

**EXHIBIT A
TO
CONDOMINIUM DECLARATION
FOR
THE LAKESIDE YACHT CLUB CONDOMINIUMS**

(Legal Description of Property)

A part of Lots 1, 4 and Tract A, Block 1, The Yacht Club, a Subdivision recorded under Reception No. B475235 of the Adams County Records, and a part of Tract "A", Block 1, minor re-subdivision of Lots 7 and 8, and a part of Tract "A", Block 1, The Yacht Club, a Subdivision recorded under Reception No. B722621 of the Adams County Records, said Subdivision being a part of the Southwest Quarter of Section 6, Township 3 South, Range 68 West of the 6th Principal Meridian, City of Arvada, County of Adams, State of Colorado, more particularly described as follows:

Commencing at the Northwest corner of said Subdivision; Thence North 89°29'32" East along the North line of said Subdivision, 157.44 feet to the Northwest Corner of Said Lot 1, said point being the Point of Beginning, said point being on a curve; Thence along the Easterly right of way of West 68th Avenue and along the Westerly line of said Lot 1, the following three (3) courses:

- 1) Thence along said curve to the right having a radius of 181.29 feet, a central angle of 48°27'11" (a chord which bears South 27°30'04" East, 148.78 feet), 153.31 feet to a point of tangent;
- 2) Thence South 03°16'28" East along said tangent, 38.99 feet to a point of curve;
- 3) Thence along said curve to the right having a radius of 238.00 feet, a central angle of 05°51'02", 24.30 feet to a point on the Northerly line of Phase I as recorded in Book 2980, Pages 569-572 of Adams County Records;

Thence along the Northerly line of said Phase I the following twenty-seven (27) courses;

- 1) Thence South 84°46'28" East, 31.25 feet to a point of curve;
- 2) Thence along said curve to the right having a radius of 211.00 feet, a central angle of 39°34'22", 145.73 feet;
- 3) Thence North 42°25'53" East 44.45 feet;
- 4) Thence South 40°30'00" East 32.10 feet;
- 5) Thence North 75°30'00" East 23.52 feet;
- 6) Thence North 40°30'00" East 39.84 feet;
- 7) Thence South 81°30'00" East 32.00 feet;
- 8) Thence South 36°30'00" East 8.00 feet;
- 9) Thence South 41°31'28" East 78.16 feet;
- 10) Thence North 48°28'32" East 2.86 feet;
- 11) Thence South 41°31'28" East 74.85 feet;
- 12) Thence South 65°20'00" East 8.00 feet;
- 13) Thence South 20°20'00" East 63.89 feet;
- 14) Thence South 46°01'28" East 31.89 feet;
- 15) Thence South 01°23'57" West 39.79 feet;
- 16) Thence South 43°36'03" East 13.58 feet;

- 17) Thence South 88°36'03" East 15.41 feet;
- 18) Thence North 17°00'00" East 15.55 feet;
- 19) Thence North 01°23'57" East 55.93 feet;
- 20) Thence North 46°23'57" East 24.00 feet;
- 21) Thence South 88°36'03" East 22.30 feet;
- 22) Thence North 40°03'17" East 11.78 feet;
- 23) Thence South 89°36'03" East 68.00 feet;
- 24) Thence South 44°59'52" East 17.26 feet;
- 25) Thence South 88°36'03" East 20.41 feet;
- 26) Thence South 43°36'03" East 32.00 feet;
- 27) Thence South 01°23'57" West 143.67 feet;

Thence South 67°03'33" East, 13.45 feet; Thence North 67°56'27" East, 7.58 feet; Thence North 22°56'27" East, 79.74 feet; Thence North 12°00'00" East, 7.74 feet; Thence South 67°03'33" East, 86.68 feet; Thence South 22°56'27" West, 151.00 feet to the Northerly line of Phase IV-B as recorded in Book 3129, Pages 15-18 of the Adams County Records; Thence along the boundary of said Phase IV-B the following two (2) courses;

- 1) Thence South 67°03'33" East 166.12 feet;
- 2) Thence South 01°18'08" West 112.90 feet to the Northerly line of Phase IV-C as recorded in Book 3129, Pages 15-18, of the Adams County Records;

Thence South 76°03'33" East along said Northerly line 120.37 feet to a point on the Northwestern line of Lot 14, Block 2, of The Yacht Club; Thence along the boundary of said Lot 14 the following two (2) courses;

- 1) Thence North 55°04'58" East 32.35 feet;
- 2) Thence South 60°49'17" East 50.00 feet to a point on a curve, said curve being on the right of way of Winona Street;

Thence along said right of way and along said curve to the right having a radius of 50.00 feet, a central angle of 20°43'04" (a chord which bears North 39°32'15" East, 17.98 feet), 18.08 feet to the Westerly line of Lot 15 of said Block 2; Thence along the Westerly line of said Lot 15, Block 2, the following two (2) courses:

- 1) Thence North 40°06'13" West 50.18 feet;
- 2) Thence North 22°50'00" East 131.95 feet to the Northerly boundary of The Yacht Club;

Thence along said Northerly boundary the following ten (10) courses:

- 1) Thence North 69°05'00" West 96.89 feet;
- 2) Thence North 44°50'00" West 58.00 feet;
- 3) Thence North 00°31'28" West 230.90 feet;
- 4) Thence North 51°40'00" West 134.75 feet;
- 5) Thence South 89°28'32" West 100.00 feet;
- 6) Thence South 54°09'00" West 81.25 feet;
- 7) Thence South 89°28'32" West 197.21 feet;
- 8) Thence North 50°55'00" West 304.25 feet;

- 9) Thence North $00^{\circ}31'28''$ West 162.50 feet;
- 10) Thence South $89^{\circ}32'$ West 320.56 feet to the Point of Beginning.

