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DORIS L. BRILL

MASTER DECLARATION
FOR
WATER DANCE ON LAKE DILLON

1994 NOV 23 P 3:43
SHERIFF COUNTY RECORDER

TABLE OF CONTENTS

	Page
ARTICLE I STATEMENT AND PURPOSE AND IMPOSITION OF COVENANTS	1
Section 1.1. Imposition of Covenants	1
Section 1.2. Declarant's Intent	1
Section 1.3. Right to Expand and Establish Other Communities	1
Section 1.4. Development and Use	1
ARTICLE II DEFINITIONS	2
ARTICLE III THE WATER DANCE MASTER PLANNED COMMUNITY	6
Section 3.1. Establishment of Master Planned Community	6
Section 3.2. Declaration of Lot Boundaries	6
Section 3.3. Flat	6
Section 3.4. Recorded Easements and Licenses	6
ARTICLE IV THE MASTER ASSOCIATION	6
Section 4.1. Master Association Management Duties	6
Section 4.2. Common Area	7
Section 4.3. Master Association's Responsibility for Common Area	7
Section 4.4. Membership	7
Section 4.5. Classes of Membership and Voting Rights	8
Section 4.6. Appointment of Officers and Directors by Declarant	8
Section 4.7. Owner's and Association's Addresses for Notices	8
Section 4.8. Compliance with Documents	9
Section 4.9. Rules and Regulations	9
Section 4.10. Cooperation with Project Associations	9
Section 4.11. Cooperation with Local Government	10
Section 4.12. Manager	10
Section 4.13. Delegation by Master Association	10
Section 4.14. Ownership of Personal Property and Real Property for Common Use	10
Section 4.15. Roads and Streets	10
Section 4.16. Books and Records	10
Section 4.17. Reserve Account	11
Section 4.18. Working Capital Account	11
Section 4.19. Implied Rights and Obligations	11
ARTICLE V DESIGN REVIEW COMMITTEE	11
Section 5.1. Committee and Guidelines	11
Section 5.2. Committee Membership and Organization	12
Section 5.3. Purpose and General Authority	12
Section 5.4. Organization and Operation of Committee.	13
Section 5.5. Expenses	13
Section 5.6. Other Requirements	13
Section 5.7. Limitation of Liability	14
Section 5.8. Enforcement	14
Section 5.9. Continuity of Construction	15
Section 5.10. Reconstruction of Common Area	15

ARTICLE VI	PROPERTY USE RESTRICTIONS	15
Section 6.1.	General Restriction	15
Section 6.2.	Use of Lots	15
Section 6.3.	Excavation	16
Section 6.4.	Electrical, Television, Natural Gas and Telephone Service	16
Section 6.5.	Water and Sanitation	16
Section 6.6.	Wells	16
Section 6.7.	Signs	16
Section 6.8.	Animals and Pets	16
Section 6.9.	Drainage	16
Section 6.10.	Trash	16
Section 6.11.	Construction Regulations of the Design Guidelines	17
Section 6.12.	Blasting	17
Section 6.13.	Temporary Structures	17
Section 6.14.	Compliance with Laws	17
Section 6.15.	No Outside Clotheslines	17
Section 6.16.	Auto Repair	17
Section 6.17.	Vehicles	17
Section 6.18.	Idle, Abandoned, Inoperable or Oversized Vehicles	17
Section 6.19.	Antennae	18
Section 6.20.	Outside Burning	18
Section 6.21.	Noise	18
Section 6.22.	Lighting	18
Section 6.23.	Obstructions	18
Section 6.24.	Camping and Picnicking	18
Section 6.25.	House Numbers	18
Section 6.26.	Nuisance	18
Section 6.27.	General Practices Prohibited	18
Section 6.28.	Use of Property During Construction	19
Section 6.29.	Leasing	19
Section 6.30.	Enforcement	19
ARTICLE VII	OWNER'S OBLIGATIONS FOR MAINTENANCE	19
Section 7.1.	Owner's Responsibility for Lot	19
Section 7.2.	Owner's Negligence	20
ARTICLE VIII	COVENANT FOR MAINTENANCE ASSESSMENTS	20
Section 8.1.	Creation of the Lien and Personal Obligation for Assessments	20
Section 8.2.	Purpose of Assessments	20
Section 8.3.	Calculation and Apportionment of Annual Assessments and Common Expenses	21
Section 8.4.	Special Assessments	21
Section 8.5.	Uniform Rate of Assessment	21
Section 8.6.	Date of Commencement of Annual Assessments and Payment Period	22
Section 8.7.	Collection	22
Section 8.8.	Default Assessments	22
Section 8.9.	Effect of Nonpayment of Assessment; Lien; Remedies of Master Association	22
Section 8.10.	Successor's Liability for Assessment	23
Section 8.11.	Waiver of Homestead Exemption; Subordination of the Lien	23
Section 8.12.	Exempt Property	24
Section 8.13.	Statement of Status of Assessments	24

Section 8.14 Protection of Master Association's Lien	24
Section 8.15. Failure to Assess	24
ARTICLE IX SPECIAL DECLARANT RIGHTS AND ADDITIONAL RESERVED RIGHTS	25
Section 9.1. General Provisions	25
Section 9.2. Order of Exercise of Declarant's Rights	25
Section 9.3. Supplemental Provisions Regarding Declarant's Rights	26
Section 9.4. Reservation for Expansion	26
Section 9.5. Reservation of Easements, Exceptions, and Exclusions for Utilities, Infrastructure, and Access	26
Section 9.6. Emergency Access Easement	26
Section 9.7. Declarant's Rights Incident to Construction	26
Section 9.8. Bike Path and Hiking Easements	27
Section 9.9. Easements Deemed Created	27
ARTICLE X PROPERTY RIGHTS OF OWNERS	27
Section 10.1. Owners' Easements of Access and Enjoyment	27
Section 10.2. Delegation of Use	27
Section 10.3. Easements of Record and of Use	27
Section 10.4. Partition or Combination of Lots	27
Section 10.5. No Partition of Common Area	27
ARTICLE XI INSURANCE AND FIDELITY BONDS	28
Section 11.1. Authority to Purchase	28
Section 11.2. General Insurance Provisions	28
Section 11.3. Physical Damage Insurance on Common Area	28
Section 11.4. Liability Insurance	29
Section 11.5. Fidelity Insurance	29
Section 11.6. Flood Insurance	30
Section 11.7. Provisions Common to Physical Damage Insurance, Liability Insurance, Fidelity Insurance and Flood Insurance	30
Section 11.8. Personal Liability Insurance of Officers and Directors	31
Section 11.9. Workmen's Compensation Insurance	31
Section 11.10. Other Insurance	31
Section 11.11. Insurance Obtained by Owners	31
ARTICLE XII MASTER ASSOCIATION AS ATTORNEY-IN-FACT	31
ARTICLE XIII DAMAGE OR DESTRUCTION	31
Section 13.1. Estimate of Damage or Destruction	31
Section 13.2. Repair and Reconstruction	31
Section 13.3. Funds for Repair and Reconstruction	32
Section 13.4. Disbursement of Funds for Repair and Reconstruction	32
Section 13.5. Decision Not to Rebuild	32
Section 13.6. Damage or Destruction Affecting Lots	32
ARTICLE XIV CONDEMNATION	32
Section 14.1. Rights of Owners	32
Section 14.2. Partial Condemnation; Distribution of Award; Reconstruction	32
Section 14.3. Complete Condemnation	33

ARTICLE XV EXPANSION AND WITHDRAWAL	33
Section 15.1. Reservation of Right to Expand	33
Section 15.2. Incorporation of Additional Expansion Property	33
Section 15.3. Declaration of Annexation	33
Section 15.4. Withdrawal of Property	34
ARTICLE XVI MORTGAGEE PROTECTIONS	34
Section 16.1. Introduction	34
Section 16.2. Percentage of Eligible Mortgage Holders	34
Section 16.3. Notice of Actions	34
Section 16.4. Consent Required	34
Section 16.5. Notice of Objection	35
Section 16.6. First Mortgagees' Rights	36
Section 16.7. Title Taken by First Mortgagee	36
ARTICLE XVII ENFORCEMENT OF COVENANTS	36
Section 17.1. Violations Deemed a Nuisance	36
Section 17.2. Compliance	36
Section 17.3. Failure to Comply	36
Section 17.4. Who May Enforce	36
Section 17.5. Remedies	36
Section 17.6. Nonexclusive Remedies	37
Section 17.7. No Waiver	37
Section 17.8. No Liability	37
Section 17.9. Recovery of Costs	37
ARTICLE XVIII RESOLUTION OF DISPUTES	37
ARTICLE XIX DURATION OF THESE COVENANTS AND AMENDMENT	37
Section 19.1. Term	37
Section 19.2. Amendment	37
Section 19.3. Requirement for Declarant's Approval Generally	37
Section 19.4. Notice of Amendment	38
Section 19.5. Effective on Recording	38
ARTICLE XX MISCELLANEOUS PROVISIONS	38
Section 20.1. Severability	38
Section 20.2. Construction	38
Section 20.3. Headings	38
Section 20.4. Waiver	38
Section 20.5. Limitation of Liability	38
Section 20.6. Conflicts Between Documents	38
Section 20.7. Assignment	38

Exhibits

- Exhibit A Legal Description of the Property
- Exhibit B Legal Description of the Expansion Property
- Exhibit C Recorded Easements and Licenses (List of Title Exceptions)

**MASTER DECLARATION
FOR
WATER DANCE ON LAKE DILLON**

This MASTER DECLARATION FOR WATER DANCE ON LAKE DILLON (this "Declaration") is made this 17th day of November 1994, by WATER DANCE, LTD., a Colorado corporation ("Declarant"), to govern the real property located in Summit County, Colorado, which is described on the attached Exhibit A (the "Property"), and which comprises a master planned community known as "Water Dance."

ARTICLE I
STATEMENT AND PURPOSE AND IMPOSITION OF COVENANTS

Section 1.1. Imposition of Covenants. Declarant hereby makes, declares, and establishes the following covenants, conditions, restrictions and easements (collectively, these "Covenants") which shall affect all of the Property. From this day forward, the Property shall constitute a master planned community known as "Water Dance on Lake Dillon" (hereunder referred to as "Water Dance") under the Colorado Common Interest Ownership Act (more fully described and defined as the "Act" below), and shall be held, sold and conveyed subject to these Covenants. The master planned community of Water Dance will include in turn a number of smaller planned communities, each of which is referred to as a Project (and more fully defined below). These Covenants shall run with the land and shall be binding upon all persons or entities having any right, title or interest in all or any part of the Property (including Declarant) and their heirs, successors and assigns, and their tenants, employees, guests and invitees. These Covenants shall inure to the benefit of each owner of the Property.

Section 1.2. Declarant's Intent. The purpose of Declarant in making this Declaration is to create a master planned community on the Property in accordance with the Act. Declarant intends to provide for the operation, administration, use and maintenance of the Common Area (defined below) and other areas within the Property; to preserve, protect, and enhance the values and amenities of the Property; and to promote the health, safety and welfare of the Members (defined below) of the Master Association (defined below) established pursuant to this Declaration.

Section 1.3. Right to Expand and Establish Other Communities. Declarant also reserves the right, but shall not be obligated, to incorporate that property described on the attached Exhibit B (the "Expansion Property"), in whole or in part in the regime established under this Declaration, all as provided in Article XV below, so that the Expansion Property, if and when developed, shall be treated as an integral part of the single master planned community of Water Dance.

Declarant expressly reserves the right to establish other master planned communities governed by other associations of the property owners in those communities.

Section 1.4. Development and Use. Upon completion, Water Dance may consist of a maximum of 362 Lots (defined below) for residential use, subject to any applicable requirements or limitations which may be imposed by the Town of Frisco, Colorado. No Lots for residential purposes in excess of that number may be established on the Property (including the Expansion Property) by the subdivision of existing Lots or any other method, subject to the reservation by Declarant to establish a time share or interval ownership regime on the Property, as provided in Section 9.1 below.

