement is not consistent with the Building Guidelines, if any, or any provision of this Declaration; if the plans and specifications submitted are incomplete; or if the Architectural Committee deems the plans, specifications or details, or any part thereof, to be contrary to the interest, welfare or rights or all or any part of the Property, the Association or the Owners. The decisions of the Architectural Committee shall be final and binding unless they are clearly arbitrary and there is no evidence to support the Architectural Committee's decision.

Section 4.7 Utilities. All telephone lines, power lines, natural gas lines, water lines, sewer lines, electric lines, other utility lines, connections and related equipment shall be underground, except for power substations and switching stations which shall be adequately screened from view in accordance with plans approved by Declarant and except for customary surface devices for access or control.

Section 4.8 No Liability. Neither Declarant, the Board nor the Architectural Committee or any member thereof shall be liable in damages or otherwise to anyone submitting plans to them for approval or requesting a variance, or to any Owner by reason of mistake in judgment, negligence, nonfeasance or any act or omission in connection with the approval, disapproval or failure to approve the plans, specifications or variance. Approval by the Declarant, the Board or the Architectural Committee shall not mean that plans and specifications are in compliance with the requirements of any local building codes, zoning ordinances or other governmental regulations, and it shall be the responsibility of the Owner or other person submitting plans to comply with all codes, ordinances and regulations. Neither the Declarant, the Board nor the Architectural Committee shall be liable for any claims for damages (actual, punitive or consequential) arising out of any structural or other defects related to the design or construction of any Improvement. If an Improvement is approved pursuant to the approval process set forth in this Article, such approval shall not be deemed to be an approval of the structural integrity, construction, soil conditions, engineering or other such



matters related to the design and construction of the Improvements, and neither the Declarant, the Board nor the Architectural Committee shall be liable to any Person for such matters.

Section 4.9 Improvement Standards. In addition to obtaining approval for all Improvements as provided herein, Improvements located within the Property will be required to meet the following standards and to be maintained in accordance herewith:

- (a) All construction shall be new. No building previously used at another location nor any building originally constructed as a mobile structure may be moved onto a Building Site except as expressly approved by the Architectural Committee as a temporary building or construction trailer.
- (b) No building materials shall be stored on any Building Site except temporarily during continuous construction of a building or its alteration or improvement.
- (c) A structure shall not be occupied in the course of original construction until substantially completed. All work of construction shall be prosecuted diligently and continuously from the time of commencement until fully completed.
- (d) Any building which may be destroyed in whole or in part by fire, windstorm or for any other cause or act of God must be rebuilt or all debris shall be removed and the Building Site restored to a sightly condition, such rebuilding or restoration to be completed with reasonable promptness and in any event within six (6) months.
- (e) Each Owner shall prevent the development of any unclean, unsightly or unkept conditions of buildings or grounds on its Building Site which shall tend to substantially decrease the beauty of the area.
- (f) All maintenance equipment shall be stored in an enclosed structure or otherwise adequately screened so as not to be visible from neighboring property or adjoining streets.
- (g) All landscape areas, and the entire area of each Building Site on which no building has been constructed, shall be kept free from trash and plants or weeds infected with noxious insects or plant diseases, and from the weeds which, in the opinion of the Architectural Committee, are likely to cause the spread of infection or weeds to neighboring property and free from brush or other growth or trash which, in the opinion of the Architectural Committee, causes undue danger of fire.

J. Patrick Kelly El Paso Cty, CO  
09/09/1999 07:43 099142910  
Doc \$0.00 Page  
Rec \$195.00 10 of 39

ARTICLE 5  
PROPERTY OWNERS ASSOCIATION

Section 5.1 Association Structure. Declarant shall form the Association under the Colorado Nonprofit Corporation Act for the ownership, care, management, control, preservation, operation, maintenance, repair, restoration and replacement of the Common Elements. The Association shall have the duties, powers and rights set forth in the Association Documents.

Section 5.2 Board of Directors. The affairs of the Association shall be managed by a Board of Directors. The Board shall consist of three members during the period of Declarant control stated in Section 5.5 and thereafter shall consist of at least three but not more than five members, as determined by the Board. A quorum shall consist of not less than two directors during the period of Declarant control stated in Section 5.5, and thereafter a quorum shall be determined as provided in the Association's Bylaws. All members of the Board shall be representatives of Declarant or representatives of Members of the Association. The terms and other qualification of the members of the Board of Directors shall be fixed in the Articles of Incorporation and Bylaws of the Association. The Board of Directors may, by resolution, delegate portions of its authority to an executive committee or to other committees, to officers of the Association or to agents and employees of the Association, but such delegation of authority shall not relieve the Board of Directors of the ultimate responsibility for the management of the affairs of the Association. Action by or on behalf of the Association may be taken by the Board of Directors or any duly authorized committee, officer, agent or employee without a vote of the Members, except as otherwise specifically provided in this Declaration or by Colorado law. All lawful decisions, agreements and undertakings by the Board, or its authorized representatives, shall be binding upon all Members, Owners, Related Users and other Persons.

Section 5.3 Membership in Association. Each Owner shall be a Member of the Association. An Owner shall automatically be the holder of the membership appurtenant to such Owner's Building Site, and the membership shall automatically pass with fee simple title to the Building Sites. Declarant shall hold one membership in the Association for each Building Site owned by Declarant. Membership in the Association shall not be assignable separate and apart from fee simple title to a Building Site, except that an Owner may assign, some or all of the Owner's rights as an Owner and as Member of the Association to a contract purchaser, tenant or First Mortgagee, and may arrange for such Person to perform some or all of such Owner's obligations as provided in this Declaration, but no such delegation or assignment shall relieve an Owner from the responsibility for fulfillment of the obligations of Owner under the Association Documents. The rights acquired by any such contract purchaser, tenant or First Mortgagee shall be extinguished automatically upon termination of the First Mortgage, sales contract or tenancy. The assignment of rights by an Owner pursuant to this Section shall not be subject to any present or future statutory time limit for the duration of duly notarized proxy rights, but shall be in writing, and delivered to the Association before such Person shall be entitled to exercise any membership rights or privileges. All rights, title and privileges of membership shall be subject to the Association Documents.

Section 5.4 Voting Rights of Members. Members shall have the right to cast votes for the election of Board of Directors and on such other matters to be voted on by the Members, as provided in the Association Documents. Each Member's vote shall be a fraction, the numerator of which is the square footage of that Member's Building Sites, as indicated below, and the denominator of which is the total square footage of all of the Property, as indicated below:

Lot 1 - 45,732 square feet  
Lot 2 - 45,693 square feet  
Lot 3 - 90,536 square feet

Total square footage of the Property - 181,961

If more than one Person is the Owner of a Building Site, the co-Members shall appoint one co-Member as proxy to cast the vote for that membership. If the Owner is an entity, then the entity Owner shall designate in a writing delivered to the Association the name of the person or persons entitled to cast the vote of the entity. Votes by co-Members and entities shall be cast as the Owners thereof agree, but in no event shall more than one vote per question be cast with respect to any one membership. If the co-Members or the entity cannot agree as to the manner in which their vote should be cast when called upon to vote, then they will be treated as having abstained. Voting rights and procedures may be further defined in the Articles and Bylaws of the Association. Notwithstanding the foregoing, Declarant shall have the reserved rights set forth in Section 5.5.