EXCEPTING THAT PORTION OF LOT 1, BLOCK 1, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Commencing at the Northwest corner of said The Yacht Club Subdivision; Thence North $89^{\circ}28'32''$ East along the North line of said Subdivision, 157.44 feet to the Northwest corner of said Lot 1, Block 1, The Yacht Club, said point being the Point of Beginning, said point being on a curve; Thence along the Easterly right of way of West 68th Avenue and along the Westerly line of said Lot 1, the following three (3) courses:

- 1) Thence along said curve to the right having a radius of 181.29 feet, a central angle of $48^{\circ}27'11''$ (a chord which bears South $27^{\circ}30'04''$ East, 148.78 feet), 153.31 feet to a point of tangent;
- 2) Thence South $03^{\circ}16'28''$ East along said tangent, 38.99 feet to a point of curve;
- 3) Thence along said curve to the right having a radius of 238.00 feet, a central angle of $05^{\circ}51'02''$, 24.30 feet to a point on the Northerly line of Phase I as recorded in Book 2980, Pages 569-572 of the Adams County Records;

Thence along the Northerly line of said Phase I the following two (2) courses:

- 1) Thence South $84^{\circ}46'28''$ East, 31.25 feet to a point of curve;
- 2) Thence along said curve to the right having a radius of 211.00 feet, a central angle of $39^{\circ}34'22''$, 145.73 feet; Thence North $42^{\circ}25'53''$ East, 133.96 feet to the Northerly boundary of The Yacht Club;

Thence along said Northerly boundary the following two (2) courses:

- 1) Thence North $00^{\circ}31'28''$ West, 162.50 feet;
- 2) Thence South $89^{\circ}28'32''$ West, 320.56 feet;

To the Point of Beginning,
County of Adams, State of Colorado

**EXHIBIT B
TO
CONDOMINIUM DECLARATION
FOR
THE LAKESIDE YACHT CLUB CONDOMINIUMS**

(Identification of Units/Allocated Interests)

Building	Condominium Unit No.	Initial Undivided Interest
6830 Xavier Circle Arvada, CO 80003	1	1/24
	2	1/24
	3	1/24
	4	1/24
	5	1/24
	6	1/24
6840 Xavier Circle Arvada, CO 80003	1	1/24
	2	1/24
	3	1/24
	4	1/24
	5	1/24
	6	1/24
6850 Xavier Circle Arvada, CO 80003	1	1/24
	2	1/24
	3	1/24
	4	1/24
	5	1/24
	6	1/24
	7	1/24
	8	1/24
	9	1/24
	10	1/24
	11	1/24
	12	1/24

**EXHIBIT C
TO
CONDOMINIUM DECLARATION
FOR
THE LAKESIDE YACHT CLUB CONDOMINIUMS**

(Exceptions to Title - See Section 11.1)

Any policy issued will have the following exceptions unless they are taken care of to the title company's satisfaction:

1. Taxes and Assessments not certified to the Treasurer's Office.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easements, not shown by public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts which a correct survey and inspection of the land would disclose, and which are not shown by the public records.
5. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
6. Any and all unpaid taxes, assessments and unredeemed tax sales.
7. The following items as set forth on the plat of said subdivision, to-wit:
 - a) Eight foot wide easements are hereby granted for the exclusive use of electric, telephone, gas, cable television and postal facilities. The easements are located on single family lots immediately adjacent to both sides of all platted roadways. Other utilities shall have the right to cross at approximately right angles, but in no event shall any water meters, valves, street lights, power poles, mail boxes, or trees and shrubs be allowed in the above described areas. Concrete drives and sidewalks are permissible as long as they cross at substantially right angles and do not exceed 26 feet in width.
 - b) Right of way for ingress and egress for service and emergency vehicles is granted over, across, on and through all private roads and ways now or hereafter established on the described property, and the same are hereby designated as fire lanes and emergency and service vehicle roads and shall be posed "No Parking - Fire Lane".

c) Single family building set backs shall be as follows: Front lot setback 20 feet; rear lot setback 10 feet; side lot setback 3 feet on one side with a minimum of 8 feet between structures on adjoining lot.

d) All side and rear lot easements as shown on the Plat of the Plat which are for utility and drainage purposes. Utility meaning sewer, water, electricity and telephone, no retaining walls, fences, shrubs, trees or other obstructions may be placed within easements which will obstruct the flow of drainage in said easements.

8. Right of Mayham Reservoir as evidenced by Map and Statement filed March 26, 1892. (Adams County Map Records).
9. Terms, agreements, conditions, provisions and obligations as contained in annexation and development agreement recorded December 6, 1983 in Book 2817 at Page 690.
10. The effect of those certain planned unit developments entitled Hidden Lake Office Park Sub. recorded October 25, 1978 at Reception No. 162722 and June 22, 1982 at Reception No. 383383 and July 8, 1981 at Reception No. 332346 and July 8, 1981 at Reception No. 332347 and June 4, 1984 at Reception No. 507571.
11. Terms, conditions, provisions, agreements and obligations specified under the subdivision agreement with the City of Westminster, Colorado and recorded in Book 2284 at Page 918 and amended in Book 2438 at Page 295, Book 2438 at Page 298 and in Book 2622 at Page 288 and re-recorded in Book 2624 at Page 114.
12. The effect of that certain Declaration of Covenants, Conditions and Restrictions, recorded September 28, 1979 in Book 2391 at Page 16.
13. Covenants, conditions and restrictions, which do not include a forfeiture or reverter clause, set forth in the instrument recorded March 22, 1985 in Book 2980 at Page 279.
14. Easement in accordance with paragraph 7 of the certain Declaration of Covenants, Easements and Restrictions of the Yacht Club over the Easterly 3 feet of subject property reserved in Deed recorded July 18, 1985 in Book 3025 at Page 895 for the benefit of Lot 18, Block 4, The Yacht Club.
15. Easements shown on the plat of The Yacht Club.
16. Any existing leases or tenancies.
17. Any increase or decrease in the area of the land and any adverse claim to any portion of the land which has been created by or caused by accretion or reliction, whether natural or