In addition, the master planned community of Water Dance may include properties zoned and developed for retail space, commercial office space and other uses not subject to regulation under the Act.

ARTICLE II
DEFINITIONS

The following terms, as used in this Declaration, are defined as follows:

Section 2.1. "Act" shall mean the Colorado Common Interest Ownership Act, Colo. Rev. Stat. § 38-33.3-101 through 38-33.3-319, as amended and supplemented from time to time, or any successor legislation to these statutes.

Section 2.2. "Articles" or "Articles of Incorporation" shall mean the Articles of Incorporation of the Master Association which have been filed with the Secretary of State of Colorado to create the Water Dance on Lake Dillon Master Association, as such Articles may be amended or restated from time to time.

Section 2.3. "Annual Assessments" shall mean the Assessments levied annually pursuant to Section 8.3.

Section 2.4. "Assessments" shall mean the Annual, Special and Default Assessments levied pursuant to Article VIII below.

Section 2.5. "Board of Directors" or "Board" shall mean the Board of Directors of the Master Association, which is the executive board, as defined in the Act, designated in this Declaration to act on behalf of the Master Association.

Section 2.6. "Bylaws" shall mean the bylaws of the Master Association, which establish the methods and procedures of its operation, as such bylaws may be amended or restated from time to time.

Section 2.7. "Common Area" shall mean any real property in which the Master Association owns an interest for the common use, benefit and enjoyment of some or all of the Members and such other persons as may be permitted to use the Common Area under the terms of this Declaration or any contract with the Master Association. Such interest owned by the Master Association may include, without limitation, estates in fee, for terms of years, or easements.

Section 2.8. "Common Expenses" shall mean (i) premiums for the insurance carried by the Master Association under Article XI; (ii) all other expenses incurred by the Master Association in administering, servicing, conserving, managing, maintaining, repairing or replacing the Common Area and any Improvements located on it; (iii) all expenses expressly declared to be Common Expenses by the Water Dance Documents; (iv) all expenses lawfully determined to be Common Expenses by the Board of Directors; and (v) all expenses to be allocated among the Owners as provided in Article VIII.

Section 2.9. "Declarant" shall mean Water Dance, Ltd., a Colorado corporation, or its successors or assigns, including any Successor Declarant to the extent the rights of Declarant are assigned to the Successor Declarant, as provided in Section 20.7 below.

Section 2.10. "Declaration of Annexation" shall mean a declaration prepared and recorded in accordance with the provisions of Article XV below to incorporate Expansion Property within the Property governed by this Declaration.

Section 2.11. "Default Assessment" shall mean any Assessment levied by the Association pursuant to Section 8.8.

Section 2.12. "Default Rate" shall mean the lesser of (i) the rate per annum of two points above the prime rate charged by the Master Association's bank, or such other rate as shall have been established by the Board of Directors, and (ii) the maximum rate allowed by the Act or other applicable law.

Section 2.13. "Design Guidelines" shall mean the guidelines and rules published and amended, supplemented or restated from time to time by the Design Review Committee.

Section 2.14. "Design Review Committee" or "Committee" shall mean the committee formed pursuant to Article V to maintain the quality and architectural harmony of Improvements in Water Dance.

Section 2.15. "Development Rights" is defined in Section 9.1.2 below.

Section 2.16. "Director" shall mean a member of the Board.

Section 2.17. "Eligible Mortgage Holder" shall mean a First Mortgagee or any insurer or guarantor of a First Mortgage which has notified the Master Association in writing of its name and address and status as a holder, insurer or guarantor of a First Mortgage. Such notice shall be deemed to include a request that the Eligible Mortgage Holder be given the notices and other rights described in Article XVI below, regardless of whether such Article requires notice to such party.

Section 2.18. "Expansion Property" shall mean such additional real property owned by Declarant, or another third party consenting to the provisions of this Declaration, as Declarant may make subject to the provisions of this Declaration by duly recorded Declaration of Annexation. The real property identified as Expansion Property as of the date of this Declaration is more particularly described on Exhibit B attached to this Declaration, and may be supplemented as provided in Section 15.2.

Section 2.19. "First Mortgage" shall mean any Mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

Section 2.20. "First Mortgagee" shall mean the holder of record of a First Mortgage.

Section 2.21. "Improvement(s)" shall mean all buildings, parking areas, loading areas, fences, walls, hedges, plantings, lighting, poles, driveways, roads, ponds, lakes, signs, changes in any exterior color or shape, changes in any interior color or shape that can be viewed from outside the Residence (such as shades or other window coverings), excavation and all other site work, including, without limitation, grading, road construction, utility improvements, removal of trees or plantings, and any new exterior construction or exterior improvement which may not be included in the foregoing. "Improvement(s)" does not include turf, shrub, or tree repair or replacement of a magnitude which does not change exterior colors or exterior appearances. "Improvement(s)" does include both original Improvements and all later changes and Improvements.

Section 2.22. "Lot" shall mean a parcel of land designated as a lot on any Plat and reserved for any purpose other than use as streets, roads or Common Area. A Lot includes the Improvements, if any, located in it. Further, a Lot is a "unit" as defined in the Act.

Section 2.23. "Manager" shall mean such person or entity retained by the Board of Directors to perform certain functions of the Board pursuant to this Declaration or the Bylaws.

Section 2.24. "Master Association" shall mean the Water Dance on Lake Dillon Master Association, a Colorado nonprofit membership corporation, or any successor to the Master Association by whatever name, charged with the duties and obligations set forth in this Declaration.

Section 2.25. "Member" shall mean any person or entity holding membership in the Master Association.

Section 2.26. "Mortgage" shall mean any mortgage, deed of trust or other document which is recorded in the office of the Clerk and Recorder of Summit County, Colorado, and which encumbers any portion of the Property or interest therein as security for the payment of a debt or other obligation.

Section 2.27. "Mortgagee" shall mean any person named as a beneficiary or mortgagee under a Mortgage, or any successor to the interest of any such person under such Mortgage.

Section 2.28. "Owner" shall mean the owner of record (including Declarant, and including a contract seller, but excluding a contract purchaser), whether one or more persons, of fee simple title to any Lot, but shall not mean or refer to any person who holds such interest merely as security for the performance of a debt or other obligation, including a Mortgage, unless and until such person has acquired fee simple title pursuant to foreclosure or other proceedings.

Section 2.29. "Period of Declarant Control" shall mean the period during which Declarant (or a Successor Declarant) may appoint and remove Directors and officers of the Master Association as permitted under the Act. The Period of Declarant Control will begin on the date this Declaration is first recorded in the office of the Clerk and Recorder of Summit County, Colorado, and will end no later than (i) 60 days after conveyance of 75% of the Lots that may be created within the Property (including the Expansion Property), to Owners other than Declarant (or any Successor Declarant), (ii) two years after the last conveyance of a Lot by Declarant (or any Successor Declarant) in the ordinary course of business, (iii) two years after any right to add new Lots to the Property, as allowed under Article XV, was last exercised by Declarant (or any Successor Declarant), or (iv) the date on which Declarant (or any Successor Declarant) voluntarily terminates the Period of Declarant Control by recording a notice to that effect in the office of the Clerk and Recorder of Summit County, Colorado, whichever of the foregoing dates or events occurs first. Notwithstanding the foregoing, the Period of Declarant Control will be extended at the option of Declarant (y) if the Act is amended to allow for such extension beyond the limiting dates outlined in this Section above, or (2) if the Period of Declarant Control is reinstated or extended by agreement between Declarant and the Master Association. After the termination of the Period of Declarant Control, Declarant, if still an Owner, will have all the rights and duties ordinarily given to Members under this Declaration.

Section 2.30. "Person" (whether or not in capitalized form) means a natural person, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or combination of the foregoing.

Section 2.31. "Plat" shall mean any engineering survey or surveys of all or part of the Property, together with such other diagrammatic plans and information regarding the Property as may be required by the Act or other applicable law, or as may be included in the discretion of Declarant, as each such survey may be amended and supplemented from time to time, and all as recorded in the office of the Clerk and Recorder of Summit County, Colorado.

Section 2.32. "Project" shall mean an area separately designated by Declarant as a Project under the Project Declaration and constructed upon a portion of the Property and comprised of discrete types of development or use, including without limitation, the following types of uses:

2.32.1. A residential development zoned for primary/secondary and/or single-family detached houses;

2.32.2. A residential development of townhomes or zero-lot-line homes for single-family use;

2.32.3. A parking structure; or

2.32.4. Any other area within Water Dance devoted to a discrete purpose.

Section 2.33. "Project Assessments" shall mean assessments levied pursuant to a specific Project Declaration.

Section 2.34. "Project Association" shall mean any association established for a specific Project pursuant to a Project Declaration.

Section 2.35. "Project Common Area" shall mean the area within a Project restricted in whole or in part to common use primarily by or for the benefit of the Owners within the Project and their families, tenants, employees, guests and invitees.

Section 2.36. "Project Declaration" shall mean a declaration of covenants, conditions, restrictions and easements which may be recorded as provided under this Declaration to impose a unified development scheme on a particular Project.

Section 2.37. "Project Documents" shall mean the basic documents which may be prepared and recorded, as appropriate, to create and govern a particular Project, including a Plat, the Project Declaration, the articles of incorporation and bylaws of the Project Association, and any procedures, rules, regulations or policies adopted under such documents.

Section 2.38. "Project Parcel" shall mean the portion of the Property upon which a Project is located, as designated in the Project Documents.

Section 2.39. "Property" shall mean and include the property described on Exhibit A and initially subjected to this Declaration and any additional real property from time to time made subject to these Covenants pursuant to the provisions of this Declaration.

Section 2.40. "Residence" means a single family dwelling constructed on any one Lot designated by the Town of Frisco and by Declarant (by appropriate notes on the Plat or otherwise) for residential use.

Section 2.41. "Special Assessment" shall mean an Assessment levied pursuant to Section 8.4.

Section 2.42. "Special Declarant Rights" is defined as set forth in Section 9.1 below.

Section 2.43. "Special Declarant Rights Period" shall mean the period beginning the date this Declaration is first recorded in the office of the Clerk and Recorder of Summit County, Colorado, and ending the date on which Declarant and any Successor Declarant shall have conveyed to parties (other than a Successor Declarant) all units, as defined in the Act, owned by Declarant or such Successor Declarant in the master planned community of Water Dance.

Section 2.44. "Successor Declarant" shall mean any person to whom Declarant assigns any or all of its rights, obligations or interest as Declarant, as permitted by Section 20.7 and evidenced by an assignment or deed of record in the office of the Clerk and Recorder of Summit County, Colorado, designating such party as a Successor Declarant, signed by the transferor and the transferee, and otherwise complying with the requirements of the Act. Upon such recording, Declarant's rights and obligations under the Declaration shall cease and terminate to the extent provided in such document.

Section 2.45. "Supplemental Covenants" shall mean additional or further restrictive covenants imposed on a portion or portions of the Property from time to time.

Section 2.46. "Town of Frisco" shall mean Town of Frisco, Colorado.

Section 2.47. "Townhome Lot" shall mean a lot zoned by the appropriate authorities of the Town of Frisco, designated by Declarant for development and occupancy, as part of a Project of townhome units.

Section 2.48. "Water Dance" shall mean the master planned community created by this Declaration, consisting of the Property (including any Expansion Property, after annexation in accordance with Article XV) and all of the Improvements located on the Property. Water Dance is a common interest community under the definitions of the Act.

Section 2.49. "Water Dance Documents" shall mean the basic documents creating and governing Water Dance, including, but not limited to, this Declaration, the Articles of Incorporation and Bylaws, the Design Guidelines, the Water Dance Rules, and any other procedures, rules, regulations or policies adopted under such documents by the Master Association.

Section 2.50. "Water Dance Rules" shall mean the rules and regulations adopted by the Master Association as provided in Section 4.9 below.

ARTICLE III THE WATER DANCE MASTER PLANNED COMMUNITY

Section 3.1. Establishment of Master Planned Community. By this Declaration, Water Dance is established as a master planned community under the Act, consisting initially of 19 Townhome Lots. Declarant reserves the Development Right to incorporate a total of up to 362 Lots within Water Dance in accordance with Article XV below, subject to any applicable requirements or limitations which may be imposed by the Town of Frisco.