Section 5.5 Declarant's Reserved Right to Appoint. Notwithstanding any contrary provision and in addition to the rights described in Section 8.2 of this Declaration, the Declarant hereby reserves the right to appoint all of the members of the Board of Directors, at all times subsequent to the date of recordation of this Declaration, which right shall terminate upon the occurrence of the first of the following events:

- (a) thirty (30) years after the date on which this Declaration is recorded; or
- (b) by written notice from Declarant to the President or Secretary of the Association of Declarant's intent to terminate its right to appoint the majority of the members of the Board of Directors.

## ARTICLE 6 DUTIES AND POWERS OF ASSOCIATION

Section 6.1 General Duties and Powers of Association. The Association shall be formed to further the common interests of the Members. The Association, acting through the Board or representatives to whom the Board has delegated such powers, shall have the duties and powers given non-profit corporations, including without limitation those hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interests of the Members, to maintain, improve and enhance Common Elements, and to improve and enhance the

attractiveness, desirability and safety of the Property. The Association shall have and may exercise all powers allowed by law. Except as expressly provided otherwise in the Association Documents or by Colorado law, the Association shall act through the Board of Directors, without the vote or meeting of the Members, and the Board may exercise all rights, powers and interests of the Association, as described in this Article or elsewhere in the Association Documents.

Section 6.2 Duty to Accept Property and Facilities Transferred by Declarant. The Association shall accept title to any property, including without limitation, any Improvements thereon, any easement or other right, and personal property transferred to the Association by Declarant or by any third party with Declarant's permission, and equipment related thereto, together with the responsibility to perform any and all Association functions associated therewith, provided that such property and functions are not inconsistent with the terms of this Declaration. Property interests transferred to the Association by Declarant may include fee simple title, easements, leasehold interests and contractual rights or licenses to use property. No representation, express or implied, is made that the Declarant will or will not transfer property to the Association.

Section 6.3 Duty to Manage and Care for Property. The Association shall manage, operate, care for, maintain and repair all Common Elements and keep the same in an attractive and desirable condition for the use and enjoyment of the Members, provided however, maintenance responsibilities for any Common Elements shall not commence until Assessments commence. The Association shall not be obligated to pay for the initial installation of any Improvements to the Common Elements constructed or installed by Declarant, but the Association shall be responsible for the maintenance, repair and replacement of such Improvements after completed and installed by the Declarant. In addition, the Association may operate, maintain, replace and repair property other than Common Elements, if some or all of the Members will benefit thereby and in accordance with the provisions of Section 6.11 of this Declaration.

Section 6.4 Duty to Pay Taxes. The Association shall pay all taxes and assessments levied upon the Common Elements owned by the Association and all other taxes and assessments payable by the Association. The Association shall have the right to contest any such taxes or assessments provided that the Association shall contest the same by appropriate legal proceedings which shall have the effect of preventing the collection of the tax or assessment and the sale or foreclosure of any lien for such tax or assessment, and provided that the Association shall keep and hold sufficient funds to pay and discharge the taxes and assessments, together with any interest and penalties which may accrue with respect thereto, if the contest of such taxes is unsuccessful. The Association may maintain reserves for taxes which could be incurred as a result of an adverse ruling on any position taken by the Association.

Section 6.5 Duty to Maintain Insurance. The Association shall obtain and keep in full force and effect at all times insurance coverage in accordance with this Declaration and as required by Colorado law.

Section 6.6 Duty to Levy and Collect Assessments. The Association shall levy and collect Assessments as elsewhere provided in this Declaration.

Section 6.7 Power to Acquire and Maintain Property and Construct Improvements. The Association may acquire property or interests in property for the common benefit of Owners, including Improvements and personal property. The Association may construct or reconstruct Improvements on property and may demolish existing Improvements. The Association shall have the power to maintain public or private rights of way and to perform maintenance on any portion of the Property, whether or not owned by the Association.

Section 6.8 Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal and enforce such Rules and Regulations as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration and matters related thereto, the operation of the Association, the use and enjoyment of Common Elements, and the use of any other property within the Property, including Building Sites. Any such Rules and Regulations shall be reasonable and uniformly applied as determined by the Board in its sole discretion. Rules and Regulations shall be effective upon adoption by resolution of the Board of Directors. Written notice of the adoption, amendment or repeal or any Rule or Regulation shall be provided to all Members by the Association, and copies of the currently effective Rules and Regulations shall be made available to each Member upon request and payment of the copying cost. Each Owner, Related User, Member and other Person shall comply with such Rules and Regulations and shall see that Related Users of such Member comply with the Rules and Regulations. Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of conflict between the Rules and Regulations and the provisions of this Declaration, the provisions of this Declaration shall prevail.

Section 6.9 Power to Enforce Declaration and Rules and Regulations. The Association shall have the power to enforce the provisions of the Association Documents, and shall take such action as the Board deems necessary or desirable to cause compliance by each Member, other Person, and Related Users of each Member. Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of the Association Documents by any one or more of the following means: (a) by entry upon any non-Common Element portion of the Property after any notice and hearing required by the Bylaws (unless a bona fide emergency exists), without liability to the Owner or occupants thereof, for the purpose of enforcement of or causing compliance with the Association Documents; (b) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of the Association Documents, by injunction or otherwise; (c) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of the Association Documents; (d) by suspension, after any notice and hearing required by the Bylaws, of the voting rights of a Member during and for up to 60 days following any breach by such Member or a Related User of such Member of the Association Documents, unless the breach is a continuing breach, in which case such suspension shall continue for so long as such breach continues; (e) by levying and collecting, after any notice and hearing required by the Bylaws (unless the violation consists of failure to pay any

Assessment, in which case notice and hearing shall not be required), a Site Assessment against any Member for breach by the Member or a Related User of such Member of the Association Documents; (g) by levying and collecting, after any notice and hearing required by the Bylaws, reasonable and uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, from any Member, Related User or other Person for breach by such Member, Related User or other Person of the Association Documents; (h) by performing any duty of any Member, Related User or other Person to correct any violation or breach of the Association Documents and obtaining, upon demand, reimbursement for all expenses related thereto as a Site Assessment, and (i) by exercising any right or remedy permitted by law or in equity.

Section 6.10 Power and Duty to Enforce Association Documents. The Association shall have the power and duty to enforce the covenants, terms and provisions of the Association Documents.

Section 6.11 Power to Provide Special Services. The Association shall have the power to provide special services beyond this Declaration to a Member or group of Members and any services to any other Person. Any such service or services shall be provided pursuant to an agreement in writing, or through one or more amendments to this Declaration, which shall provide for payment to the Association by such Member or group of Members or other Persons of the costs and expenses which the Association estimates it will incur in providing such services, including a fair share of the overhead expenses of the Association, and shall contain provisions assuring that the obligation to pay for such services shall be binding upon any heirs, personal representatives, successors and assigns of the Member or group of Members or other Persons, and may be collected in the same manner as a Site Assessment, or, if the written agreement so provides, in installments as part of the Common Assessments or may be collected in any manner permitted by law or statute or the Association Documents.