artificial; and the effect of the gain or loss of area by accretion or reliction upon the marketability of the title of the land.

18. Encroachment of existing asphalt, dock and concrete upon subject property as disclosed by ALTA Survey No. 93127, dated August 21, 1993 prepared by R.W. Bayer & Associates.
19. Any water rights or claims or title to water, in, on or under the land.
20. Terms, Conditions and Provisions as set forth in Quit Claim Deed recorded February 27, 1996 at Reception No. 9600025334 in Denver County and a Certified Copy of same recorded March 5, 1997 in Book 4951 at Page 812 of Adams County Records, which recites:
"The conveyance of the property set forth on Exhibit A (the "Property") from Yacht Club L.L.C. ("Grantor") to William S. Lyons, Jr. ("Grantee") is made upon the express reservation and restrictions, which is accepted by Grantee by its acceptance of the delivery of the deed, that Grantee will not build on, sell, exchange or otherwise convey the Property until the occurrence of the earlier of (a) December 31, 1997; (b) Yacht Club L.L.C. no longer owns in the Yacht Club Subdivision any property now owned by Yacht Club L.L.C.; or (c) Trimark Communities L.L.C. ceases to maintain a majority ownership interest in Yacht Club L.L.C. Breach of this reservation and restriction is subject to enforcement by specific performances as well as recovery of damages (including reasonable court costs, attorneys' fees and expert witness fees) resulting from such breach. Upon the occurrence of one or more of the above conditions, this reservation and restriction shall be deemed null, void and of no further force or effect."
21. Any easements shown on the Condominium Map of the Lakeside Yacht Club.
22. Terms, conditions and provisions of Easement Agreement recorded May 13, 1997, Reception No. 00280162, in Book 5005 at page 0425.

**EXHIBIT D
TO
CONDOMINIUM DECLARATION
FOR
THE LAKESIDE YACHT CLUB CONDOMINIUMS
(Declarant's Construction Facilities)**

**EXHIBIT E
TO
CONDOMINIUM DECLARATION
FOR
THE LAKESIDE YACHT CLUB CONDOMINIUMS**

(Real Property to be Annexed)

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") is made on the 25th day of April 1997, by and between THE YACHT CLUB COMMUNITY ASSOCIATION, INC., a Colorado corporation ("Yacht Club Association"), and TRITON-YACHT CLUB, LLC, a Colorado limited liability company (which, together with its successors and assigns shall be called "Triton").

WHEREAS, Yacht Club Association is the association identified in and established by the Condominium Declaration for the Yacht Club recorded on March 22, 1985, in Book 2980 at Page 512, at Reception No. B562468, in the office of the clerk and recorder of Adams County, Colorado, as supplemented and amended ("Declaration"); and

WHEREAS, Triton is the present owner and developer of that certain property (the "Triton Property") more fully described on Exhibit A attached hereto and incorporated herein by this reference; and

WHEREAS, the Common Elements defined in the Yacht Club Association Declaration ("Common Elements") include private streets and other areas, for which Yacht Club Association has operation, maintenance, upkeep, repair, and management responsibility (called herein "CAM Duties"), and which Common Elements are part of the property which is described in the Declaration, the legal description of which is set forth on Exhibit B attached hereto and incorporated herein by this reference ("Association Property"); and

WHEREAS, the Triton Property and the Association Property are adjacent to one another, as shown on the Plat (as hereinafter defined); and

WHEREAS, the Yacht Club Association desires to grant to Triton certain rights and easements on, over and across the Association Property to accomplish future construction, as provided in this Easement Agreement; and

WHEREAS, the Yacht Club Association and Triton acknowledge that Triton and the future owners and residents in the new development to be constructed on the Triton Property will need to use Yacht Club Association's Common Elements for ingress and egress to their properties (the "Common Element Access Easement"); and

WHEREAS, certain of the Owners in the Yacht Club Association will need to use the streets on the Triton Property for ingress and egress to their properties ("Existing Unit Access") and all of the Owners in the Yacht Club Association will need an access easement across the Triton Property for ingress and egress to the adjoining water body known as "Hidden Lake" (The "Association Lake Access"); and

WHEREAS, Yacht Club Association and Triton acknowledge that Triton and the future owners and residents in the new development to be constructed on the Triton Property will need to use Yacht Club Association's Common Elements for ingress and egress to their properties, and while it is agreed that Triton should not have to contribute to the cost of the Yacht Club Association's CAM Duties pertaining to the upkeep, operating costs and maintenance of the residential building structures, Triton or the Triton Association should contribute to the operating expenses for maintenance, repair, operation and replacement of the swimming pool facilities and of those portions of the Common Elements (as well as to Yacht Club Association's reserve fund) pertaining to maintenance of the streets, sidewalks, landscaped open areas, and Amenities (as herein defined). In exchange for Triton's contribution towards Non-Building Expenses, the Yacht Club Association and Triton (and the Triton Association) agree that the Yacht Club Association will provide all of the Non-Building CAM Duties to the Triton Property and will provide the Triton Property residents access to all of the Non-Building Common Elements on the Association Property.