Section 3.2. Declaration of Lot Boundaries. The boundaries of each Lot are designated on the Plat and each Lot is identified by the number or address noted on the Plat.

Section 3.3. Plat. The Plat shall conform to the requirements of the Act and shall be filed for record in the office of the Clerk and Recorder of Summit County, Colorado. The Plat may be filed as a whole or as a series of Plats from time to time. Any Plat filed subsequent to the first Plat shall be termed a supplement to the Plat, and the numerical sequence of each supplement shall be shown on it.

Section 3.4. Recorded Easements and Licenses. The recording data for recorded easements and licenses appurtenant to or included in the Property is set forth on the attached Exhibit C.

ARTICLE IV THE MASTER ASSOCIATION

Section 4.1. Master Association Management Duties. Subject to the rights and obligations of Declarant as set forth in the Act and in this Declaration, and the obligations of the Project Associations under their respective Project Documents, and the rights and obligations of the Owners, the Master Association shall be responsible for the administration and operation of the Property. In addition, the Master Association may undertake contractual responsibilities relating to other property that is used by or available to the Owners in Water Dance under arrangements including, without limitation, those described in Section 4.11.

The Board of Directors shall exercise for the Master Association all powers, duties and authority vested in or obligated to be taken by the Master Association and not reserved to Declarant or the other Owners by this Declaration, the other Water Dance Documents, the Act or other applicable law.

Section 4.2. Common Area. Declarant may convey to the Master Association from time to time, by one or more written instruments recorded with the Clerk and Recorder of Summit County, Colorado, certain parcels of the Property chosen by Declarant, which parcels may include property depicted and designated as Common Area on the Plat, including the Improvements located on and the rights and easements appurtenant to such property.

The Common Area generally is designated by this Declaration for the common use, benefit and enjoyment of the Owners and their families, tenants, employees, guests and invitees, and such other persons as may be permitted to use the Common Area, as Declarant may specify. Nothing in this Declaration or the other Water Dance Documents shall be construed as a dedication to public use, or a grant to any public municipal or quasi-municipal authority or utility, or an assumption of responsibility for the maintenance of any Common Area by such authority or utility, absent an express written agreement to that effect.

Section 4.3. Master Association's Responsibility for Common Area. The Master Association, subject to the rights and obligations of the Owners set forth in this Declaration, shall be responsible for the management and control of the Common Area conveyed pursuant to Section 4.2 above and all Improvements on the Common Area (including furnishings and equipment related thereto), and shall keep it in good, clean, and attractive condition and repair, pursuant to the terms and conditions of this Declaration.

The Master Association may, in the discretion of the Board, assume the maintenance responsibilities of a Project Association set out in any Project Declaration for any Project located on the Property, after giving the responsible Project Association reasonable notice and an opportunity to correct its deficient maintenance. In such event, all costs of such maintenance shall be assessed only against those Owners of Lots in the Project to which the services are provided. The assumption of this responsibility may take place either by contract or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the community-wide standard established in Water Dance. The provision of services in accordance with this Section shall not constitute discrimination within a class.

Any use of the Common Area by Owners and their families, tenants and guests, and such other persons permitted access to the Common Area shall be subject to any applicable Water Dance Rules governing the Common Area.

The Master Association, acting through the Board of Directors, may grant easements, rights-of-way, leases, licenses and concessions through or over the Common Areas without the independent approval by the Owners, subject, however, to the right of Declarant and the Owners to use the Common Area as provided in this Declaration. Without limiting the generality of the foregoing, the Master Association may grant such rights to suppliers of utilities serving the Property or property adjacent to the Property and to developers or owners of Property adjacent to the Property for the purposes of accommodating minor encroachments onto the Common Area or other purposes that do not unreasonably interfere with the use and enjoyment of the Common Area by the Owners.

Section 4.4. Membership. Every Owner, by virtue of being an Owner, and for so long as he is an Owner, shall be a Member of the Master Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. No Owner, whether one or more persons, shall have more than one membership per Lot owned, but all of the persons owning each Lot shall be entitled to rights of membership and of use and enjoyment appurtenant to such ownership. An Owner shall not transfer, pledge or alienate his membership in the Master Association in any way except upon the sale or encumbrance of a Lot, and then only to the purchaser or Mortgagee of the Lot.

Section 4.5. Classes of Membership and Voting Rights. Initially, the Master Association shall have at least one class of voting membership composed of all Owners, including Declarant. The Bylaws may set forth additional classifications of membership from time to time.

All Members shall be entitled to vote on Master Association matters on the basis of one vote for each Lot, as each Lot is originally platted by Declarant. The number of votes shall be determined by reference to the Plat, for the Lot in question, as recorded by Declarant.

When more than one person is an Owner of any Lot, all such persons shall be Members. The vote for such Lot may be exercised by one person or alternative persons as the Owners themselves determine. If more than one of the multiple Owners are present at a meeting in person or by proxy, the vote allocated to their Lot may be cast only by agreement of a majority in interest of the Owners. There is a majority of agreement if any one of the multiple Owners casts the vote allocated to the Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot.

Any Owner of a Lot which is leased may assign his voting right to the tenant, provided that a copy of the instrument of assignment is furnished to the Secretary of the Master Association prior to any meeting in which the tenant exercises the voting right.

Any party, on becoming a Member, shall furnish to the Secretary of the Master Association a photocopy or certified copy of the recorded instrument, or a copy of the lease or sublease, or such other evidence as may be specified by the Board under the Bylaws or the Water Dance Rules, vesting the party with the interest required to make it a Member of the Master Association. At the same time, the party shall provide the Master Association with the single name and address to which the Master Association shall send any notices given pursuant to the Water Dance Documents. The Member shall state in such notice the number of votes in the Master Association to which the Member believes he is entitled and the basis for that determination. In the event of any change in the facts reported in the original written notice, including any change of ownership, the Member shall give a new written notice to the Master Association containing all of the information required to be covered in the original notice. The Master Association shall keep and preserve the most recent written notice received by the Master Association with respect to each Member.

Section 4.6. Appointment of Officers and Directors by Declarant. Until the expiration of the Period of Declarant Control and subject to the limitations of the Act, Declarant shall retain the exclusive powers to appoint and remove the Board of Directors and officers of the Master Association.

Notwithstanding the foregoing, Declarant may voluntarily surrender the right to appoint and remove the Board of Directors and officers of the Master Association before the end of the Period of Declarant Control by providing a notice to that effect to the Master Association and otherwise complying with the procedures for termination of this Special Declarant Right, as set forth in the Bylaws. However, upon voluntarily terminating this Special Declarant Right in advance of the expiration of the Period of Declarant Control, Declarant may require throughout the balance of the Period of Declarant Control (had it not been voluntarily terminated) that specified actions of the Master Association or the Board, as described in an instrument executed and recorded by Declarant in the office of the Clerk and Recorder of Summit County, Colorado, be approved by Declarant before those actions become effective.

After the Period of Declarant Control, the Directors and the officers of the Association will be elected as provided in the Bylaws.

Section 4.7. Owner's and Association's Addresses for Notices. All Owners of each Lot shall have one and the same registered mailing address to be used by the Master Association or other Owners for notices, demands and all other communications regarding Master Association matters. The Owner or Owners of a Lot shall furnish the registered address to the secretary of the Master Association within five days after receiving title to the Lot. The

registration shall be in written form and signed by all of the Owners of the Lot or by such persons as are authorized by law to represent the interests of all Owners of the Lot.

If no address is registered or if all of the Owners cannot agree, then the address of the Lot shall be deemed the registered address until another registered address is furnished as required under this Section.

If the address of the Lot is the registered address of the Owners, then any notice shall be deemed duly given if delivered to any person occupying the Lot or sent to the Lot by any other means specified for a particular notice in any of the Water Dance Documents, or if the Lot is unoccupied, if the notice is held and available for the Owners at the principal office of the Association. All notices and demands intended to be served upon the Board of Directors shall be sent to the address of the Master Association or such other address as the Board may designate from time to time by a notice delivered to all Owners in accordance with this Section.

Unless any Section of this Declaration or the Act expressly provides otherwise, all notices given under this Declaration shall be sent by personal delivery, which shall be effective upon receipt; by overnight courier service, which shall be effective one business day following timely deposit with a courier service; or regular, registered or certified mail, postage prepaid, which shall be effective three days after deposit in the U.S. mail.

Section 4.8. Compliance with Documents. Each Owner shall abide by and benefit from the provisions, covenants, conditions, and restrictions contained in the Water Dance Documents.

Section 4.9. Rules and Regulations. The Master Association, from time to time and subject to the provisions of the Water Dance Documents, may adopt, amend and repeal rules and regulations, to be known as the "Water Dance Rules," governing, among other things and without limitation:

4.9.1. The use of the Common Area; and

4.9.2. The use of private roads, if any, within Water Dance.

A copy of the Water Dance Rules in effect shall be distributed to each Member of the Master Association, and any change in the Water Dance Rules shall be distributed to each Member within a reasonable time following the effective date of the change. The Board of Directors of the Master Association shall provide for the enforcement of the Water Dance Rules, as set forth in the Bylaws. Without limiting the generality of the foregoing, the Board may suspend voting rights of a Member after notice and hearing as provided in the Bylaws for an infraction of the Water Dance Rules.

Section 4.10. Cooperation with Project Associations. The Master Association shall have primary authority for entering into contracts for the administration, maintenance and operation of the Property. In addition, the Board shall assist the Project Associations in the performance of their duties and obligations under their respective Project Documents, and the Master Association and each Project Association shall cooperate so that each of those entities may most efficiently and economically provide their respective services to Owners. Without limiting the generality of the preceding sentence, the Master Association may delegate to a Project Association responsibility for maintaining any part of the Common Area in the vicinity of a Project or utilized by the Owners in the Project. It is contemplated that from time to time the Master Association and the various Project Associations may use the services of each other in the furtherance of their respective obligations, and they may contract with each other to better provide for such cooperation. The payment for such contract services or a variance in services provided may be reflected in an increased Assessment by the Master Association for the particular Project or by an item in the Project Association's budget which shall be collected through Project Assessments and remitted to the Master Association. If a Project Association fails, neglects, or is unable to perform a duty or obligation required by its Project Documents, then the Master Association may, after reasonable notice and an opportunity to cure given to the Project Association, perform such duties or obligations until such time as the Project Association is able to resume such functions, and the Master Association may charge the Project Association a reasonable fee for the performance of such functions.

Section 4.11. Cooperation with Local Government. The Master Association will cooperate with local governmental and quasi-governmental authorities in all respects to enable the Master Association and such authorities to efficiently and economically provide their respective services to the Owners. It is contemplated that from time to time either the Master Association or any of those authorities may use the services of the other in furthering their respective obligations, and they may contract with each other to better provide for such cooperation. Without limiting the generality of the provisions in this Section above, the Master Association may enter into contracts relating to the use, operation and maintenance of property owned or otherwise held by the Town of Frisco or other local governments or quasi-governmental authorities, but available to the Owners in Water Dance for their benefit and use for purposes such as parks, trails and street right-of-ways. The expenses of performing under such contracts will be Common Expenses.

Section 4.12. Manager. The Master Association may employ or contract for the services of a Manager to act for the Master Association and the Board and the officers according to the powers and duties delegated to the Manager pursuant to the Bylaws or resolution of the Board, provided that no such employment shall be by a contract having a term of more than three years, and each such contract shall be subject to cancellation by the Master Association on 90 days' or less prior notice without cause and without payment of a termination fee. The Manager shall not have the authority to make expenditures for additions or Improvements except upon specific prior approval and direction by the Board. The Board or any officer of the Master Association shall not be liable for any omission or improper exercise by a Manager of any such duty, power, or function so delegated by written instrument executed by or on behalf of the Board.

Section 4.13. Delegation by Master Association. The Master Association may delegate any of its rights, duties or responsibilities to any committee or other entity which it may choose to form. Any delegation by the Board under this Section is subject to compliance with the Act and the Bylaws and the requirement that the Board, when so delegating, shall not be relieved of its responsibilities under the Water Dance Documents or the Act.