Section 6.12 Power to Employ Managers. The Association shall have the power to retain and pay for the services of a manager or managers to undertake any of the management of any functions for which the Association has responsibility under this Declaration to the extent deemed advisable by the Association, and may delegate any of its duties, powers or functions to the manager. Any contract or agreement with a manager shall be terminable by the Association for cause on no more than 30 days' prior written notice, and shall be terminable by the Association without cause and without payment of a termination fee on no more than 90 days' prior written notice. No such contract or agreement shall be for a term of more than one year. Notwithstanding any delegation to a manager of any duties, powers or functions of the Association, the Association and its Board of Directors shall remain ultimately responsible for the performance and exercise of such duties, power and functions. In addition to a manager, the Association may employ and pay a consultant, which may be Declarant, an affiliate of Declarant, or a third party, to assist in operating and managing the Association after the Declarant's reserved rights under Section 5.5 terminate.

Section 6.13 Power to Engage Employees, Agents and Consultants. The Association shall have the power to hire and discharge employees and agents (except as otherwise provided in management contracts) and to retain and pay for such legal and accounting services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Association under the Association Documents.

Section 6.14 General Corporate Powers. The Association shall have all of the ordinary powers and rights of a Colorado corporation formed under the Colorado Nonprofit Corporation Act, subject to any limitations, restrictions, or requirements expressly set forth in the Association Documents.

## ARTICLE 7 ASSOCIATION PROPERTIES

Section 7.1 Right of Association to Regulate Use. To the extent that the Association hereafter owns, holds or has any property rights (including but not limited to easement rights), the provisions of this Article 7 shall apply. The Association, acting through the Board, shall have the power to regulate use of Common Elements, as set forth in Article 3 and this Article 7, by Owners and Related Users to enhance further the overall rights of use and enjoyment of all Owners and Related Users.

Section 7.2 No Partition of Common Elements. No Owner shall have the right to partition or seek partition of any Common Elements or any part thereof owned by the Association.

Section 7.3 Liability of Owners for Damage. Each Owner or Related User shall be liable to the Association for any damage to the Common Elements or for any expense or liability incurred by the Association, to the extent not covered by insurance, which may be sustained by reason of the negligence or willful misconduct of such Owner or Related User. The Association shall have the power, as elsewhere provided in this Declaration, to levy and collect a Site Assessment against a Member, Related User, or other Person to cover the costs and expenses incurred by the Association on account of any such damage or any such violation of the Association Documents, including without limitation, interest, costs, expenses and attorneys' fees, or for any increase in insurance premiums directly attributable to any such damage or violation.

Section 7.4 Damage to Common Elements. In the event of damage to or destruction of all or a portion of the Common Elements due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and reconstruct the damage or destruction, then the Association shall levy a Special Assessment in the aggregate amount of such insufficiency pursuant to this Declaration and shall proceed to make such repairs or reconstruction, unless the Owners and First Mortgagees agree not to repair and reconstruct such damage in accordance with the terms and provisions of this Declaration. No distributions of insurance proceeds from an Association policy related to damage





development right in any portion of the Property, Declarant is not obligated to exercise that development right in all or any other portion of the remainder of real estate affected by the exercise of the development right or in all or any other portion of the remainder of the Property.

Section 8.3 Special Declarant Rights. For the period stated in Section 8.1, and as more particularly set forth in this Article 8 or elsewhere in this Declaration, Declarant shall have the following special declarant rights:

- (a) to complete any Improvements shown on the Plat or any supplemental Plat;
- (b) to exercise any development rights set forth in Section 8.2;
- (c) to use easements through the Common Elements for the purpose of making Improvements within the Property; and
- (d) to appoint or remove any officer of the Association or any member of the Board of Directors appointed by Declarant.

Section 8.4 Right to Construct Additional Improvements on Common Elements. Declarant shall have and hereby reserves the right, but shall not be obligated, to construct additional Improvements on Common Elements, at Declarant's cost, at any time and from time to time in accordance with this Declaration for the improvement and enhancement of the Common Elements and for the benefit of the Association and the Owners. Any rights exercised pursuant to this Section 8.4 shall not be exercised in a manner which will materially adversely affect a Building Site not then owned by the Declarant.

Section 8.5 Declarant's Rights to Use Common Elements in Promotion and Marketing. Declarant shall have and hereby reserves the right to use the Common Elements and to use services offered by the Association in connection with the promotion and marketing of property within the boundaries of the Property or nearby areas. Without limiting the generality of the foregoing, Declarant may erect and maintain on any part of the Common Elements such signs, temporary buildings and other structures as Declarant may reasonably deem necessary or proper in connection with the promotion, development and marketing of the Property; may use vehicles and equipment on Common Elements for promotional purposes; and may permit prospective purchasers of Building Sites within the boundaries of the Property to use Common Elements. If such rights are exercised by the Declarant, it shall be at the expense of Declarant and in a manner which does not materially adversely affect the use of a Building Site not then owned by the Declarant.

Section 8.6 Declarant's Rights to Complete Development of Property. No provision of this Declaration shall be construed to prevent or limit Declarant's rights to complete the development of the Property and to subdivide and resubdivide any portion of the Property which Declarant owns; to grant licenses, easements, reservations and rights-of-way; to construct or alter Improvements on any property owned by Declarant within the Property; to maintain offices for sales or leasing

purposes or similar facilities on any property owned by Declarant or owned by the Association within the Property; or to post signs incidental to development, construction, promotion, marketing, sales or leasing of the Property or portions thereof. Nothing contained in this Declaration shall limit the right of Declarant or require Declarant to obtain approvals to excavate, cut, fill or grade any property owned by Declarant; to change any landscaping, grading, drainage, vegetation, or view; or to construct, alter, demolish or replace any Improvements on any property owned by Declarant, or to use any structure on any property owned by Declarant as a real estate sales or leasing office in connection with the sale or leasing of any Building Site, Improvement, or portion of the Property. Nothing in this Section shall limit or impair the reserved rights of Declarant as may be elsewhere provided in the Association Documents, which rights are incorporated in this Section by this reference. The development of the Property pursuant to the reserved rights of Declarant shall be at the cost and expense of Declarant. None of the rights exercised pursuant to this Section 8.6 shall be exercised in a manner which will materially adversely affect a Building Site not then owned by the Declarant.

Section 8.7 Declarant's Approval. Until Declarant no longer has the right to appoint a majority of the Board, the Association shall not, without first obtaining the prior written consent of Declarant, which consent may be withheld in the sole discretion of the Declarant, convey, change or alter the use of Common Elements; mortgage the Common Elements; use Common Elements other than for the benefit of Owners or Related Users; levy any Special Assessment; change or repeal any Building Guidelines, make any substantial reduction or change in Association services; or make any amendment of Association Documents.

ARTICLE 9  
ASSESSMENTS

Section 9.1 Obligation for Assessments. Each Owner, for each Building Site owned within the Property, by acceptance of a deed therefor or interest therein, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to Declarant or the Association, as the case may be, in the manner, amounts and times prescribed herein, amounts described in that certain Landscape and Signage Covenants, Conditions, Restrictions and Easements, dated as of Sept. 9, 1999 and recorded at Reception No. 99142908 of the real property records of El Paso County, Colorado (the "Landscape Covenants"), **together with all Assessments** which are described in the Association Documents and which shall be both a personal obligation of the Owner and a lien against the Building Site and any Improvement thereon, as provided by the Association Documents. Each Owner shall be jointly and severally liable to the Declarant or Association for the payment of all Assessments attributable to that Owner or the Building Site of the Owner. The personal obligation for delinquent Assessments shall not pass to an Owner's successors in title or interest unless expressly assumed by them. No Owner may waive or otherwise escape personal liability for the payment of the Assessments provided for herein by non-use of the Common Elements or the facilities contained therein, by abandonment or leasing of his Building Site, or by asserting any claims against the Association, the Architectural Committee, the Declarant or any other Person. In addition to the foregoing Assessments, charges, fees and other

sums, each Owner shall have the obligation to pay real property ad valorem taxes and special assessments imposed by Colorado governmental subdivisions against the Building Site and/or the Improvements thereon. All property dedicated to and accepted by a public or governmental authority and the Common Elements shall be exempt from Assessments hereunder.