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WHEREAS, Triton intends to form its own condominium association (the "Triton Association") to provide for the maintenance, repair and upkeep of the common elements to be constructed on the Triton Property; and

WHEREAS, the Yacht Club Association's authority to enter into this agreement is granted pursuant to Article VI, Section 6.7 of the Declaration.

For purposes of this Agreement, the following terms shall have the following meanings:

"Amenities" shall mean the open space park-like areas on the Association Property, the walkway along Hidden Lake and other recreational areas from time to time constructed upon the Association Property.

"Non-Building Expenses" shall include the following line-items on the Association Budget pertaining to the actual costs expected by the Yacht Club Association, in its reasonable judgment, to be incurred, and which shall be reconciled in the manner provided by Section (4)(c) of this Agreement. Such line-items shall include and shall be limited to those line item categories set forth on Exhibit C attached hereto and incorporated herein by this reference.

NOW THEREFORE, in consideration of the foregoing as well as the mutual benefits and detriments contained in this Easement Agreement, and other good and valuable consideration the receipt and sufficiency of which is hereby expressly acknowledged, the undersigned Yacht Club Association and Triton do hereby covenant and agree as follows:

1. The Yacht Club Association hereby grants to Triton a non-exclusive easement and right of way on, over and across the access road from 68th Avenue onto Xavier Circle up to the eastern edge of 6860 and 6870 Xavier Circle, for pedestrian and vehicular access for uses related to construction and sales activities, subject to the provisions of the Declaration referred to above and all rules and regulations for the use of such road adopted by the Yacht Club Association. A map of the area is attached hereto as Exhibit D-1 and the legal description of the access road is attached hereto as Exhibit D-2 (and is hereinafter referred to as the "Access Road Easement").

2. The Yacht Club Association hereby grants to owners and to the residents of the Triton Property, a non-exclusive easement appurtenant to the Triton Property and right of way on, over and across the Association Property, upon those Common Elements designed and designated as roadways and walkways for ingress and egress (to and from the Triton Property) and for access to the swimming pool and swimming pool facilities, for pedestrian and vehicular access. This easement will be referred to elsewhere herein as the "Common Element Access Easement." The Yacht Club Association further hereby grants an irrevocable non-exclusive easement appurtenant to the Triton Property and license to the owners and to the residents of the Triton Property to and for use of the swimming pool and swimming pool facilities located upon and which constitute part of the Yacht Club Association Common Elements, subject to the provisions of the Declaration referred to above and all rules and regulations for the use of such property adopted by the Yacht Club Association. This paragraph shall not apply to construction traffic which is limited to the area described in Paragraph 1 above. The Yacht Club Association further hereby grants a perpetual easement upon the property depicted on Exhibit D-1 and legally described on Exhibit D-2, for the purpose of construction of sidewalks by Triton and encroachment of building improvements.

3. Triton, as owner of the Triton Property, its grantees, successors, and/or assigns, hereby grants to the Yacht Club Association and to the owners and to the residents of the Association Property a non-exclusive easement appurtenant to the Association Property and right of way on, over and across the Triton Property, for pedestrian and vehicular access on all of the streets and sidewalks on the Triton Property for ingress and egress to Yacht Club Association units (referred to herein as the "Existing Unit Access") and for ingress and egress to Hidden Lake upon that particular area designated as "Association Lake Access" all as labeled and depicted on the development plan attached hereto as Exhibit E-1 and as legally described on Exhibit E-2.

4 Triton and the Triton Association agree as follows:

(a) In consideration for the continuing use of the Yacht Club Association's Common Elements, open space common areas, recreational facilities and amenities, and in accordance with the Yacht Club Association's budget, Triton and any Triton Association created by its successors or assigns shall pay to the Yacht Club Association a pro rata share of the amount of maintenance and repair costs borne by the Yacht Club Association for Non-Building Expenses (those expenses other than those related to maintenance, repair and/or improvement of residential buildings including, and limited to the Yacht Club Association Budget line-items set forth in the definition set forth on page 2 herein) generally for the purpose of providing for water, mowing, landscape maintenance, tree trimming, street and common area lights, entrance areas, signage, sprinkler, electricity and repairs, the proportionate cost of liability, casualty and property insurance related to the common improvements (other than residential buildings), repair, maintenance and capital replacement of Common Elements and common areas on the Association Property, and a reserve fund contribution related to the foregoing common improvements, Common Elements and common areas on the Association Property. Such Non-Building Expenses shall not include expenses for the pool and pool-related facilities which shall be paid for separately pursuant to subparagraph (d) below. Yacht Club Association shall invoice Triton and any Association created by its successors or assigns at the end of each month, and such costs shall be due by the fifteenth (15th) of the next month. The first such invoice will be generated at the end of the first calendar month following the first to occur of either (x) closing of the sale by Triton of the first condominium unit on the Triton Property or (y) thirty (30) days after issuance of a final certificate of occupancy for the first condominium unit on the Triton Property. If not paid when due, the outstanding balance shall accrue interest at the rate of eighteen percent (18%) per annum. Costs shall be based on the budgeted Non-Building Expenses reasonably expected by the Association to be incurred.