Section 4.14. Ownership of Personal Property and Real Property for Common Use. The Master Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Master Association, shall accept any real or personal property, leasehold, or other property interests within Water Dance and conveyed to the Master Association by Declarant.

Section 4.15. Roads and Streets. The Town of Frisco, the Master Association, a Project Association or any combination of them shall be responsible for the maintenance of all roads within Water Dance to the extent Declarant may delegate, and to the extent any of such entities may specifically accept those obligations.

If Declarant elects to include the roads or streets within the legal description of the Common Area from time to time, either the Master Association or a Project Association shall be responsible for them, subject to any shared use agreements or other arrangements that may be established between the Project Association, the Master Association and other associations operating in Water Dance, or other third parties permitted to use the Common Area as provided in this Declaration. In any case, such maintenance shall include periodic maintenance of the surface and regular snow, ice and trash removal from all drive areas. The Board shall cooperate with the applicable traffic and fire control officials to post public and private drives, roads and streets with traffic control, fire lane, and parking regulation signs.

Section 4.16. Books and Records. The Master Association shall make available for inspection, upon request, during normal business hours or under other reasonable circumstances, to Owners and Mortgagees, current copies of the Water Dance Documents, and the books, records, and financial statements of the Master Association prepared pursuant to the Bylaws. Any Owner or Mortgagee may make a written request to the Master Association for a copy of the Master Association's financial statements for the preceding year. The Master Association may charge a reasonable fee for copying such materials.

Section 4.17. Reserve Account. The Master Association shall establish and maintain an adequate reserve fund from Annual Assessments levied pursuant to Article VIII below for maintenance, repair or replacement of those Common Areas and Improvements located within such areas that must be replaced on a periodic basis.

Section 4.18. Working Capital Account. In order to provide the Master Association with adequate working capital funds, the Master Association shall collect at the time of the first sale of each Lot by Declarant an amount equal to three months' installments of the Annual Assessments at the rate in effect at the time of the sale. The Master Association shall maintain such funds in a segregated account to meet unforeseen expenditures or to acquire additional equipment or services for the benefit of the Members. Such payments to this fund shall not be considered advance payments of Annual Assessments and shall not be refundable.

Section 4.19. Implied Rights and Obligations. The Master Association shall perform all of the duties and obligations imposed on it expressly by the Water Dance Documents, together with every other duty or obligation reasonably to be implied from the express provisions of the Water Dance Documents or reasonably necessary to satisfy any such duty or obligation reasonably to be implied from the express provisions of the Water Dance Documents or reasonably necessary to satisfy any such duty or obligation. The Master Association may exercise any other right or privilege (i) given to it expressly by the Water Dance Documents, or (ii) reasonably to be implied from the existence of any right or privilege given expressly by the Water Dance Documents or (iii) reasonably necessary to effectuate any such right or privilege.

ARTICLE V DESIGN REVIEW COMMITTEE

Section 5.1. Committee and Guidelines. There is hereby established a Design Review Committee, which shall be responsible for the establishment and administration of Design Guidelines to facilitate the purposes and intent of this Declaration. The Committee may issue and enforce separate and distinct Design Guidelines applicable to a specific Project or other area within the master planned community of Water Dance, as well as Design Guidelines that relate to Water Dance generally. Further, the Committee may amend, vary, repeal and augment the Design Guidelines from time to time, in the Committee's sole discretion based on concerns for good planning and design, the aesthetic, architectural and environmental harmony of Water Dance or other factors as necessary or desirable to fulfill the intent of the Design Guidelines. The Design Guidelines shall be binding on all Owners and other persons governed by this Declaration.

The Design Guidelines may include, among other things, those restrictions and limitations set forth below:

5.1.1. Standards establishing an architectural theme and requirements pertaining to building style and design, construction materials and site planning.

5.1.2. Procedures for making application to the Committee for design review approval, including the documents to be submitted and the time limits in which the Committee must act to approve or disapprove any submission.

5.1.3. Time limitations for the completion, within specified periods after approval, of the Improvements for which approval is required under the Design Guidelines.

5.1.4. Designation of a building site on a Lot, establishing the maximum developable area of a Lot and set-back or view corridor requirements.

5.1.5. Minimum and maximum square foot areas of living space that may be developed on any Lot.

5.1.6. Limitations on the height of any building or other Improvement.

5.1.7. Specifications for the location, dimensions and appearance or screening of any fences, accessory structures, antennae or other such Improvements.

5.1.8. Designation of areas within an easement reserved as Common Area next to a building on a Lot or at other locations within the Common Area, for the installation of utility meters, mail boxes or other accessory equipment serving more than one Lot.

5.1.9. Landscaping regulations, including requirements for installing and maintaining landscaping on the entire Lot and, in certain Projects identified in the Design Guidelines, on parkways abutting the Lot and the street or road providing access to the Lot; time limitations within which all landscaping must be completed; limitations and restrictions prohibiting the removal or requiring the replacement of existing trees; and guidelines encouraging the use of plants indigenous to the locale and compatible with the design theme of the Project in question; and other practices benefitting the protection of the environment, aesthetics and architectural harmony of Water Dance.

5.1.10. General instructions for the construction, reconstruction, refinishing or alteration of any Improvement, including any plan to excavate, fill or make any other temporary or permanent change in the natural or existing surface contour or drainage or any installation of utility lines or conduits on the Property, addressing matters such as loading areas, waste storage, trash removal, equipment and materials storage, grading, transformers and meters.

5.1.11. Guidelines and restrictions regarding window treatments on the exterior of any building or located inside the building, but visible from the exterior of the building.

5.1.12. Requirements for approval by the Design Review Committee, to be granted or withheld in the Committee's discretion, of any dog-run or other Improvement for pets proposed for installation on a Lot.

Section 5.2. Committee Membership and Organization. The Committee shall be composed of one person or up to three persons. The Committee need not include any Member of the Master Association, and one or more professional design consultants may be tapped to serve. All of the members of the Committee shall be appointed, removed and replaced by Declarant, in its sole discretion, until Declarant the earlier of (i) the date Declarant has waived this right to appoint the Committee by notice to the Association recorded in the office of the Clerk and Recorder of Summit County, Colorado, or (ii) the date Declarant has conveyed all of its right, title and interest in the Property (including the Expansion Property) to a third party without transferring the right to appoint the Committee to a Successor Declarant. At that time the Board of Directors shall succeed to Declarant's right to appoint, remove, or replace the members of the Committee. Declarant, before the recording of such notice, or the Association, after the recording of such notice, may direct that the Committee be organized as a Colorado nonprofit corporation.

Section 5.3. Purpose and General Authority. The Committee shall review, study and either approve or reject proposed Improvements on the Property, all in compliance with this Declaration and as further set forth in the Design Guidelines and such rules and regulations as the Committee may establish from time to time to govern its proceedings. No Improvement shall be erected, placed, reconstructed, replaced, repaired or otherwise altered, nor shall any construction, repair or reconstruction be commenced until plans for the Improvements shall have been approved by the Committee; provided, however, that improvements that are completely within a building and not visible from the outside of the building may be undertaken without such approval. All Improvements shall be constructed only in accordance with approved plans.

5.3.1. Committee Discretion. The Committee shall exercise its best judgment to see that all Improvements conform and harmonize with any existing structures as to external design, quality and type of construction, seals, materials, color, location on the Lot, height, grade and finished ground elevation, and the schemes and aesthetic considerations set forth in the Design Guidelines and the other Water Dance Documents. The Committee, in its sole discretion based on concerns for good planning and design, the aesthetic, architectural and environmental interests of Water Dance, or other factors as necessary or desirable to fulfill the intent of the Design Guidelines, may excuse compliance with such requirements in specific situations and may permit compliance with different or alternative requirements.

5.3.2. Binding Effect. The actions of the Committee in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties.

Section 5.4. Organization and Operation of Committee.

5.4.1. Term. The term of office of each member of the Committee, subject to Section 5.2, shall be one year, commencing January 1 of each year, and continuing until his successor shall have been appointed. Should a Committee member die, retire or become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed as provided in Section 5.2.

5.4.2. Chairman. So long as Declarant appoints the Committee, Declarant shall appoint the chairman. At such time as the Committee is appointed by the Board of Directors, the chairman shall be elected annually from among the members of the Committee by a majority vote of the members. In the absence of a chairman, the party responsible for appointing or electing the chairman may appoint or elect a successor, or if the absence is temporary, an interim chairman.

5.4.3. Operations. The Committee chairman shall take charge of and conduct all meetings and shall provide for reasonable notice to each member of the Committee prior to any meeting. The notice shall set forth the time and place of the meeting, and notice may be waived by any member.

5.4.4. Voting. The affirmative vote of a majority of the members of the Committee shall govern its actions and be the act of the Committee.

5.4.5. Expert Consultation. The Committee may avail itself of other technical and professional advice and consultants as it deems appropriate, and the Committee may delegate its plan review responsibilities, except final review and approval, to one or more of its members or to consultants retained by the Committee. Upon that delegation, the approval or disapproval of plans and specifications by such member or consultant shall be equivalent to approval or disapproval by the entire Committee.

Section 5.5. Expenses. Except as provided in this Section below, all expenses of the Committee shall be paid by the Master Association and shall constitute a Common Expense. The Committee shall have the right to charge a fee for each application submitted to it for review, in an amount which may be established by the Committee from time to time, and such fees shall be collected by the Committee and remitted to the Master Association to help defray the expenses of the Committee's operation.

Section 5.6. Other Requirements. Compliance with the Water Dance design review process is not a substitute for compliance with the Town of Frisco building, zoning and subdivision regulations, and each Owner is responsible for obtaining all approvals, licenses and permits as may be required prior to commencing construction of Improvements.

Further, the establishment of the Design Review Committee and procedures for architectural review shall not be construed as changing any rights or restrictions upon Owners to maintain and repair their Lots and Improvements as otherwise required under the Water Dance Documents.

Section 5.7. Limitation of Liability. The Committee shall use reasonable judgment in accepting or disapproving all plans and specifications submitted to it. Neither the Committee nor any individual Committee member shall be liable to any person for any official act of the Committee in connection with submitted plans and specifications, except to the extent the Committee or any individual Committee member acted with malice or wrongful intent. Approval by the Committee does not necessarily assure approval by the appropriate governmental board or commission for the Town of Frisco. Notwithstanding that the Committee has approved plans and specifications, neither the Committee nor any of its members shall be responsible or liable to any Owner, developer or contractor with respect to any loss, liability, claim or expense which may arise by reason of such approval of the construction of the Improvements. Neither the Board, the Design Review Committee, nor any agent thereof, nor Declarant, nor any of its partners, employees, agents or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Water Dance Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the Committee shall be defended and indemnified by the Master Association in any such suit or proceeding which may arise by reason of the Committee's decision. The Master Association, however, shall not be obligated to indemnify each member of the Committee to the extent any such member of the Committee is adjudged to be liable for negligence or misconduct in the performance of his duty as a member of the Committee, unless and then only to the extent that the court in which such action or suit may be brought determines upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expense as such court shall deem proper.

Section 5.8. Enforcement.

5.8.1. Inspection. Any member or authorized consultant of the Design Review Committee, or any authorized officer, Director, employee or agent of the Master Association may enter upon any Lot at any reasonable time after notice to the Owner, without being deemed guilty of trespass, in order to inspect Improvements constructed or under construction on the Lot to determine whether the Improvements have been or are being built in compliance with the Water Dance Documents and the plans and specifications approved by the Design Review Committee.

5.8.2. Completion of Construction. Before any Improvements on a Lot may be occupied, the Owner of the Lot shall be required to obtain a temporary certificate of compliance issued by the Design Review Committee indicating substantial completion of the Improvements in accordance with the plans and specifications approved by the Committee, and imposing such conditions for issuance of a final certificate of compliance as the Committee may determine appropriate in its reasonable discretion. Without limiting the generality of the preceding sentence, the Committee may require, as a condition to the issuance of the temporary certificate of compliance, that the Owner deposit with the Committee such sums as may be necessary to complete the landscaping on the Lot by a specified date. If the landscaping is not completed as scheduled, the Committee may apply the deposit to cover the cost of completing the work and enforce such other remedies as are available to the Master Association for the failure of the Owner to comply with these Covenants, including without limitation the remedies set forth in Section 5.9.