Section 9.2 Purpose of Assessments. The Assessments levied by the Association shall be used for the improvement and maintenance of the Common Elements as more specifically provided herein, and for the other purposes set forth in this Declaration, except as provided in the Landscape Covenants which shall control any portion of the Assessments paid pursuant to the Landscape Covenants. The Assessments may not be used to pay for the initial cost of constructing and installing Improvements in the Common Elements that are constructed and installed by the Declarant except as described in Section 11.5 of these Covenants, but shall be used for the cost of repair, maintenance and replacement of such Improvements after the initial construction and installation by Declarant.

Section 9.3 Common Assessments. The Common Assessments may include, but shall not be limited to, the following common expenses:

- (a) expenses of management of the Association and its activities;
- (b) taxes and special assessments upon the Associations' real and personal property;
- (c) premiums for all insurance which the Association is required or permitted to maintain;
- (d) common services to Owners as approved by the Board;
- (e) landscaping and care of the Common Elements and any recreational or other Association facilities or Improvements located thereon;
- (f) repairs and maintenance that are the responsibility of the Association;
- (g) wages for Association employees and payments to Association contractors;
- (h) reasonable legal and accounting fees for the Association;
- (i) any deficit remaining from a previous Assessment year;
- (j) the creation of reasonable contingency reserves, surpluses, and sinking funds, adequate reserve funds for maintenance, repairs and replacement of those elements of Association Property or maintenance or replacement that must be done or replaced on a periodic basis and are payable in regular installments, rather than by Special Assessments;

- (k) the creation of reasonable contingency reserves for any applicable insurance deductibles and emergencies;
- (l) any other costs, expenses, and fees which may be incurred or may reasonably be expected to be incurred by the Board, in its sole discretion, for the benefit of the Owners under or by reason of this Declaration; and
- (m) if the Board elects to collect for the convenience of the Owners, all assessments imposed upon the Property pursuant to the Landscape Covenants.

Common Assessments shall be paid **quarterly** or as otherwise provided in Section 9.5.

Section 9.4 Declarant's Obligation. Until Assessments are first levied by the Association pursuant to this Article 9, Declarant shall pay all common expenses of the Association described in Section 9.3.

Section 9.5 Common Assessment Procedure. The assessment procedure for Common Assessments shall be as follows:

- (a) No later than 90 days before the beginning of each fiscal year, the Board of Directors shall set the total annual Common Assessment based upon an advanced budget of the Association's requirements for the following Assessment year. Within 30 days after adoption of the Association's budget for each year by the Board, the 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 the Owners to consider ratification of the budget not less than 14 nor more than 60 days after mailing or other delivery of the budget summary. The notice mailed to the Owners shall include a ballot allowing an Owner to vote for or against approval of the budget by returning the ballot, marked and signed by the Owner, to the Board, by mail or otherwise, prior to or on the date on which the meeting is scheduled. Unless a majority of all Owners present and voting in person or by proxy at the meeting called to discuss the budget or voting by the mailed ballot returned to the Board prior to that meeting reject the budget, the budget is ratified, whether or not a quorum is present at the meeting. 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; provided that if there has not been a budget previously ratified by the Owners, then the initial budget prepared by the Declarant shall be continued until a new budget is ratified.
- (b) After approval of the budget by the Owners, the Board shall cause to be prepared, delivered or mailed to each Owner, at least 30 days in advance of the date payment is due, a payment statement setting forth the annual Common Assessment. That annual Common Assessment shall be payable in advance in quarterly installments

due on the first day of each successive quarter unless the Board otherwise directs or changes to monthly assessments. All payments of Common Assessments shall be due and payable, without any notice or demand, on the due dates declared by the Board. Common Assessments shall be applicable to all Building Sites, including those owned by Declarant, for which a building permit has been obtained for the construction of a structure thereon. Declarant and other Owners of Building Sites, for which a building permit has been obtained for the construction of a structure thereon, at the time a Common Assessment is first levied shall become responsible for Common Assessments at that time. Each Owner who subsequently acquires a Building Site, for which a building permit has been obtained for the construction of improvement thereon, shall become responsible for Common Assessments on a Building Site as of the date the Building Site is transferred to such Owner. The first annual Common Assessment shall be adjusted according to the number of months remaining in the fiscal year as established pursuant to the Bylaws of the Association. The Board may adopt Rules and Regulations requiring the Owner, at the time when Common Assessments first commence upon that Owner's Building Site as provided in this Section, to prepay the Common Assessments for the balance of the quarterly period and an additional period which shall not exceed an additional 12 months; such prepayment shall not relieve the Owner from any additional requirement to pay working capital pursuant to Section 9.18.

Section 9.6 Rate of Assessments. Common Assessments (exclusive of any related to the Landscape Covenants) and Special Assessments shall be sufficient to meet the expected needs of the Association. Except as provided in Section 11.5 of these Covenants concerning Sign Assessments, Common Assessments and Special Assessments shall be allocated among the Building Sites within the Property (expressly excluding the City Lot) for which building permits have been obtained for the construction of a structure thereon (the "Applicable Building Sites") as set forth below:

Common Assessments (exclusive of any related to the Landscape Covenants) and Special Assessments shall be determined on a pro-rata basis based on the number of Applicable Building Sites owned by each Owner. **The amount of the Common or Special Assessment assessable to an Owner of an Applicable Building Site shall be determined by multiplying the total amount of the Common or Special Assessment, as applicable, by a fraction the numerator of which is the total square footage of the Applicable Building Sites owned by the Owner and the denominator of which is the total square footage of all of the Applicable Building Sites within the Property as of the date thereof.**

A Building Site shall be subject to the Common and Special Assessment immediately upon receipt of a building permit for the construction of a structure thereon prorated for the period of time remaining in the period during which the Common or Special Assessment is payable. The Association may, but shall not have the obligation to, adjust the Common or Special Assessment if a Building Site becomes an Applicable Building Site after the Common Assessment or Special Assessment and the rate thereof are approved and assessed.

Section 9.7 Failure to Fix Assessment. The failure by the Board of Directors to levy an Assessment for any period shall not be deemed a waiver or modification with respect to any of the provisions of this Declaration or a release of the liability of any Owner to pay Assessments for that or any subsequent period.

Section 9.8 Special Assessments. In addition to Common Assessments, the Board of Directors may, subject to the provisions of this Section, levy Special Assessments for the purpose of raising funds to construct or reconstruct, repair or replace capital Improvements upon Common Elements, including personal property relating thereto; to add to the Common Elements; to provide for necessary facilities and equipment; to offer the services authorized in this Declaration; to correct any deficit or cost overrun; or to repay any loan made to the Association to enable it to perform the duties and functions authorized in this Declaration. At any time that insurance proceeds are insufficient to repair or reconstruct any damaged or destroyed Improvements on the Common Elements, or on any other property which the Association maintains, the Association may levy Special Assessments for the purpose of repair or reconstruction of such damaged or destroyed Improvements; all such Special Assessments shall be equal to the amount by which the costs of repair or reconstruction of Improvements exceeds the sum of insurance proceeds awarded for the damage or destruction, and shall be set in the same manner as other Special Assessments. The Association shall notify Owners in writing of the amount of any Special Assessment and of the manner in which, and the dates on which, any such Special Assessment is payable, and the Owners shall pay any such Special Assessment in the manner so specified. No Special Assessment shall be imposed until it has been ratified by the Owners in accordance with a procedure substantially similar to the procedure set forth in Section 9.5 (a).