(b) The pro rata contribution by Triton or the Triton Association shall be fourteen percent (14%) of the monthly Non-Building Expenses, as budgeted by the Yacht Club Association, times a fraction, the denominator of which is 24 and the numerator of which is the number of condominium units either sold or for which a final certificate of occupancy has been issued for at least thirty (30) days.

(c) After the end of each calendar year, Yacht Club Association and Triton and any Triton Association, shall adjust the amount due based on the actual Non-Building Expenses incurred during the preceding year. Any payment due from Triton or any Triton Association based on such adjustment shall be paid or refunded within thirty (30) days.

(d) In addition to the foregoing, Triton or any Triton Association shall pay Yacht Club Association the sum of Three Thousand Six Hundred and no/100 Dollars (\$3,600.00) on or before May 1, 1997, in consideration for use of the Yacht Club Association's pool and pool-related facilities for calendar year 1997. In subsequent years, provided no annexation of any of the Triton units has been accomplished, Triton or any Triton Association shall pay to Yacht Club Association on or before May 1 of each year, for use of Yacht Club Association's pool and pool-related facilities, an amount (the "Swimming Pool Amount") equal to the then current per unit expense being paid by each owner in the Yacht Club Association times 24. As an example, if the Yacht Club Association owners are paying \$150.00 per unit for pool and pool-related facility expenses, the amount due from Triton or any Triton Association that year would be \$3,600.00. Commencing in 1998, on or before December 15 of each calendar year, the Yacht Club Association shall give written notice to Triton or Triton Association of the amount of pool and pool-related facility expense being paid by each unit in Yacht Club Association and shall invoice Triton or any Triton Association for an amount equal to 24 times that per unit expense amount. Such invoice shall be due and payable to Yacht Club Association on or before May 1 each year. In the event such amount is not paid when due, no owner in the Triton Association shall be permitted to use the Yacht Club Association pool or pool-related facilities.

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5. The Yacht Club Association hereby grants to Triton and the Triton Association, if any, a non-exclusive easement appurtenant to the Triton Property and right of way on, over and across the Common Elements and common areas for use, operation, (including relocation of any Yacht Club Association utilities located on Association Property), connection, installation, repair, maintenance and replacement of utilities, including without limitation, water, sewer, gas, electric, telephone and cable tv lines, as well as similar utilities which may be reasonable or necessary for the use by or in connection with construction by Triton and line maintenance or repair by Triton or the Triton Association. All such utilities shall be buried underground. Any utilities that are installed on a temporary or emergency basis, such as those used during construction, need not be buried underground. Maintenance, repair and reconstruction of utilities shall be at the sole expense of Triton. Triton may not perform any major relocation of a utility until and unless it first obtains the prior written consent to such relocation from the Yacht Club Association, which consent the Yacht Club agrees that it will not unreasonably withhold or delay.
6. The Yacht Club Association shall have the exclusive authority to make decisions and negotiate contracts for maintenance or repair services for streets, asphalt, curbs and gutters, snow removal, speed bumps, paving, and signage on Association Property, for street sweeping, snow removal, sanding, salt, landscaping, and trash removal for Association Property, and for general liability insurance for the properties located within the Yacht Club Association. Triton, its successors, assigns or other entity exercising developmental rights of the Triton Property shall contribute a sum equal to a total of \$135.00 per month from the execution of this Agreement until the issuance of the final certificate of occupancy on all 24 condominium units, which payment shall be applied to such operating expenses.
7. Triton, its successors, assigns or other entity exercising developmental rights on the Triton Property shall further contribute to the Yacht Club Association the sum of \$250.00 per unit upon the sale by Triton to the single family residential owner/occupant of each such unit on the Triton Property as and for a contribution to the Yacht Club Association's reserve funds.
8. In consideration of the payments to be made by Triton or the Triton Association as set forth in Section 4(a) above, the Yacht Club Association agrees that the Yacht Club Association will provide for all of the Non-Building CAM Duties upon the Triton Property, with the exception of those particular Non-Building CAM Duties (if any), set forth on Exhibit F.
9. Triton acknowledges that the Yacht Club Association is limiting construction access for Xavier Circle to the area east of 6860 Xavier Circle and north of 6821 and 6820 Xavier Circle. Triton agrees to instruct its subcontractors to limit traffic to this area. See map attached hereto as Exhibit D-1. If the need arises that Triton must shut down all or a portion of any of the Yacht Club Association's utilities, other than in the event of an accident, Triton shall give the Yacht Club Association forty eight (48) hours prior written notice and shall perform a walk-through of the area, with a representative designated by the Yacht Club Association, for the purpose of inspecting and documenting the condition of the area prior to any use by Triton; provided that the Yacht Club Association agrees to conduct the walk-through within the forty-eight (48) hour notice period.
- (a) In the event any areas within the Association Property are damaged by Triton, the Yacht Club Association shall send written notice to Triton describing the damage, and subject to the prior conclusion of any Dispute Resolution initiated, Triton shall repair the damage within thirty (30) days, to the same condition as existed immediately prior to such damage. If circumstances of force majeure exist, such as inclement weather, which prevent the completion of said repairs within thirty (30) days, or if the type of repair cannot in the exercise of reasonable diligence be completed within 30 days, then Triton shall promptly notify the Yacht Club Association of such and the Yacht Club Association shall, in the exercise of its reasonable discretion, will grant an extension of time. If repairs are not made within the required time, the Yacht Club Association may elect to enforce the performance bond or the security for repairs referred to in Paragraph 9(d) below, but only after giving Triton at least ten (10) days prior written notice with an opportunity for Triton to complete said repairs.