5.8.3. Certificate of Compliance. Upon payment of a reasonable fee established from time to time by the Design Review Committee, and upon written request of any Owner or his agent, an existing or prospective Mortgagee, or a prospective grantee, the Committee shall issue an acknowledged certificate, in recordable form, setting forth generally whether, to the best of the Committee's knowledge, the Improvements on a particular Lot are in compliance with the terms and conditions of the Design Guidelines. Unless the Committee responds to such request within 30 days after receipt of the request, it shall be conclusively presumed that the Owner and the Owner's Improvements are in conformance with all the terms and conditions subject to the control of the Committee.

5.8.4. Deemed Nuisances. Every violation of these Covenants is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed for such violation by law or equity against a Member shall be applicable. Without limiting the generality of the foregoing, these Covenants may be enforced as provided below.

(i) Fines for Violations. The Committee may adopt a schedule of fines for failure to abide by the Committee rules and the Design Guidelines, including fines for failure to obtain any required approval from the Committee.

(ii) Removal of Nonconforming Improvements. The Master Association, upon request of the Committee and after reasonable notice to the offender and, if different, to the Owner, may enter upon any Lot at any reasonable time after notice to the Owner, without being deemed guilty of trespass, and remove any Improvement constructed, reconstructed, refinished, altered or maintained in violation of these Covenants. The Owner of the Improvement shall immediately reimburse the Master Association for all expenses incurred in connection with such removal. If the Owner fails to reimburse the Master Association within 30 days after the Master Association gives the Owner notice of the expenses, the sum owed to the Master Association shall bear interest at the Default Rate from the date of the advance by the Master Association through the date of reimbursement in full, and all such sums and interest shall be a Default Assessment enforceable as provided in Article VIII.

Section 5.9. Continuity of Construction. All Improvements commenced on the Property shall be prosecuted diligently to completion and shall be completed within 12 months after commencement, unless an exception is granted in writing by the Committee. If an Improvement is commenced and construction is then abandoned for more than 90 days, or if construction is not completed within the required 12-month period, then after notice and opportunity for hearing as provided in the Bylaws, the Master Association may impose a fine of not less than \$1,000 per day (or such other reasonable amount as the Master Association may set) to be charged against the Owner of the Lot until construction is resumed, or the Improvement is completed, as applicable, unless the Owner can prove to the satisfaction of the Board of Directors that such abandonment is for circumstances (other than the Owner's failure or refusal to pay money) beyond the Owner's control. Such charges shall be a Default Assessment and lien as provided in Article VIII.

Section 5.10. Reconstruction of Common Area. The reconstruction by the Master Association after destruction by casualty or otherwise of any Common Area that is accomplished in substantial compliance with "as built" plans for such Common Area shall not require compliance with the provisions of this Article or the Design Guidelines.

ARTICLE VI PROPERTY USE RESTRICTIONS

Section 6.1. General Restriction. The Property shall be used only for the purposes set forth in this Declaration, as permitted by the applicable ordinances of the Town of Frisco, and the laws of the State of Colorado and the United States, and as set forth in the Water Dance Documents or other specific recorded covenants affecting all or any part of the Property.

Section 6.2. Use of Lots. Each Lot designated on a Plat for residential use may be used primarily for residential purposes and developed by the construction of a single family dwelling unit. Any business, commercial enterprise or other non-residential use conducted on any residential Lot shall be subject to any licensing or approval requirements imposed by the Town of Frisco, and shall be limited or restricted by the Design Review Committee in its discretion, after consideration of factors including, without limitation, the effect of such activities on traffic and noise levels within Water Dance, and compliance by the Owner engaged in any such enterprise or non-residential use with the Design Guidelines.

Other portions of the Property may be devoted to retail or other commercial use, as indicated on the Plats.

Section 6.3. Excavation. No excavation shall be made except in connection with Improvements approved as provided in these Covenants. For purposes of this Section, "excavation" means any disturbance of the surface of the land which results in a removal of earth, rock, or other substance a depth of more than 18 inches below the natural surface of the land.

Section 6.4. Electrical, Television, Natural Gas and Telephone Service. All electrical, television, natural gas and telephone service installations shall be placed underground.

Section 6.5. Water and Sanitation. Each structure designed for occupancy shall connect with water and sanitation facilities as are made available from time to time by the water and sanitation district, if any, having jurisdiction over the Property or any other approved utility supplier.

Section 6.6. Wells. No well from which water, oil or gas is produced shall be dug, nor shall storage tanks, reservoirs or any installation of power, telephone or other utility lines (wire, pipe or conduit) be made or operated anywhere on the Property except in connection with water wells and works operated by public agencies or duly certified public utility companies; provided, however, that the foregoing shall not prevent the drilling of or installation of additional water wells by Declarant or its assigns.

Section 6.7. Signs. No signs of any kind shall be displayed to the public view on or from any portion of the Property except, (i) during the Special Declarant Rights Period, signs of Declarant or its affiliates or assigns (which shall be approved by the Committee), (ii) signs required by law, and (iii) "For Sale" or "For Rent" signs, the size, number, design and location of which shall comply with the Design Guidelines.

Section 6.8. Animals and Pets. No animals, livestock or poultry of any kind shall be kept, raised or bred on any portion of the Property, except dogs, cats or other interior confined household pets belonging to an Owner. The Water Dance Rules may regulate, permit or prohibit the kind and number of such pets from time to time.

6.8.1. Containment. Household pets, such as dogs and cats, must be contained in a Residence, on the deck of a Residence, or within an animal-run (the construction of which shall be subject to the approval of the Design Review Committee, in its discretion). Such pets may not be permitted to run at large at any time.

6.8.2. Leashes. Pedestrians within the Property who are accompanied by pets permitted under this Declaration must have the pets under the pedestrians' direct control by use of a leash not to exceed 10 feet in length.

6.8.3. Noise. Owners of pets on the Property will be required to take all steps necessary to control excessive barking or other disturbances caused by their pets.

Section 6.9. Drainage. No Owner shall do or permit any work, place any landscaping or install any other Improvements or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Property, except to the extent such alteration and drainage pattern is approved in writing by the Committee or the Board of Directors, and except for rights reserved to Declarant to alter or change drainage patterns.

Section 6.10. Trash. No trash, ashes, building materials, firewood or other unsightly items should be thrown, dumped or stored on any land or area within the Property. The Master Association shall cooperate in and encourage programs to recycle trash and other refuse. There shall be no burning or other disposal of refuse out of doors. Each Owner shall provide suitable receptacles for the temporary storage and collection of refuse, and all such receptacles shall be enclosed and screened from the public view and from the wind and protected from animal and other disturbance.

Section 6.11. Construction Regulations of the Design Guidelines. All Owners and contractors shall comply with the portions of the Design Guidelines regulating construction activities. Such regulations may affect, without limitation, the following: trash and debris removal; sanitary facilities; parking areas; outside storage; restoration of damaged property; conduct and behavior of builders, subcontractors and Owners' representatives on the Property at any time; the conservation of landscape materials; and fire protection.

Section 6.12. Blasting. If any blasting is to occur, the Committee and Declarant shall be informed far enough in advance to allow them to make such investigation as they deem necessary to confirm that appropriate protective measures have been taken prior to the blasting. Notwithstanding the foregoing, no approval of any blasting by Declarant or the Committee shall in any way release the person conducting the blasting from all liability in connection with the blasting, nor shall such approval in any way be deemed to make Declarant or the Committee liable for any damage which may occur from blasting, and the person doing the blasting shall defend and hold harmless and hereby indemnifies Declarant and the Committee from any such expense or liability. Declarant or the Committee may impose any reasonable conditions and restrictions, including time and date restrictions, on all blasting.

Section 6.13. Temporary Structures. No temporary structures shall be permitted except as may be determined to be necessary during construction and as specifically authorized by the Committee, and except as necessary for the exercise by Declarant of the Special Declarant Rights.

Section 6.14. Compliance with Laws. Subject to the rights of reasonable contest, each Owner shall promptly comply with the provisions of all applicable laws, regulations, ordinances, and other governmental or quasi-governmental regulations with respect to all or any portion of the Property.

Without limiting the generality of the foregoing, each Owner shall abide by any wildlife regulations imposed by the Master Association or any agency or authority having jurisdiction over the Property. Further, no Owner shall dispose or allow any person under the Owner's control or direction to release, discharge or emit from the Property or dispose of any material on the Property that is designated as hazardous or toxic under any federal, state or local law, ordinance or regulation.

Section 6.15. No Outside Clotheslines. No laundry or wash shall be dried or hung outside any building.

Section 6.16. Auto Repair. No work on automobiles or other vehicle repair shall be performed in any visible or exposed portion of Water Dance except in emergencies.

Section 6.17. Vehicles. No trucks, trail bikes, recreational vehicles, motor homes, motor coaches, snowmobiles, campers, motorized or non-motorized trailers, pop-up campers, boats or boat trailers or similar vehicles or business vehicles (other than passenger automobiles or pickup or utility trucks with a capacity of 3/4 ton or less) or any other motorized or non-motorized vehicles shall be parked, stored or in any manner kept or placed on any portion of the Property except in an enclosed garage. Any vehicles that are not required to be parked within enclosed garages pursuant to this Section shall only be parked on driveway areas (located on the Lot in accordance with Design Guidelines regarding set-back requirements, or on the road or street as permitted by the Water Dance Rules or the rules of the particular Project Association). This restriction, however, shall not be deemed to prohibit commercial and construction vehicles, in the ordinary course of business, from making deliveries or otherwise providing services to the Property or for Declarant or the other Owners.

Section 6.18. Idle, Abandoned, Inoperable or Oversized Vehicles. No idle, abandoned or inoperable vehicles of any kind shall be stored or parked on any portion of the Property, except in an enclosed parking garage. "Idle, abandoned or inoperable vehicle" is defined as any vehicle which has not been driven under its own propulsion for a period of three weeks or longer. A written notice describing the idle, abandoned or inoperable vehicle that has not been stored in an enclosed area, as required above, and requesting removal of the vehicle may be personally served upon

the Owner or posted on the unused vehicle. If such vehicle has not been removed to a location off the Property or to an enclosed garage on the Property within 72 hours after notice has been given, the Master Association shall have the right to remove the vehicle without liability, and the expense of removal shall be a Default Assessment charged against the Owner as provided in Section 8.8. All unsightly or oversized vehicles, snow removal equipment, garden maintenance equipment, and all other unsightly equipment and machinery may be required by Declarant or the Committee to be stored at a designated location or locations. "Oversized" vehicles, for purposes of this Section, shall be vehicles which are too high to clear the entrance to a residential garage.

Section 6.19. Antennae. No exterior radio, television, microwave or other antenna or antenna dish or signal capture and distribution device shall be permitted without the prior written consent of the Committee, and appropriate screening as required by the Design Guidelines.

Section 6.20. Outside Burning. There shall be no exterior fires, except barbecues, outside fireplaces and braziers contained within facilities or receptacles and in areas designated and approved by the Committee. No Owner shall permit any condition upon its portion of the Property which creates a fire hazard or is in violation of fire prevention regulations.

Section 6.21. Noise. No exterior horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the Property or Improvements, shall be placed or used on any portion of the Property.

Section 6.22. Lighting. All exterior lighting of the Improvements and grounds on the Property shall be subject to regulation by the Design Review Committee.

Section 6.23. Obstructions. There shall be no obstruction of any walkways or bike paths or interference with the free use of those walkways and paths except as may be reasonably required in connection with repairs. The Owners, their families, tenants, guests and invitees are granted nonexclusive easements to use the walkways and paths within the Property. That use shall be subject to the Water Dance Rules adopted by the Board from time to time.