Section 9.9 Site Assessments. The Board of Directors may, subject to the provisions hereof, levy a Site Assessment against any Member, Owner, or Building Site if the willful or negligent acts or omissions of the Member, Owner or a Related User cause any violation of the Association Documents which causes any loss or damage to the Association or Common Elements or cause any expenditure of funds in connection with the enforcement powers of the Association. Except for a default consisting solely of a failure to timely pay any Assessment, including, without limitation, Special Assessments or Common Assessments, which shall not require any notice or hearing, a Site Assessment shall be levied only after such notice and hearing as may be required by the Bylaws. The amount of the Site Assessment shall be due and payable to the Association upon notice by the Board to the Owner that the Site Assessment is owing. Imposition or non-imposition of Site Assessments shall not preclude the Association from pursuing simultaneously or subsequently all other legal or equitable rights and remedies.

Section 9.10 Costs of Enforcement, Late Charges and Interest. If any Assessment is not paid within 30 days after it is due, the Member, Owner or other Person obligated to pay the Assessment may be additionally required to pay all costs of enforcement, including without limitation, reasonable attorneys' and paralegal fees, court costs, deposition costs, witness expenses, and all related expenses, and to pay a reasonable late charge to be determined by the Board. Any Assessment which is not paid within 10 days after the date of any notice of default given under

Section 9.12 shall bear interest from the due date at a rate determined by the Board, not to exceed the lower of eighteen percent per annum or the maximum percentage permitted by law from the due date until paid. The above referenced items, including the late charge, interest and the costs of enforcement for which the Owner, Member or other Persons are liable shall be referred to herein as the "Costs of Enforcement").

Section 9.11 Attribution of Payments. If any Assessment payment is less than the amount assessed, the sums received by the Association from that Owner shall be credited in such order of priority as the Board of Directors, in its discretion, determines.

Section 9.12 Notice of Default and Acceleration of Assessments. If any Assessment is not paid within 30 days after its due date, the Board of Directors may mail a notice of default to the Owner and to each First Mortgagee of the Building Site who has requested a copy of such notice. The notice shall substantially set forth (a) the fact that the installment is delinquent; (b) the action required to cure the default; (c) a date not less than 20 days from the date of mailing of the notice by which such default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in the foreclosure of the lien for the Assessment against the Building Site of the Owner. A default shall not be considered cured unless the past due sums, Costs of Enforcement, and all sums coming due through the date of payment are paid to the Association. If the delinquent Assessment and any Costs of Enforcement, plus any other sums due as of the date of the payment, are not paid in full on or before the date specified in the notice, the Board, at its option, may enforce the collection of the Assessment and all charges and interest thereon in any manner authorized by law or in the Association Documents. The Association shall also have the right if there is a default by the Owner in the payment of any Assessment to accelerate and declare Assessments due and owing for the next twelve months to be immediately due and owing.

Section 9.13 Remedies to Enforce Assessments. Each Assessment levied hereunder shall be a separate, distinct and personal debt and obligation of the Owner against whom it is assessed. In the event of a default in payment of any Assessment, the Board may, in addition to any other remedies provided under the Association Documents or by law, enforce such obligation on behalf of the Association by suit or by filing and foreclosure of a lien as hereinafter provided. Each Owner, by acceptance of a deed to a Building Site, whether or not it is expressed in such deed, is deemed to covenant and agree to pay to the Association all Assessments, together with the Costs of Enforcement, and this covenant shall be a charge on the land and a continuing lien upon the Building Site against which the Assessment is made. The lien created hereby shall exist from the date of each Assessment until all sums are paid, whether or not a Notice of Lien is filed in accordance with Section 9.15.

Section 9.14 Lawsuit to Enforce Assessments. The Board may bring a suit at law to enforce any Assessment obligation. Any judgment rendered in such action shall include the Costs of Enforcement against the defaulting Owner.

Section 9.15 Lien to Enforce Assessments. The Association shall have a lien against each Building Site to secure payment of assessment, charge, fine, penalty, or other amount due and owing with respect to the Building Site (the "Lien"). In addition to or in lieu of bringing suit to collect Assessments, the Association may foreclose its Lien as provided by law and in this Section. The Board may elect (but is not required) to file a claim of lien against the Building Site of the defaulting Owner by recording a notice ("Notice of Lien") substantially setting forth: (a) the amount of the claimed delinquency, (b) the Costs of Enforcement then accrued thereon, (c) the legal description and street address of the Building Site against which the lien is claimed, and (d) the name of the record Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The Lien shall attach from the date of the failure of payment of the amount due and shall be superior to any liens and encumbrances other than tax liens made superior by statute and First Mortgages. The Lien shall be superior and prior to judgment liens, mechanics' liens, tax liens and all other consensual and non consensual liens by or against the Owner of the Building Site, other than the priority accorded to First Mortgages over the Lien by this Declaration or by law and the priority accorded to tax liens by law. The priority date for the Lien shall be the date of the recordation of this Declaration in the El Paso County, Colorado real property records. The Lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Lien, including, without limitation, all Costs of Enforcement, have been fully paid or satisfied, the Association shall execute and record a notice releasing the Notice of Lien, if recorded, upon payment by the Owner of a reasonable fee as fixed by the Board of Directors to cover the cost of preparing and recording the release of the Notice of Lien. Unless paid or otherwise satisfied, the lien may be foreclosed through a Colorado court of competent jurisdiction in accordance with the laws of the State of Colorado applicable to foreclosure of real estate mortgages (not including deeds of trust), or in any other manner permitted by law. The Association shall have the right and power to bid on the Building Sites at the sale and to acquire and hold, lease, mortgage, and convey the same. The Lien under this Section shall be subject to the provisions and restrictions of Section 13.6 hereof.

Section 9.16 Estoppel Certificates. Upon the payment of such reasonable fee as may be determined from time to time by the Board of Directors, and upon the written request of any Member or Owner and any Person which has, or intends to acquire, any right, title or interest in the Building Site of such Member or Owner, the Association shall furnish a written statement setting forth the amount of any Assessments or other amounts, if any, due and accrued and then unpaid with respect to a Building Site and the Owner thereof, and setting forth the amount of any Assessment levied against such Building Site which is not yet due and payable. Such statement shall, with respect to the Person to whom it is issued, if relied thereupon in good faith and without actual knowledge to the contrary, be conclusive against the Association.

Section 9.17 No Offsets. All Assessments shall be payable in the amounts specified in the levy thereof, and no offset, abatement or reduction thereof shall be permitted for any reason whatsoever, including, without limitation, any claim that the Declarant, the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration, or for



inconvenience or discomfort arising from any activity of the Common Elements, or because an Owner claims that a particular function funded by the Assessment does not benefit that Owner directly, or for any other reason.