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- (b) If the damages result in a dangerous condition or in an emergency, either of which requires immediate attention, the Yacht Club Association shall immediately notify Triton and Triton shall, subject to the prior conclusion of any Dispute Resolution initiated, within two (2) business days thereafter, either commence to diligently perform such repairs to completion, or notify the Yacht Club Association in writing that Triton will not perform the repairs itself. In the latter instance, Triton shall reimburse the Yacht Club Association for the costs of such repairs if performed by or at the direction of the Yacht Club Association within ten (10) days from request for payment by the Yacht Club Association.
- (c) "Repairs", as used in this section, shall mean returning any damaged areas or improvements to the condition they were in immediately prior to the occurrence of such damage.
- (d) On or before commencement of construction by Triton in the area adjacent to the lake, which is east of 6860 Xavier Circle and north of 6820 and 6821 Xavier Circle, and before such use of access to the area is utilized by Triton or its subcontractors or agents, Triton shall obtain a performance bond or letter of credit, or other security acceptable to the Yacht Club Association, in the amount of Twenty Five Thousand Dollars (\$25,000.00) to assure performance by Triton of repairs of damage caused by Triton. See map attached hereto as Exhibit D-1. The bond, letter of credit or other security (collectively referred to as the "Credit Enhancement Device") shall provide that the Yacht Club Association shall not call the Credit Enhancement Device without first giving Triton ten (10) days written notice describing the damage caused by Triton and the repair determined by the Yacht Club Association as necessary to remedy such damage. During the ten (10) day period, Triton may, at its discretion, initiate Dispute Resolution. On or before the date of commencement of construction, Triton shall have the Yacht Club Association named as an additional insured on Triton's commercial general liability insurance policy which covers the Triton Property, and shall provide the Yacht Club Association a certificate of such insurance prior to commencement of construction. Copy
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- (e) Triton shall be responsible for the condition and cleanliness of the property where its subcontractors and agents are performing work or have access. Triton shall instruct its contractors and agents to use a wind proof self-contained trash enclosure (which have lids thereon) which shall be placed on the Triton Property. Triton shall arrange for trash removal services during construction, as needed to prevent the trash containers from overflowing. Triton shall instruct and require all contractors, subcontractors and agents to store materials in a neat and professional manner on the construction site. Triton shall not use any of the Yacht Club Association trash containers for disposal of construction materials. Triton shall instruct all contractors, subcontractors and agents to park all vehicles associated with the construction on the construction site described in Exhibit A (i.e. the Triton Property).
- (f) Triton hereby agrees that its subcontractors and agents will be instructed that construction and noise associated with construction shall not commence prior to 7:00 a.m. and shall cease at 7:00 p.m.
- (g) During the period of construction and until the date the construction is completed, Triton hereby agrees to maintain and keep in a neat and clean condition, the roadways it has access to (see map attached hereto as Exhibit D-1). For the purpose hereof, while the roadways need to be neat and clean continuously during the construction process, it shall be deemed "neat and clean" if during periods of mud causing weather, Triton causes the roads to be cleaned once a week. If the Yacht Club Association reasonably believes that Triton has caused damage to the roadways or has failed to keep such roadways neat and clean, then the Yacht Club Association will provide written notice to Triton. Subject to the right of Triton to initiate Dispute Resolution, Triton must begin the clean-up and/or repair within seventy-two (72) hours of receipt of the written notice. If Triton has not commenced within the 72-hour notice period to clean-up and/or provide the necessary repair, or if it has timely commenced but has not completed within a commercially reasonable time period, then, subject to completion of any Dispute Resolution, the Yacht Club Association may hire a contractor to perform the work necessary to provide such clean-up or repair and charge Triton for the

submitted to mediation before Judicial Resolutions Colorado, LLC ("JRC") determined by one mediator selected from a list provided by JRC with each party alternatively eliminating one person from the list by striking such individuals name and with the Yacht Club Association entitled to and exercising the first right to strike (eliminate) from the list the name of a proposed mediator. The last mediator left on the list shall conduct the mediation. Such mediation shall occur within seventy-two (72) hours of submission of the disagreement to mediation. If such mediation is unsuccessful in resolving the disagreement, then the matter shall be submitted to binding arbitration before JRC to be conducted by an individual other than the mediator but selected by the parties in the same fashion as selection of the mediator was conducted. The costs of such mediator and of such arbitrator shall be divided equally between the parties. Such arbitration award may be entered as a final non-appealable judgment by the District Court of Adams County. The parties hereto expressly desire to resolve their disagreements in a non-adversarial manner such that they each agree to conduct mediation with real effort to cause it to provide a final resolution to the disagreement. If, however, it is apparent to one of the parties that mediation of the particular issue would be futile, then such party may immediately submit the issue to binding arbitration before JRC.

11. Any and all notices and demands given under this Easement Agreement shall be in writing and shall be given either by personal delivery, by facsimile to the telephone facsimile number for the party hereafter designated or by deposit in the U.S. Mail, postage prepaid, by registered or certified mail, return receipt requested, addressed to the applicable party at the following address:

If to Yacht Club Association:
c/o Management Specialists, Inc.
5855 Wadsworth Bypass
Building B, Suite 100
Arvada, Colorado 80003-5441
Facsimile No. (303) 420-6611

With a Copy to:

John Wiley, President
6885 Zenobia Circle, #4
Westminster, Co. 80030
Facsimile No. (303) 429-8375

If to Triton:
c/o Triton Development, LLC
835 Delaware
Denver, Colorado 80204
Facsimile No. (303) 592-9337

Either party hereto may, from time to time, change the address or persons to whom notice is to be given, but such change shall not be effective until notice of the change is actually received by the other party.