Section 6.24. Camping and Picnicking. No camping or picnicking shall be allowed within the Property except in those areas designated for those purposes. The Board, in its discretion, may ban or permit public assemblies and rallies within the Property.

Section 6.25. House Numbers. Each Residence shall have a house number with a design and location established by the Committee under the Design Guidelines.

Section 6.26. Nuisance. No obnoxious or offensive activity shall be carried on within the Property, nor shall anything be done or permitted which shall constitute a public nuisance. No noise or other nuisance shall be permitted to exist or operate upon the Property so as to be offensive or detrimental to any other part of the Property or its occupants.

Section 6.27. General Practices Prohibited. The following practices are prohibited at Water Dance:

6.27.1. Allowing construction suppliers and contractors to clean their equipment other than at a location designated for that purpose by the Committee;

6.27.2. Removing any rock, plant material, top soil or similar items from any property of others;

6.27.3. Discharging firearms on the Property;

6.27.4. Use of surface water for construction;

6.27.5. Careless disposition of cigarettes and other flammable materials; or

6.27.6. Violation of any state, federal, or local law, ordinance, rule or regulation.

Section 6.28. Use of Property During Construction. It shall be expressly permissible and proper for Declarant and any Owner acting with the prior written consent of the Committee, and their respective employees, agents, independent contractors, successors, and assigns involved in the construction of Improvements on, or the providing of utility service to, the Property (including the Expansion Property) or other real property owned by Declarant, to perform such activities and to maintain upon portions of the Property as they deem necessary, such facilities as may be reasonably required, convenient, necessary or incidental to such construction and development of the Property. This permission specifically includes, without limiting the generality of the foregoing, maintaining storage areas, construction yards and equipment and signs. However, no activity shall be performed and no facility shall be maintained on any portion of the Property in such a way as to unreasonably interfere with or disturb any purchaser or Owner of a Lot, or to unreasonably interfere with the use, enjoyment or access of such Owner or his tenants, employees, guests, or business invitees, of and to his Lot. If any Owner's use under this provision is deemed objectionable by the Design Review Committee, then the Design Review Committee, as applicable, in its sole discretion, may withdraw this permission.

Notwithstanding the foregoing, this Section shall not operate to prevent the exercise of any Special Declarant Rights.

Section 6.29. Leasing. An Owner shall have the right to lease the Residence or other Improvements constructed on his Lot, subject to the condition that the Owner shall be liable for any violation of the Water Dance Documents committed by the Owner's tenant, without prejudice to the Owner's right to collect any sums paid by the Owner on behalf of the tenant. Supplementing Section 6.9, no tenant will be permitted to bring pets to Water Dance.

Section 6.30. Enforcement. The Master Association, or the Design Review Committee acting on behalf of the Master Association, may take such action as it deems advisable to enforce these Covenants as provided in this Declaration. In addition, the Master Association and the Design Review Committee shall have a right of entry on any part of the Property for the purposes of enforcing this Article, and any costs incurred by the Master Association or the Design Review Committee in connection with such enforcement which remain unpaid 30 days after the Master Association has given notice of the cost to the Owner and otherwise complied with the Act shall be subject to interest at the Default Rate from the date of the advance by the Master Association or the Design Review Committee through the date of payment in full by the Owner, and shall be treated as a Default Assessment enforceable as provided in Article VIII.

ARTICLE VII OWNER'S OBLIGATIONS FOR MAINTENANCE

Section 7.1. Owner's Responsibility for Lot. Except as provided in the Water Dance Documents, the applicable Project Documents, or by written agreement with the Master Association or a Project Association, all maintenance of a Lot and the Improvements located thereon shall be the sole responsibility of the Owner of the Lot. Each Owner shall maintain his Lot in accordance with the community-wide standard of Water Dance. The Master Association shall, in the discretion of the Board, assume the maintenance responsibilities of such Owner if, in the opinion of the Board, the level and quality of maintenance being provided by such Owner does not satisfy such standard, and the Project Association for the Project in which the Lot is located has failed to adequately provide such maintenance. Before assuming the maintenance responsibilities, the Board shall notify the Owner and the applicable Project Association in writing of its intention to do so, and if the Owner or the Project Association has not commenced and diligently pursued remedial action within 30 days after the mailing of such written notice, then the Master Association

shall proceed. The expenses of the maintenance by the Board shall be reimbursed to the Master Association by the Owner within 30 days after the Master Association notifies the Owner of the amount due, and any sum not reimbursed within that 30 day period shall bear interest at the Default Rate from the date of the expenditure until payment in full. Such charges shall be a Default Assessment enforceable as provided in Article VIII.

Section 7.2. Owner's Negligence. If the need for maintenance, repair or replacement of any portion of the Common Area (including Improvements located on it) arises because of the negligent or willful act or omission of an Owner or his family member, guest, invitee or tenant, then the expenses incurred by the Master Association for the maintenance, repair or replacement shall be a personal obligation of that Owner. If the Owner fails to repay the expenses incurred by the Master Association within 30 days after the notice to the Owner of the amount owed, then those expenses shall bear interest at the Default Rate from the date of the advance by the Master Association until payment by the responsible Owner in full, and all such expenses and interest shall become a Default Assessment enforceable in accordance with Article VIII.

ARTICLE VIII COVENANT FOR MAINTENANCE ASSESSMENTS

Section 8.1. Creation of the Lien and Personal Obligation for Assessments. Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed, are deemed to covenant and agree to pay to the Master Association: (1) Annual Assessments or charges as provided in this Declaration to generally carry out the functions of the Master Association; (2) Special Assessments for capital improvements and other purposes as stated in this Declaration, such Annual and Special Assessments to be fixed, established, and collected from time to time as provided below; and (3) Default Assessments which may be assessed against a Lot pursuant to the Water Dance Documents for the Owner's failure to perform an obligation under the Water Dance Documents or because the Master Association has incurred an expense on behalf of the Owner under the Water Dance Documents.

The Annual, Special and Default Assessments, together with fines, interest, costs and reasonable attorneys' (and legal assistants') fees and other charges allowed under the Act, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made until paid.

Each such Assessment, together with fines, interest, costs, and reasonable attorneys' (and legal assistants') fees and other charges allowed under the Act, shall also be the personal and individual obligation of the Owner of such Lot as of the time the Assessment falls due, and two or more Owners of a Lot shall be jointly and severally liable for such obligations. No Owner may exempt himself from liability for any Assessments by abandonment of his Lot or by waiver of the use or enjoyment of the Common Area. Suit to recover a money judgment for unpaid Assessments and related charges as listed above may be maintained without foreclosing or waiving the Assessment liens provided in this Declaration.

Assessments on Lots within a Project shall be levied directly against each Lot, but each Project Association is hereby designated as the agent of each Owner of a Lot within such Project for receipt of notices of Assessments and the collection of Assessments and remittance to the Master Association.

Section 8.2. Purpose of Assessments. The Assessments levied by the Master Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and occupants of Water Dance, to improve and maintain the Common Area by actions including, but not limited to, the payment of taxes and insurance on the Common Area; payment for repair, replacement, and additions to any Improvements on the Common Area; establishment of reserve accounts; and payment of the cost of labor, equipment, materials, management and supervision, and the salary or fee of the Manager.

Section 8.3. Calculation and Apportionment of Annual Assessments and Common Expenses. The Board of Directors shall prepare (or cause the Manager to prepare) a budget before the closing of each fiscal year of the Master Association, and the Board shall submit the budget to the Master Association as required by the Act. Annual Assessments for Common Expenses shall be based upon the estimated net cash flow for the Master Association to cover items including, without limitation, the cost of routine maintenance, repair and operation of the Common Area; expenses of management; premiums for insurance coverage as deemed desirable or necessary by the Master Association; snow removal, landscaping, care of grounds and common lighting within the Common Area; routine renovations within the Common Area; wages of Master Association employees, if any; common water and utility charges for the Common Area; legal and accounting fees; management fees; taxes and capital improvements; expenses and liabilities incurred by the Master Association under or by reason of this Declaration; payment of any deficit remaining from a previous Assessment period; and the supplementing of the Master Association's funds for general, routine maintenance, repairs and replacement of improvements within the Common Area on a periodic basis, as needed.

Each Owner shall be responsible for that Owner's share of the Common Expenses, which, except as specifically provided in this Declaration, shall be divided equally among the Lots included in the Property under this Declaration from time to time. Accordingly, at any given time, an Owner's share of Common Expenses shall be determined in most instances as a fraction, the numerator of which is the number of Lots owned by the Owner, and the denominator of which is the number of Lots then platted and incorporated in the Property. The foregoing is subject to the qualifications of Section 7.2 and the following. First, any Common Expenses or portion thereof benefitting fewer than all of the Lots shall be assessed exclusively against the Lots benefitted. Second, the costs of insurance may be assessed in proportion to risk, and the costs of utilities may be assessed in proportion to usage.

Section 8.4. Special Assessments. In addition to the Annual Assessments authorized by Sections 8.1 and 8.3 above, and subject to the budget procedures required by the Act, the Board of Directors may levy in any fiscal year one or more Special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, or to make up any shortfall in the current year's budget.

Notice of the amount and due dates for such Special Assessments must be sent to each Owner (or Project Association as provided in this Declaration) at least 30 days prior to the due date.

If any of the Special Assessments levied pursuant to this Section shall be used for the construction of new facilities (as opposed to repair and reconstruction of existing facilities) in Water Dance and if the total amount of Special Assessments levied for such construction exceeds 10% of the gross annual budget for the Master Association for that year, then the use of Special Assessments for such construction shall require the approval of the Owners representing at least 67% of the votes in each class of Master Association membership. The use of Special Assessments pursuant to this Section for constructing any Common Area shall not apply to the construction of any Common Area to be completed by Declarant as part of its development of Water Dance.

Section 8.5. Uniform Rate of Assessment. Both Annual Assessments and Special Assessments must be fixed at a uniform rate for each type of Lot classified by type of use or other distinguishing characteristics (as set forth below) or by Project, but the basis and rate of Assessments for each Project or each type of use or other characterization may be varied as provided in this Section.

Lots may be classified by Project, use (residential or otherwise), location, density or other characteristics as the Board may deem appropriate, and shall be assessed on the basis appropriate for each Project, area, or other classification, as determined by the Board of Directors from time to time. The rate of Assessment levied against Lots within the various Projects, areas, or other classifications may be varied based upon the Board's sole and exclusive determination that any specific item in the Master Association's budget may more directly benefit a certain Project, area or other classification of the Property in excess of its proportionate share, or that the Master Association has provided

services to such Project, area, or other classification in excess of those to other Projects, areas, or other classifications within Water Dance; provided, however, that such rate of Assessment shall be uniform within each Project, area, or other classification.

The rates of Assessment for Lots within each Project, area, or other classification shall be established from time to time by resolution of the Board. The classification of a Lot for the purpose of determining the rate of Assessments shall be made by the Board in its sole discretion, and its decision shall be final.

Section 8.6. Date of Commencement of Annual Assessments and Payment Period. The Annual Assessments shall commence as to all Lots in the first phase of each Project no later than 60 days after the date of the first conveyance by Declarant of a Lot in that Project to an Owner. The first Annual Assessment shall be prorated according to the number of months remaining in the calendar year. The Annual Assessments shall commence for Lots contained in each phase of Expansion Property incorporated in the Property on the first day of the month following the recording of the Declaration of Annexation incorporating them into the Property, and shall be prorated according to the number of months remaining in the calendar year.

Section 8.7. Collection. Assessments shall be collected on a periodic basis as the Board of Directors may determine from time to time, but until the Board directs otherwise, Assessments shall be payable monthly in advance on the first day of each calendar month. Any Project Association may agree with the Master Association to collect regular Annual or Special Assessments of the Master Association as part of its Project Assessments and remit them to the Master Association on a timely basis. Collection of the Master Association's Assessments in this manner shall not prevent the creation of the Master Association's lien against any Lot or impair the Master Association's ability to enforce or collect its Assessments as provided under this Declaration if they are not remitted to the Master Association in a timely manner. The omission or failure of the Master Association to fix Assessments for any Assessment period will not be deemed a waiver, modification or release of the Owners from their obligation to pay the same. The Association will have the right, but not the obligation, to make pro-rata refunds of any Assessments in excess of the actual expenses incurred in any fiscal year. Any such excess funds not refunded will be applied to the next installment(s) of Annual Assessments due.