Section 9.18 Working Capital Fund. The Board may, at its option, require the first Owner, at the time of acquisition of a Building Site, to make a **\$500.00 nonrefundable** contribution to the Association. All such contributions shall be maintained in a non-segregated working capital account for the use and benefit of the Association for, among other purposes, meeting unforeseen expenditures or purchasing additional equipment, property or services. The working capital contribution shall be in addition to the Assessment, and shall not relieve the Owners from paying all Assessments as they come due.

## ARTICLE 10 INSURANCE

Section 10.1 Insurance on Common Elements. The Association shall maintain insurance covering all insurable Common Elements to the extent insurance is reasonably available to the Association for the Common Elements and it is determined to be advisable by the Association. The cost of said coverage shall be paid by the Association as a common expense. Notwithstanding any of the specific insurance requirements specified in this Article 10, the Association may also consider, in determining the type and amount of insurance it needs to obtain, the then-existing requirements of any agencies insuring, guaranteeing or acquiring mortgages (the "Agencies"). The Association shall use reasonable efforts to maintain the following types of insurance coverage:

- (a) A comprehensive policy of commercial general liability insurance covering all of the Common Elements, insuring the Association in an amount determined to be appropriate by the Association but the policy limits shall not be less than \$1,000,000.00 covering bodily injury, including death, personal injury and property damage liability arising out of a single occurrence. Such coverage shall include, without limitation, legal liability of the insured for property damage, bodily injuries and deaths in connection with the operation, maintenance or use of the Common Elements, legal liability arising out of lawsuits related to employment contracts of the Association, and protection against liability for non-owned and hired automobiles. Such coverage may also include, if applicable, comprehensive automobile insurance, garage keeper's liability, liability for property of others, water damage liability, contractual liability, workmen's compensation insurance for employees of the Association, and insurance coverage of such other risks as are customarily required by private institutional mortgage investors with respect to associations having property similar in construction, location and use. This policy shall insure the Association, the Board of Directors, the Association's managing agent (if any), and their respective employees, agents and all persons acting as agents. Declarant shall be included as an additional insured in its capacity as an Owner. The Owners shall be included as additional insured but only for claims and

liabilities arising from the ownership, existence, use of management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties.

- (b) A policy providing comprehensive fidelity coverage or fidelity bonds to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and all others who handle or are responsible for handling funds of the Association, in an amount at least equal to the estimated maximum of funds, including reserves, held by the Association at any given time; provided, however, that such fidelity coverage or fidelity bonds shall not be in an amount less than two months' aggregate Common Assessments on all Building Sites, plus the Association's reserve funds. Such fidelity coverage or bonds shall meet the following requirements:
- (1) all such fidelity coverage or bonds shall name the Association as an obligee;
  - (2) such fidelity coverage or bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

In the event that the Association has delegated some or all of its responsibility for handling of funds to a manager, the Association may require the manager to purchase, at the manager's expense, a policy of fidelity insurance or bonds which fully complies with the provisions of this subparagraph (b).

Section 10.2 General Provisions of Insurance Policies. All policies of insurance carried by the Association shall be carried in blanket policy form naming the Association, or its designee, as trustee and attorney-in-fact for all Owners, as the insured, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard non-contributory first mortgagee's clause in favor of each First Mortgagee and a provision that it cannot be canceled or materially altered by either the insured or the insurance company until 30 days' prior written notice thereof is given to the insured and to each First Mortgagee, insurer or guarantor of a First Mortgage. The Association shall furnish a certificate of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party in interest including First Mortgagees upon request and payment of a reasonable fee. Any such Owner's policy shall also contain waivers of subrogation. Additionally, all policies shall contain waivers of any defense based on invalidity arising from any act or neglect of an Owner where such Owner is not under the control of the Association. Insurance obtained by the Association, to the extent reasonably feasible, and provided that Declarant reimburses the Association for any additional premium payable as a result, shall name Declarant as an additional insured and shall contain a waiver of subrogation rights against Declarant. Casualty, fire and extended coverage insurance may be provided under blanket policies covering the Common Elements and property of Declarant.

Section 10.3 Deductibles. No policy or insurance of which the Association or its designee is the beneficiary shall include a deductible clause in an amount which is greater than the lesser of \$10,000.00 or one percent of the face amount of the policy. Any deductible shall be payable by the Person responsible for the repair and maintenance of the damaged or destroyed property which is the subject of an insurance claim. In the event of a joint duty of repair and maintenance of the damaged or destroyed property, then the deductible may be apportioned among the parties sharing in such joint duty or may be partly or wholly borne by the Association, at the election of the Board of Directors.

Section 10.4 Insurance Trustee. The Association may authorize a representative to act for it, including any trustee or successor thereto, who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance. Such insurance trustee shall act as attorney-in-fact for the purpose of purchasing and maintaining insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents, and the performance of all other acts necessary to accomplish such purpose. Said party may also receive, hold or otherwise properly dispose of any proceeds of insurance in trust for Owners and their First Mortgagees as their interests may appear.

Section 10.5 Acceptable Insurance Companies. Each hazard insurance policy purchased by the Association must be written by a hazard insurance carrier which has a current credit or financial rating, which meets any applicable requirements of the Agencies, and is authorized by law to do business in the State of Colorado. The Association shall not obtain any policy if (a) the terms of the insurance company's charter, bylaws, or policy provide that contributions of assessments may be made against the mortgagor or mortgagee's designee, or (b) the terms of the carrier's charter, bylaws, or policy provide that loss payments are contingent upon action by the carrier's Board of Directors, policyholders or Members, or (c) the policy includes any limiting clauses (other than insurance conditions) which would prevent First Mortgagee or any Owner from collecting insurance proceeds.

Section 10.6 Other Insurance to be Maintained by Owners. Insurance coverage on the furnishings and other items of personal property belonging to an Owner, public liability insurance coverage upon each Building Site, and hazard insurance coverage on the Improvements owned by each Owner shall be the responsibility of the Owner of such Building Site. Neither the Association nor the Declarant shall have any responsibility to carry or maintain any insurance related to a Building Site.

Section 10.7 Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Board of Directors to ascertain that coverage provided by such policies adequately covers those risks insured by the Association.

Section 10.8 Owners' Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of any or all of the Common Elements is caused by the willful or negligent act or omission of any Owner, or a Related User of such Owner, the cost of such repair, maintenance or reconstruction shall be the personal obligation of such Owner, and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction may be collected as a Site Assessment as provided in this Declaration or by the Association exercising any rights or remedies under the Association Documents or otherwise as permitted by law. A determination of the negligence or willful act or omission of any Owner's liability therefor, shall be determined by the Board of Directors at a hearing after any notice required by the Bylaws to be given to the Owner, but any determination by the Board of Directors shall be subject to judicial review as appropriate.

## ARTICLE 11 EASEMENTS

Section 11.1 Easement for Encroachments. If any portion of an Improvement encroaches upon the Common Elements owned by the Association, including any future encroachments arising or resulting from erosion or subsidence, or from the repair or reconstruction of an Improvement subsequent to its damage, destruction or condemnation, the Board may grant a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, for so long as such encroachment exists, but subject to any conditions or restrictions imposed by the Board.

Section 11.2 Association Easement. An easement to perform its maintenance or other rights or obligations pursuant to this Declaration is hereby granted to the Association, its officers, agents, employees and assigns, upon, across, over, in and under the Property, together with the right to make such use of the Property as may be necessary or appropriate in carrying out such maintenance or other rights or obligations.