12. Triton, its successors, assigns or other entity exercising developmental rights on the Triton Property described in Exhibit A attached hereto agrees to deposit, upon the mutual execution of this Easement Agreement, \$2,500.00 for payment of the Yacht Club Association's reasonable legal fees for negotiating and preparing this agreement, and advice concerning this agreement. The legal fees shall not exceed \$3,500.00, but Triton shall only be obligated to the extent of the \$2,500.00 deposit. Upon execution of this Easement Agreement, the amount of \$2,500.00 shall be deposited into Pontius & Associates' trust account. All legal services incurred by the Yacht Club Association for the execution of this agreement shall be billed against the trust account. Monthly itemized statements shall be sent to the Yacht Club Association and to Triton. Any balance remaining in the trust account after completion of the Easement Agreement shall be refunded to Triton within thirty (30) days. Any balance owing in excess of the \$2,500.00 shall be paid by the Yacht Club Association pursuant to separate agreement between the Yacht Club Association and Pontius & Associates.

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13. This agreement and the rights and obligations granted hereunder are appurtenant to the Association Property and the Triton Property, shall run with the land, and are perpetual; provided, however, that the easement for ingress and egress for construction and sales activities granted to Triton (and its successors) hereunder shall terminate upon the cessation of construction and sales by Triton, or such other entity as is developing the Triton Property on the Triton Property described in Exhibit A. All other terms and conditions of this Easement Agreement shall inure to the benefit of and be binding on the parties hereto, and their respective members, heirs, personal representatives, successors and/or assigns, or other entities exercising developmental rights on the Triton Property described in Exhibit A attached hereto.

14. In the event of any dispute regarding this Agreement, including, but not limited to, any dispute resolved by Dispute Resolution, the prevailing party shall be entitled to its reasonable costs and attorney fees regardless of whether suit is brought.

15. Any disputes may be submitted to binding arbitration before JRC or other arbitration entity acceptable to all of the parties to such dispute. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction, and shall be subject to enforcement as though the award were rendered by the court.

16. This agreement shall be interpreted in accordance with the laws of the State of Colorado. Venue for any suits brought hereunder shall be in Adams County, Colorado.

IN WITNESS WHEREOF, the parties have executed this Easement Agreement on the 25 day of April, 1997.

"Yacht Club Association"

THE YACHT CLUB COMMUNITY ASSOCIATION, INC.

By: 
President

b. Use of the Lake shall be subject to such rules and regulations as may be promulgated by the Association from time to time.

c. The Lake is provided for the purpose of the scenic, recreational, and aesthetic benefits to be derived therefrom by the Owners, their family members, tenants, guests and invitees, and the Lake shall not be used or enjoyed by any of such persons in such a manner as to infringe upon the reasonable use and enjoyment thereof by any other such persons.

d. No weeds, rubbish, debris, chemical substance or organic or inorganic materials or matter shall be permitted to accumulate or remain on any Property or improvements adjacent to or near any portion of the Lake so as to render such Property or Improvements unsanitary, unsightly, or noxious in any way, nor shall any materials, substances or pollutants be permitted to enter the Lake. Should any Owner maintain his Condominium Unit or any Property or improvements adjacent to or near the Lake in violation of this Section, the Association shall have the right to enter and correct the condition which may be in violation of this Section, and shall not be liable to such Owner in trespass or otherwise for such entry and corrective actions. Further, the reasonable cost of such corrective measures shall, within ten (10) days after billing therefor, be reimbursed to the Association. Any failure by any owner to reimburse the Association for such amounts within said time period shall be and constitute a default assessment determined and levied against such Owner and his Condominium Unit, and the Association may proceed in accordance with Section 7.8 of this Declaration.

ARTICLE THIRTEEN

DAMAGE OR DESTRUCTION

13.1 The Role of the Executive Board. Except as provided in Section 8.10, in the event of damage to or destruction of all or part of any Common Elements improvement, or other Property covered by insurance written in the name of the Association under Article 8, the Executive Board shall arrange for and supervise the prompt repair and restoration of the damaged Property (the Property insured by the Association pursuant to Article 8 is sometimes referred to as the "Association-Insured Property").

13.2 Estimate of Damages or Destruction. As soon as practicable after an event causing damage to or destruction of any part of the Association-Insured Property, the Executive Board shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction. "Repair and reconstruction" as used in this Article shall mean restoring the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction unless the approval is first obtained of 51% of First Mortgagees of Units subject to a First Mortgage (which percentage is measured by votes allocated to such Units). Such costs may also include professional fees and premiums for such bonds as the Executive Board or the Insurance Trustee, if any, determines to be necessary.

14.2 Partial Condemnation; Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Association for the benefit of the Owners and Mortgagees and, unless otherwise required under the Act, the award shall be disbursed as follows:

a. If the taking involves a portion of the Common Elements on which improvements have been constructed, then, unless within sixty (60) days after such taking Declarant and Owners who represent at least sixty-seven percent (67%) of the votes of all of the Owners shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Elements to the extent lands are available for such restoration or replacement in accordance with plans approved by the Executive Board. If such improvements are to be repaired or restored, the provisions in Article Thirteen above regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Elements, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed among the Units according to the relative value of each Unit which shall be based on the square footage of the Unit and in accordance with each Unit's Allocated Interests of Percentage Share of Common Elements, first to the Mortgagees and then to the Owners, as their interests appear.