Section 8.8. Default Assessments. All monetary fines, penalties, interest or other charges or fees assessed against an Owner pursuant to the Water Dance Documents, or any expense of the Master Association which is the obligation of an Owner or which is incurred by the Master Association on behalf of the Owner pursuant to the Water Dance Documents and any expense (including, without limitation, attorneys' and legal assistants' fees) incurred by the Master Association as a result of the failure of an Owner to abide by the Water Dance Documents, shall be a Default Assessment and shall become a lien against such Owner's Lot which may be foreclosed or otherwise collected as provided in this Declaration and in accordance with the Act.

Section 8.9. Effect of Nonpayment of Assessment; Lien; Remedies of Master Association. Any Assessment installment, whether pertaining to Annual, Special or Default Assessments, which is not paid within 30 days after its due date shall be delinquent. In the event that an Assessment installment becomes delinquent or in the event any Default Assessment is established under this Declaration, the Master Association, in its sole discretion, may take any or all of the following actions:

8.9.1. Assess a late charge for each delinquency at uniform rates set by the Board of Directors from time to time;

8.9.2. Assess an interest charge from the date of delinquency at the Default Rate;

8.9.3. Suspend the voting rights of the Owner during any period of delinquency;

8.9.4. Accelerate all remaining Assessment installments for the fiscal year in question so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;

8.9.5. Bring an action at law against any Owner personally obligated to pay the delinquent installments;

8.9.6. File a statement of lien with respect to the Lot, and foreclose as set forth in more detail below.

The remedies provided under this Declaration shall not be exclusive, and the Master Association may enforce any other remedies to collect delinquent Assessments as may be provided by law.

Any Assessment chargeable to a Lot shall constitute a lien on the Lot, effective the due date of the Assessment. To evidence the lien, the Master Association may, but shall not be obligated to, prepare a written lien statement with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot, the name of the Master Association, and the delinquent Assessment amounts then owing. Any such statement shall be duly signed and acknowledged by the President or a Vice-President of the Master Association or by the Manager, and shall be served upon the Owner of the Lot by mail to the address of the Lot or at such other address as the Master Association may have in its records for the Owner. At least 10 days after the Master Association mails the statement to the Owner, the Master Association may record the statement in the office of the Clerk and Recorder of Summit County, Colorado. Thirty days following the mailing of such notice to the Owner, the Master Association may proceed to foreclose the statement of lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Colorado. Such lien shall be in favor of the Master Association and shall be for the benefit of all other Owners. In either a personal action or foreclosure action, the Master Association shall be entitled to recover as a part of the action, the interest, costs and reasonable attorneys' fees (including legal assistants' fees) with respect to the action. The Master Association shall have the power to bid on a Lot at foreclosure sale and to acquire, hold, lease, mortgage and convey the Lot.

Section 8.10. Successor's Liability for Assessment. In addition to the personal obligation of each Owner to pay all Assessments and the Master Association's perpetual lien for such Assessments, all successors to the fee simple title of a Lot, except as provided in Section 8.11 below, shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees and legal assistants' fees against such Lot without prejudice to any such successor's right to recover from any prior Owner any amounts paid by such successor. This liability of a successor shall not be personal and shall terminate upon termination of such successor's fee simple interest in the Lot. In addition, such successor shall be entitled to rely on the statement of status of Assessments given by or on behalf of the Master Association under Section 8.13 below.

Section 8.11. Waiver of Homestead Exemption; Subordination of the Lien. The lien of the Assessments shall be superior to and prior to any homestead exemption provided now or in the future by any federal law or the laws of the State of Colorado. The Master Association's perpetual lien on a Lot for Assessments shall be superior to all other liens and encumbrances except the following:

8.11.1. Liens and encumbrances recorded before the date of the recording of this Declaration;

8.11.2. Liens for real estate taxes and other governmental assessments or charges duly imposed against the Lot by a Colorado governmental or political subdivision or special taxing district, or any other liens made superior by statute; and

8.11.3. The lien for all sums unpaid on a First Mortgage recorded before the date on which the Assessment sought to be enforced became delinquent, including any and all advances made by the First Mortgagee and notwithstanding that any of such advances may have been made subsequent to the date of attachment of the Master Association's lien; all subject, however, to the limitations of the Act.

With respect to subpart 8.11.3 above, any First Mortgagee who acquires title to a Lot by virtue of foreclosing the First Mortgage or by virtue of a deed or assignment in lieu of such a foreclosure, or any purchaser at a foreclosure sale of the First Mortgage, shall take the Lot free of any claims for unpaid Assessments, interest, late charges, costs, expenses, and attorneys' (and legal assistants') fees against the Lot which accrue prior to the time such First Mortgagee or purchaser acquires title to the Lot, except as provided in the Act. All other persons who hold a lien or encumbrance not described in subpart 8.11.1 through 8.11.3 above shall be deemed to consent that any such lien or encumbrance shall be subordinate to the Master Association's future liens for Assessments, interest, late charges, costs, expenses and attorneys' (and legal assistants') fees, as provided in this Article VIII, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

Sale or transfer of any Lot to enforce any of the liens to which the lien for Assessments is subordinate shall extinguish the lien of such Assessments as to installments which became due prior to such sale or transfer to the extent provided in the Act. The amount of such extinguished lien may be reallocated and assessed to all Lots as a Common Expense at the direction of the Board of Directors. However, no such sale or transfer shall relieve the purchaser or transferee of a Lot from liability for, or the Lot from the lien of, any Assessments made after the sale or transfer.

Section 8.12. Exempt Property. The following portions of the Property shall be exempt from the Assessments, charges, and liens created under this Declaration:

8.12.1. All properties to the extent of any easement or other interest therein dedicated to and accepted by the Town of Frisco and devoted to public use;

8.12.2. All utility lines and easements and;

8.12.3. Common Area and all Project Common Areas.

Section 8.13. Statement of Status of Assessments. The Master Association shall furnish to an Owner or his designee or to any Mortgagee a statement setting forth the amount of unpaid Assessments then levied against the Lot in which the Owner, designee or Mortgagee has an interest. The Association shall deliver the statement personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party within 14 calendar days after the registered agent of the Master Association receives the request by personal delivery or by certified mail, first class postage prepaid, return receipt requested or as otherwise required by the Act. The information contained in such statement, when signed by the Treasurer of the Master Association or the Manager, shall be conclusive upon the Master Association, the Board, and every Owner as to the person or persons to whom such statement is issued and who rely on it in good faith.

Section 8.14. Protection of Master Association's Lien. With the approval of the Board of Directors, the Master Association may protect its lien for Assessments against any Lot by submitting a bid at any sale held for delinquent taxes payable with respect to the Lot.

Section 8.15. Failure to Assess. The omission or failure of the Board to fix the Assessment amounts or rates or to deliver or mail to each Owner an Assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay Assessments. In such event, each Owner shall continue to pay Annual Assessments on the same basis as for the last year for which an Assessment was made until a new Assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Master Association in accordance with any budget procedures as may be required under the Act.

ARTICLE IX
SPECIAL DECLARANT RIGHTS
AND ADDITIONAL RESERVED RIGHTS

Section 9.1. General Provisions. Until the expiration of the Special Declarant Rights Period, Declarant shall have the following Special Declarant Rights with respect to all of the Property (including the Expansion Property):

9.1.1. Completion of Improvements. The right to complete Improvements as indicated on any Plat filed with respect to the Property;

9.1.2. Development Rights. The right to exercise all "development rights," as defined from time to time in the Act (and so referred to here as "Development Rights"), including without limitation the right or combination of rights hereby reserved by Declarant, as follows:

(a) The right to annex all or part of the Expansion Property to the Project, in accordance with Article XV.

(b) The right to create Lots and Common Area on the Property, subject to the limitations of Section 1.4.

(c) The right to subdivide Lots and convert Lots into Common Area on any part of the Property, subject to the limitations of Section 1.4.

(d) The right to withdraw real estate, whether contained within the Property initially subject to this Declaration or within the Expansion Property, from Water Dance, as provided in Article XV.

9.1.3. Sales Activities. Subject to any requirements imposed by the Town of Frisco, the right to maintain six sales offices, six management offices, up to 50 signs advertising the Property and up to 20 model residences on the Common Area and on Lots owned by Declarant, whether contained within the Property initially subject to this Declaration, or within the Expansion Property. The offices, model residences and signs will be of sizes and styles governed by the Design Guidelines and may be relocated by Declarant from time to time. At all times, the model residences and signs will remain the property of Declarant and may be removed from the Property by Declarant at any time during or promptly after the expiration of the Special Declarant Rights Period.

9.1.4. Easements. The right to use easements through the Common Area on the Property (including the Expansion Property) for the purpose of making Improvements on the Property (and the Expansion Property).

9.1.5. Project Associations. The right to make the Property subject to one or more Project Associations.

9.1.6. Association Directors and Officers. The right to appoint any officer or director of the Master Association, as provided in this Declaration or the Bylaws, and subject to the limitations of the Act.

Without limiting the generality of Section 9.1.2 above, Declarant reserves for itself and any Successor Declarant the right to establish a time share or interval ownership regime within a Project on the Property.

Section 9.2. Order of Exercise of Declarant's Rights. Declarant makes no representations and gives no assurances regarding the legal description or the boundaries of any phase of the Expansion Property or the order in

which the phases of the Expansion Property may be developed or incorporated in Water Dance. Further, the fact that Declarant may exercise one or more of Declarant's Development Rights or other Special Declarant Rights on one portion of the Property (including the Expansion Property) shall not operate to require Declarant to exercise a Development Right or other Special Declarant Right with respect to or any other portion of the Property (including the Expansion Property).

Section 9.3. Supplemental Provisions Regarding Declarant's Rights. Without limiting the generality of the foregoing, certain of these Special Declarant Rights are explained more fully in this Article below. Further, Declarant reserves the right to amend this Declaration and any Plat in connection with the exercise of any Development Right or any other Special Declarant Right to the extent permitted by the Act, and Declarant also reserves the additional rights retained for the benefit of Declarant in this Article and in other provisions of this Declaration.

Section 9.4. Reservation for Expansion. Declarant hereby reserves for itself and its successors and assigns and for Owners in all future phases of Water Dance a perpetual easement and right-of-way for access over, upon and across the Property, including the Expansion Property, for construction, utilities, drainage, ingress and egress, and for use of the Common Area, including Common Area located within the Expansion Property. The location of these easements and rights-of-way may be made certain by Declarant or the Master Association by instruments recorded in Summit County, Colorado.

Declarant further reserves the right to establish from time to time, by dedication or otherwise, utility and other easements, and to create other reservations, exceptions and exclusions convenient or necessary for the use and operation of any other property of Declarant, as long as such action does not hamper the enjoyment of Water Dance, as built or expanded by the Owners.

Section 9.5. Reservation of Easements, Exceptions, and Exclusions for Utilities, Infrastructure, and Access. Declarant reserves for itself and its successors and assigns and hereby grants to the Master Association, acting through the Board of Directors, the concurrent right to establish from time to time, by declaration or otherwise, utility and other easements, permits, or licenses over the Common Area and Project Common Area, for purposes including but not limited to streets, paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues and conduit installation areas, and to create other reservations, exceptions and exclusions in the best interest of the Owners and the Master Association, in order to serve all the Owners within Water Dance as initially built and expanded.

Declarant also reserves for itself and its successors and assigns and grants to the Master Association the concurrent right to establish from time to time by an instrument recorded in Summit County, Colorado, such easements, permits or licenses over the Common Area and Project Common Area for access by certain persons (other than Owners and Owners' families and guests) who may be permitted to use designated portions of the Common Area or Project Common Area as contemplated under this Declaration or any Project Declaration.

Section 9.6. Emergency Access Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and upon the Property in the proper performance of their duties.