Section 11.3 Utilities. Declarant hereby creates and reserves to itself until Declarant has sold the last Building Site in the Property to an Owner other than Declarant, and, perpetually, to the Association, the following easements:

- (a) Perpetual, alienable, divisible and releasable easements and the right from time to time to grant such easements to another, over, under, in and within the utility easements shown on a Plat for use of all or part of such areas for lines for transmission of electric current or impulses or electronic signals, for heat and fuel lines, for water lines, for utility lines, for drainage and for other similar or dissimilar facilities and purposes, and for any one or more of such purposes; and
- (b) A blanket easement across, over and under the Common Elements for access, utilities, drainage and the installation, replacement, repair and maintenance of utilities, including but not limited to water, sewer, gas, telephone and electricity.

If any utility or quasi-utility company furnishing a service covered by the easements created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement. The Association shall succeed to such right and authority upon conveyance by Declarant of the last Building Site in the Property to the first Owner thereof, other than Declarant. The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement on the Property.

Section 11.4 Easements Deemed Created. All conveyances of Building Sites hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article 11, whether or not specific reference to such easements or to this Article appears in the instrument of such conveyance.

Section 11.5 Landscaping and Signage Easements. An easement to install, maintain, repair and replace landscaping and signage as provided in this Declaration is hereby granted to the Association, its officers, agents and employees and assigns, upon, across, over, in and under those portions of the Property subject to landscape or signage easements as described on **Exhibit C** of these Covenants or in any separate easement document recorded in the real property records of El Paso County, Colorado (collectively, the "Landscape and Sign Easements"). The Association will maintain, repair and replace the Landscape and Sign Easements which are Common Elements as Common Elements, subject to the limitation described below. Declarant will construct the initial University Park Professional Center signs to be installed within the Landscape and Sign Easement. Declarant will be reimbursed, on the basis described in this Section 11.5, for all costs of constructing such signs by the Owners who will use the signage. The cost of constructing, maintaining, repairing and replacing such signs within the Landscape and Sign Easements and which serves as signs for the entire University Park Professional Center, will be paid for by those Owners who have use of the signs on a pro rata basis based on the space used by a particular Owner of the entire space available on the sign for use by Owners (the "Sign Assessments"). All such Sign Assessments shall constitute Assessments as provided for in Article 9 of these Covenants and will be enforced as Assessments in the manner provided in Article 9 of these Covenants.

Section 11.6 Easements of Record. In addition to the easements created in this Article 11, the Property is subject to those easements and other matters currently or contemporaneously placed of record in El Paso County, Colorado, including but not limited to that certain Reciprocal Easement Agreement Declaration of Easement of University Park Professional Center Filing No. 1.

## ARTICLE 12 CITY LOT PROVISIONS

Section 12.1 Application of Declaration. Notwithstanding any other provision contained in this Declaration, none of the provisions of this Declaration will apply to the City other than as set forth in this Article 12.

Section 12.2 Maintenance Obligations. The Owner of the City Lot shall be obligated to maintain, repair and replace, at its sole cost and expense, all improvements located within the City Lot, including but not limited to those improvements which have been installed within the City Lot by the Declarant or the Association (the "Declarant Improvements"). The use and maintenance of the City Lot shall comply with the terms and conditions of Sections 3.2 and 4.9 of this Declaration. The Owner of the City Lot will also be required obtain the approval of the Architectural Committee for any changes to or replacements of the Declarant Improvements which its desires to make within the City Lot. The approval process for the changes or replacement of the Declarant Improvements will be the same as provided in Article 4 of this Declaration.

Section 12.3 Term and Amendments. The provisions of this Article 12 shall be for the term set forth in Section 13.1 of this Declaration. The provisions of this Article 12 may be amended by the written agreement of the Declarant, the Owner of the City Lot and Members of the Association holding at least sixty-seven percent (67%) of the voting power of the Association.

Section 12.4 Enforcement. The Board may bring a suit at law to enforce any obligations described in this Article 12. Any judgment rendered in such action shall include the Costs of Enforcement against the Owner of the City Lot.

Section 12.5 General Provisions. The City Lot shall also be subject to the terms of Article XIII of this Declaration.

### ARTICLE 13 MISCELLANEOUS

Section 13.1 Term of Declaration. Unless amended as herein provided, all provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration shall be effective for 30 years after the date when this Declaration was originally recorded, and, thereafter, shall be automatically extended for successive periods of 10 years each unless terminated prior to the commencement of any applicable 10 year period by agreement of the Owners with at least 67% of the voting power of the Association.

Section 13.2 Amendment of Declaration by Declarant or the Association. This Declaration may be amended as follows:

- (a) Until the first Building Site subject to this Declaration has been conveyed by Declarant by recorded deed, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration may be amended, supplemented or terminated by Declarant by the recordation of a written instrument, executed by Declarant, setting forth such amendment or termination.
- (b) Declarant may amend the Declaration as necessary to exercise any of the development rights set forth in Section 8.2.

- (c) Declarant may amend this Declaration pursuant to any other reserved right of Declarant set forth in this Declaration.

Section 13.3 Amendment of Declaration by Members. Except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of the Declarant or others, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended or repealed at any time and from time to time upon approval of the amendment or repeal by Members with at least 67% of the voting power of the Association.

Section 13.4 Required Consent of Declarant to Amendment. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of any provision of this Declaration shall not be effective unless Declarant has given its written consent to such amendment or repeal, which consent may be evidenced by the execution by Declarant of any certificate of amendment or repeal. The foregoing requirement for consent of Declarant to any amendment or repeal shall terminate fifteen (15) years following the recordation of this Declaration.

Section 13.5 Special Rights of First Mortgagees. Any First Mortgagee, upon filing a written request therefor with the Association, shall be entitled to (a) receive written notice from the Association of any default by the Owner indebted to such First Mortgagee in the performance of the Owner's obligations under the Association Documents, which default is not cured within 60 days after the Association learns of such default; (b) examine the books and records of the Association during normal business hours; (c) upon request, receive a copy of financial statements of the Association, within 90 days following the end of any fiscal year of the Association; (d) receive written notice of all meeting of Members; (e) designate a representative to attend any meeting of Members; (f) receive written notice of abandonment or termination of the Association or of this Declaration; (g) receive notice of any amendment to this Declaration, the Articles of Incorporation or the Bylaws; (h) receive written notice of termination of any agreement for professional management by the Association of the Common Elements following a decision of the Association to assume self-management of the Common Elements; and (i) receive written notice of any damage to the Common Elements if the cost of reconstruction exceeds \$10,000.00, and of any condemnation or eminent domain proceedings or other proposed acquisition with respect to any portion of the Common Elements.

Section 13.6 Priority of First Mortgage Over Assessments. Each First Mortgagee who recorded its First Mortgage before Assessments have become delinquent and who obtains title to the Building Site encumbered by the First Mortgage, whether pursuant to the remedies provided in the mortgage, by judicial or public trustee foreclosure, or by deed or assignment in lieu of foreclosure, shall take title to the Building Site free and clear of any claims for unpaid Assessments or charges against such Building Site which accrued prior to the time such First Mortgagee acquires title, other than allocation of any deficiency prorated among all Members of the Association. A First Mortgagee shall be deemed to have acquired title to a Building Site on the date of receipt of a deed

in lieu of foreclosure, on the date of receipt of a Certificate of Purchase from the Public Trustee, or on the date of sale pursuant to a judicial foreclosure and receipt of the Sheriff's Certificate of Purchase, as the case may be.