14.3 Complete Condemnation. If all of the Property is taken, condemned, sold or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration shall terminate, provided that the approval is first obtained of 51% of First Mortgagees of Units subject to First Mortgages (which percentage is measured by votes allocated to such Units), and the portion of the condemnation award attributable to the Common Elements shall be distributed as provided above.

ARTICLE FIFTEEN

ASSOCIATION AS ATTORNEY-IN-FACT

Each Owner hereby irrevocably appoints the Association as the Owner's true and lawful attorney-in-fact for the purposes of purchasing and maintaining insurance pursuant to Article 8, including the collection and appropriate disposition of the proceeds thereof, the negotiation and settlement of losses and execution of releases of liability, the execution of all documents, and the performance of all other acts necessary to purchase and maintain insurance as well as dealing with any improvements covered by insurance written in the name of the Association pursuant to Article 8 upon their damage or destruction as provided in Article 13, or a complete or partial taking as provided in Article 14, above. Acceptance by a grantee of a deed or other instrument of conveyance or any other instrument conveying any portion of the Property shall constitute appointment of the Association as the grantee's attorney-in-fact, and the Association shall have full authorization, right and power to make, execute and deliver any contract, assignment, deed, waiver or other instrument

sidewalks, driveways and improvements, if any (which shall include without limitation snow removal services unless performed by another private or public organization formed for such purposes), located in the Common Elements. In the event the Association does not maintain or repair the Common Elements, Declarant shall have the right, but not the obligation, to do so at the expense of the Association.

16.4 Association Maintenance as Common Expense. The cost of maintenance and repair by the Association shall be a Common Expense of all of the Owners, to be shared by each Condominium Unit Owner according to the Allocated Interest therefor set forth on Exhibit B. Damage to the interior or any part of a Unit resulting from the maintenance, repair, emergency repair or replacement of any of the Common Elements or as a result of emergency repairs within another Condominium Unit at the instance of the Association shall also be Common Expense of all of the Owners. However, if such damage is caused by negligent or tortious acts of a Condominium Unit Owner, members of the Condominium Unit Owner's family, or the Condominium Unit Owner's agent, employee, invitee, licensee or tenants (collectively "Owner's Agents"), then such Condominium Unit Owner shall be responsible and liable for all of such damage and the cost thereof, to the extent that Owner's Agent's negligence caused such damage, which must be timely paid.

16.5 Easement for Maintenance. Each Owner and the Association shall have the irrevocable right, to be exercised by the Manager, the Executive Board or officers or employees of the Association, to have access to each Condominium Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, or at any hour for making emergency repairs, maintenance or inspection therein necessary to prevent damage to the Common Elements or another Condominium Unit. In the event insurance proceeds under Article 8 are payable to an Owner but the maintenance responsibility of the area to which such proceeds relate is the Association's, the Association shall complete any such repair or replacement at the Owner's cost.

16.6 Association's Right to Grant Owner's Maintenance Area. The Association reserves the right to grant the maintenance responsibility of certain areas on each Condominium Unit to the Condominium Unit Owner, and the Condominium Unit Owner is obligated to accept said maintenance responsibility, provided said assignment is done in a uniform and non-discriminatory manner.

16.7 Limited Common Element Damage. In the event of damage or destruction of a Limited Common Element from any cause other than the negligence or tortious acts of an Owner or Owner's Agent, the then Owners of the Condominium Units to which the Limited Common Element is attributable shall bear equally the expense to repair or rebuild the Limited Common Element to its previous condition. The Owner shall bear the cost of such damage to the extent of such Owner's or Owner's Agent's negligence.

16.8 Association Power. The Association shall have the right and power to prohibit storage or other activities deemed unsafe, unsightly, unreasonably noisy or otherwise offensive to the senses

ARTICLE SEVENTEEN

BURDENS AND BENEFITS OF DECLARATION

17.1 Covenants Running with Property. The benefits, burdens, and all other provisions contained in this Declaration shall be covenants running with and binding upon the Property, subject to the termination provisions of the Act.

17.2 Binding Upon and Inure to the Successors. The benefits, burdens and all other provisions contained in this Declaration shall be binding upon, and inure to the benefit of the Declarant, the Association and all Owners, and upon and to their respective heirs, executors, administrators, personal representatives, successors and assigns. Any right or any interest reserved or contained in this Declaration to or for the benefit of the Declarant may be transferred or assigned by the Declarant, either separately or with one or more of such rights or interests, to any person, corporation, partnership, Association or other entity.

ARTICLE EIGHTEEN

AMENDMENT OF DECLARATION

18.1 Amendment. This Declaration, or any provision of it, may be amended at any time by Owners holding not less than sixty-seven percent (67%) of the votes possible to be cast under this Declaration at a meeting of the Owners called for that purpose, and, provided the First Mortgagee has requested notice in accordance with Section 21.5, the approval shall first be obtained of 51% of First Mortgagees of Condominium Units subject to a First Mortgage (which percentage is measured by votes allocated to such Units) if the amendment to the Association Documents add any material provisions which establish, provide for, govern or regulate any of the following:

- a. Voting;
- b. Assessments, Assessment liens or subordination of such liens;
- c. Reserves for maintenance or repair and replacement of the Common Elements;
- d. Insurance or fidelity bonds;
- e. Reallocation of interests in the Common Elements, or rights to use of the Common Elements;
- f. Responsibility for maintenance and repair of the Project;