Section 13.7 First Mortgagee Right to Pay Taxes and Insurance Premiums. Any one or more First Mortgagees, jointly or singly, shall be entitled to pay any taxes or other charges which are in default and which may become or have become a charge against any of the Common Elements, and may pay any overdue premiums on hazard insurance policies for any Common Elements, or may secure new coverage if the insurance policy on the Common Elements lapses, and the First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 13.8 Evidence of Required Approvals. Whenever the validity of any amendment to or revocation of this Declaration is conditioned upon voting by a stated percentage of Members and approval by First Mortgagees or Agencies, or both, the recorded document implementing the amendment or revocation shall contain a certification by an officer or the Association that the approvals of the required percentages of Members, First Mortgagees and Agencies were obtained. The Association shall keep on file in its offices such proxies, letters, minutes of meetings or other documentation as may be required to evidence compliance with applicable approval requirements, but the officer's certificate on the recorded instrument shall be sufficient public notice of compliance.

Section 13.9 Notices. Any notice permitted or required to be given under this Declaration shall be in writing and may be given either personally or by mail. If served by mail, each notice shall be sent postage prepaid, addressed to any Person at the address given by such Person to the Association for the purpose of service of such notice, or to the Building Site of such Person if no address has been given to the Association, and shall be deemed given, if not actually received earlier, at 5:00 p.m. on the second business day after it is deposited in a regular depository of the United States Postal Service. Such address may be changed from time to time by notice in writing to the Association.

Section 13.10 Persons Entitled to Enforce Declaration. The Association, acting by authority of the Board, or any Member or Owner, shall have the right to enforce any or all of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration or the other Association Documents; provided that the right to enforce the payment of Assessments, including the right to foreclose on the Lien for assessments shall be exclusively vested in the Association. The right of enforcement shall include the right to bring an action for damages, as well as an action to enjoin any violation of any provision of the Association Documents, and all other rights and remedies provided in the Association Documents and at law or in equity.



Section 13.11 Violations Constitute a Nuisance. Any violation of any provision, covenant, condition, restriction or equitable servitude contained in the Association Documents, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration.

Section 13.12 Violations of Law. Any violation of any federal, state, municipal or local law, ordinance, rule or regulation, pertaining to the ownership, occupation or use of any property within the Property, is hereby declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

Section 13.13 Remedies Cumulative. Each remedy provided under the Association Documents is cumulative and not exclusive.

Section 13.14 Costs of Enforcement. In any action or proceeding under the Association Documents, the Association and the Declarant shall be entitled to recover Costs of Enforcement. If the action or proceeding is by any other Person entitled to enforce a violation of the Association Documents, then the prevailing party shall be entitled to recover his Costs of Enforcement.

Section 13.15 Limitation on Liability. Neither the Association, the Architectural Committee, the Board of Directors, Declarant nor any member, agent, officer, director, manager or employee of any of the same shall be liable to any Person for any action or for any failure to act if the action or failure to act was in good faith and without malice, and each of such parties shall be indemnified by the Association to the fullest extent permissible by the laws of Colorado, including without limitation, circumstances in which indemnification is otherwise discretionary under Colorado law.

Section 13.16 No Representations or Warranties. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its agents, officers, directors, members, managers, partners or employees in connection with any portion of the Property, or any Improvements thereon, as to its or their physical condition, zoning, compliance with applicable laws, or fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in a writing signed by Declarant.

Section 13.17 Liberal Interpretation. The provisions of the Association Documents shall be liberally construed as a whole to effectuate the purposes of the Association Documents. The use herein of the word "including," when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as "without limitation" or "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter.

Section 13.18 Governing Law. The Association Documents shall be construed and governed under the laws of the State of Colorado.

Section 13.19 Severability. Each provision of the Association Documents shall be deemed independent and severable, and the invalidity or unenforceability or partial invalidity or partial enforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

Section 13.20 Number and Gender. Unless the context requires a contrary construction, as used in the Association Documents, the singular shall include the plural and the plural, the singular and the use of any gender shall include all genders.

Section 13.21 Captions for Convenience. The titles, headings and captions used in the Association Documents are intended solely for convenience of reference and are not intended to affect the meaning of any provision of this Declaration.

Section 13.22 Mergers and Consolidation. The Association may merge with another incorporated association to the extent permitted by law. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by assignment or by operation of law, be transferred to another surviving or consolidated association or alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Property together with the covenants and restrictions established upon any other property, as one plan.

Section 13.23 Conflicts in Documents. In case of any conflict between this Declaration and the Articles of Incorporation or the Bylaws of the Association, this Declaration shall control. If there is a conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

IN WITNESS WHEREOF, Declarant has executed this Declaration to be effective on the day and year first above written.

DECLARANT:

**Elite Properties of America, Inc.,**  
a Colorado corporation

Attest:

By: 

Its: ASST SECRET

By: 

Its: Vice President

[CORPORATE SEAL]



G:\COMMON\CLIENT\F\CFJ\CL\ELITE\UNIVERSITY\PROFESSIONAL COVENANT.FIN

Page 35

J. Patrick Kelly El Paso Cty, CO

09/09/1999 07:43

Doc \$0.00 Page


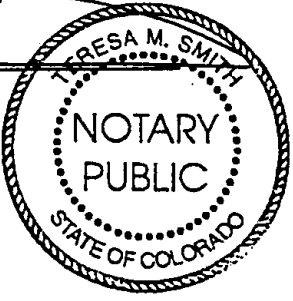
09914291

STATE OF COLORADO )  
 ) ss.  
COUNTY OF EL PASO )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of September, 1999 by RONALD J. BURKIN, as <sup>VICE</sup> President and GEORGE A. LENZ as ASST SECRETARY of Elite Properties of America, Inc., a Colorado corporation.

Witness my hand and official seal.

My commission expires: 5/19/2001  
(SEAL)

  
Notary Public 



**EXHIBIT A**

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND EASEMENTS  
FOR  
UNIVERSITY PARK PROFESSIONAL CENTER**

**LEGAL DESCRIPTION OF THE PROPERTY**

Lots 1, 2 and 3, University Park Professional Center Filing No. 1,  
together with Lot 4, University Park Professional Center Filing No.  
1, for the limited purposes set forth in this Declaration.

J. Patrick Kelly El Paso Cty, CO

09/09/1999 07:43

Doc \$0.00 Page

Rec \$195.00 37 of 39

099142910

**EXHIBIT B**

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND EASEMENTS  
FOR  
UNIVERSITY PARK PROFESSIONAL CENTER**

**THE INITIAL PLAT**

University Park Professional Center Filing No. 1, as recorded at  
Reception No. 99002257 of the real property records of  
El Paso County, Colorado.

J. Patrick Kelly El Paso Cty, CO 099142910  
09/09/1999 07:43  
Doc \$0.00 Page  
Rec \$195.00 38 of 39

EXHIBIT C

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND EASEMENTS  
FOR  
UNIVERSITY PARK PROFESSIONAL CENTER

SIGN AND LANDSCAPE EASEMENTS AREAS  
LEGAL DESCRIPTIONS OF ANY EASEMENTS  
BEYOND THE ONES DESCRIBED IN THE LANDSCAPE COVENANTS

NONE

J. Patrick Kelly El Paso Cty, CO  
09/09/1999 07:43  
Doc \$0.00 Page  
Rec \$195.00 39 of 39

099142910