Section 9.7. Declarant's Rights Incident to Construction. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under, and across the Common Area and the Project Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Improvements on the Property or other real property owned by Declarant; provided, however, that no such rights shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment, or access to an Owner's Lot by that Owner or his family, tenants, employees, guests, or invitees.

Section 9.8. Bike Path and Hiking Easements. Any bike path, hiking or other recreation areas that are located in easements within the boundary of a Lot will be insured by the Association pursuant to Article XI in the same manner as the Common Area is insured by the Association.

Section 9.9. Easements Deemed Created. All conveyances of Lots hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article IX, even though no specific reference to such easements or to this Article IX appears in the instrument for such conveyance.

ARTICLE X PROPERTY RIGHTS OF OWNERS

Section 10.1. Owners' Easements of Access and Enjoyment. Every Owner has a perpetual, nonexclusive easement for access to and from his Lot and for the use and enjoyment of the Common Area, which easement is appurtenant to and shall pass with the title to every Lot, subject to the provisions set forth in this Article.

Section 10.2. Delegation of Use. Any Owner may delegate, in accordance with the Water Dance Documents (including specifically, but without limitation, the Water Dance Rules), his rights of access and enjoyment described in Section 10.1 above to his tenants, employees, family, guests or invitees.

Section 10.3. Easements of Record and of Use. The Property shall be subject to all easements shown on any recorded Plat affecting the Property and to any other easements of record or of use as of the date of recordation of this Declaration.

Section 10.4. Partition or Combination of Lots. No part of a Lot may be partitioned or separated from any other part thereof, and no Lots may be combined, except as provided in this Section and subject to the limitations of Section 1.4 and the requirements of the Act, and except as provided in Section 9.1. A Lot may be subdivided into two or more Lots, or two or more Lots may be combined into one, only with the written consent of Declarant (during the Special Declarant Rights Period) and the Board of Directors and full compliance with all applicable state, county and local zoning and subdivision regulations, the Act, and all applicable Project Documents. Declarant's consent shall be conditioned upon payment by the Owner or Owners concerned of all expenses incident to giving the consent, including legal and accounting fees. Every agreement and recorded instrument for partition or combination of Lots shall make adequate provision for the preservation of easements previously reserved with respect to the Lots, and the adjustment of voting rights and liability for payment of Assessments appurtenant to or imposed on such Lots.

Whether partitioned, combined, or unchanged, each Lot shall be conveyed, transferred, gifted, devised, bequeathed, encumbered, or otherwise disposed of, as the case may be, with all appurtenant rights and interests created by law or by this Declaration, including the Owner's membership in the Master Association and the right to use the Common Area, and with the appropriate allocation of voting rights, as provided in Section 4.5 above, and liability for Assessments as established for such classification of Lot by the Board of Directors.

Section 10.5. No Partition of Common Area. The Common Area shall be owned by the Master Association, and no Owner shall bring any action for partition or division of the Common Area. By acceptance of a deed or other instrument of conveyance or assignment, each Owner shall be deemed to have specifically waived such Owner's rights to institute or maintain a partition action or any other action designed to cause a division of the Common Area, and this Section may be pleaded as a bar to any such action. Any Owner who shall institute or maintain any such action shall be liable to the Master Association, and hereby agrees to reimburse the Master Association for its costs, expenses, and reasonable attorneys' (and legal assistants') fees in defending any such action.

ARTICLE XI
INSURANCE AND FIDELITY BONDS

Section 11.1. Authority to Purchase. All insurance policies relating to the Common Area shall be purchased by the Board of Directors or its duly authorized agent. The Board of Directors, the Manager, and Declarant shall not be liable for failure to obtain any coverage required by this Article XI or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at demonstrably unreasonable costs. Notwithstanding the foregoing, if the insurance described in Sections 11.3 and 11.4 below is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy having been obtained, the Master Association promptly shall cause notice of that fact to be hand delivered or otherwise delivered to all Owners by such methods as required by the Act.

Section 11.2. General Insurance Provisions. All such insurance coverage obtained by the Board of Directors shall conform to any minimum requirements of the Act, and to the extent not inconsistent with the Act, the following provisions:

11.2.1. As long as Declarant owns any Lot, Declarant shall be protected by all such policies in the same manner as any other Owner. The coverage provided to Declarant under the insurance policies obtained in compliance with this Article XI shall not be deemed to protect or be for the benefit of any general contractor engaged by Declarant, nor shall such coverage be deemed to protect Declarant for (or waive any rights with respect to) warranty claims against Declarant as the developer of Water Dance.

11.2.2. The deductible, if any, on any insurance policy purchased by the Board of Directors may be treated as a Common Expense payable from Annual Assessments or Special Assessments allocable to all of the Lots (or to only some of the Lots, if the claims or damages arise from the negligence of particular Owners, or if the repairs benefit only particular Owners) or as an item to be paid from working capital reserves established by the Board of Directors. Except as otherwise set forth in this Article, the maximum deductible amount shall be the lesser of \$10,000 or 1% of the policy face amount.

Section 11.3. Physical Damage Insurance on Common Area. The Master Association shall obtain insurance for all insurable Improvements, if any, on the Common Area in an amount equal to the full replacement value (i.e., 100% of the current "replacement cost" exclusive of land, foundation, excavation, depreciation on personal property, and other items normally excluded from coverage), which shall include all building service equipment and the like, common personal property and supplies, and any fixtures or equipment within the Common Area. In addition, such policy shall afford protection against at least the following:

11.3.1. Loss or damage by fire and other hazards covered by the standard extended coverage endorsement with the standard "all-risk" endorsement covering sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage.

11.3.2. In the event the Common Area contains a steam boiler, a broad form policy of repair and replacement boiler and machinery insurance in the lesser of (i) the amount of the insurable value of the building housing the boiler, or (ii) \$2,000,000 (or such other amount as the Board deems advisable).

11.3.3. Such other risks as shall customarily be covered with respect to projects similar in construction, location, and use to Water Dance.

In contracting for the insurance coverage obtained pursuant to this Section above, the Board of Directors shall be required to make reasonable efforts to secure coverage which provides the following:

(i) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to this Declaration not to do so.

(ii) The following endorsements (or equivalent): (a) "cost of demolition;" (b) "contingent liability from operation of building laws or codes;" (c) "increased cost of construction;" (d) "agreed amount" or elimination of co-insurance clause; and (e) "inflation guard" (if available).

Prior to obtaining any policy of physical damage insurance or any renewal thereof, and at such other intervals as the Board of Directors may deem advisable (but in any event, at least once every three years), the Board of Directors shall obtain an appraisal from a general contractor or such other source as the Board may determine of the then current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage) subject to insurance carried by the Master Association, without deduction for depreciation, for the purpose of determining the amount of physical damage insurance to be secured pursuant to this Article.

Section 11.4. Liability Insurance. The Master Association shall obtain a comprehensive policy of commercial general liability insurance (including bodily injury, libel, slander, false arrest, and invasion of privacy coverage) and property damage insurance with such limits as the Board of Directors may from time to time determine, insuring each member of the Board of Directors, the Master Association, the Manager, each Owner and the respective employees, agents and all persons acting as agents of the Master Association against any liability to the public or the Owners (and their guests, invitees, tenants, agents, and employees) arising in connection with the ownership, operation, maintenance, or use of the Common Area and streets and roads within Water Dance and any other areas under the control of the Master Association. Declarant shall be included as an additional insured in Declarant's capacity as an Owner or Director. The Owners shall be included as additional insureds, but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Area.

Such comprehensive policy of public liability insurance shall include the following:

11.4.1. Coverage for contractual liability, liability for non-owned and hired automobiles, and, if applicable, host liquor liability, employer's liability, and such other risks as shall customarily be covered with respect to developments similar to Water Dance in construction, location, and use.

11.4.2. A cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to an action against another insured.

11.4.3. A "severability of interest" endorsement which shall preclude the insurer from denying liability coverage to an Owner because of the negligent acts of the Master Association or another Owner.

The Board of Directors shall review the coverage limits at least once every two years, but, generally, the Board shall carry such amounts of insurance usually required by private institutional mortgage lenders on projects similar to Water Dance and in no event shall such coverage be less than \$1,000,000 for all claims for bodily injury or property damage arising out of one occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits shall also be obtained in an amount not less than \$2,000,000.

Section 11.5. Fidelity Insurance. Fidelity bonds shall be maintained by the Master Association to protect against dishonest acts on the part of its officers, Directors, trustees, and employees, and on the part of all others who handle or are responsible for handling the funds of or administered by the Master Association. In addition, if responsibility for handling funds is delegated to a Manager, such bonds shall be required for the Manager and its officers, employees, and agents, as applicable. Such bonds shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or

expressions. Such bonds shall cover the maximum funds that will be in the custody of the Master Association or any management agent at any time while the bond is in force.

Section 11.6. Flood Insurance. If any habitable structure on the Common Area is located in a Special Flood Hazard Area, which is designated A, AE, AH, AO, A1-30, A-99, V, VE or V1-30 on a Flood Insurance Rate Map, the Master Association shall obtain a policy of flood insurance in an amount equal to 100% of the insurable value of the Improvements or the maximum coverage available under the appropriate National Flood Insurance Administration program. The maximum deductible amount shall be the lesser of \$5,000 or 1% of the policy face amount.

Section 11.7. Provisions Common to Physical Damage Insurance, Liability Insurance, Fidelity Insurance and Flood Insurance. Any insurance coverage obtained by the Master Association under the provisions of this Article above shall be subject to the following provisions and limitations:

11.7.1. The named insured under any such policies shall include Declarant, until all of the Lots in Water Dance have been conveyed, and the Master Association, as attorney-in-fact for the use and benefit of the Owners, or the authorized representative of the Master Association (including any trustee with whom the Master Association may enter into an insurance trust agreement, or any successor trustee, each of which is sometimes referred to in this Declaration as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under such policies.

11.7.2. Each Owner shall be an insured person with respect to liability arising out of the Owner's interest in the Common Area or membership in the Master Association.

11.7.3. In no event shall the insurance coverage obtained and maintained pursuant to this Article be brought into contribution with insurance purchased by the Owners or their Mortgagees.

11.7.4. The policies shall provide that coverage shall not be prejudiced by (i) any act or neglect of any Owner (including an Owner's family, tenants, servants, agents, invitees, and guests) when such act or neglect is not within the control of the Master Association, or (ii) any act or neglect or failure of the Master Association to comply with any warranty or condition with regard to any portion of the Property over which the Master Association has no control; or (iii) conduct of any kind on the part of an Owner (including the Owner's family, tenants, servants, agents and guests) or any Director, officer, employer, or Manager of the Master Association, without prior demand to the Association and a reasonable opportunity to cure the matter.

11.7.5. The policies shall contain the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Property is located, and provide that coverage may not be cancelled in the middle or at the end of any policy year or other period of coverage or substantially modified or reduced (including cancellation for nonpayment of premiums) without at least 30 days' prior written notice mailed to the Master Association and to each Owner and First Mortgagee to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.

11.7.6. The policies shall contain a waiver by the insurer of any right to claim by way of subrogation against Declarant, the Board of Directors, the Master Association, the Manager, and any Owner and their respective agents, employees, or tenants, and in the case of Owners, members of their households, and of any defenses based upon co-insurance.

11.7.7. The policies described in Sections 11.3 and 11.4 above shall provide that any "no other insurance" clause shall expressly exclude individual Owners' policies from its operation so that the physical damage policy or policies purchased by the Board shall be deemed primary coverage, and any individual owners' policies shall be deemed excess coverage.

Section 11.8. Personal Liability Insurance of Officers and Directors. To the extent obtainable at reasonable cost, appropriate officers' and directors' personal liability insurance shall be obtained by the Master Association to protect the officers and Directors from personal liability in relation to their duties and responsibilities in acting as such officers and Directors on behalf of the Master Association.

Section 11.9. Workmen's Compensation Insurance. The Master Association shall obtain workmen's compensation or similar insurance with respect to its employees, if any, in the amounts and forms as may now or hereafter be required by law.

Section 11.10. Other Insurance. The Master Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it deems appropriate with respect to the Master Association's responsibilities and duties.

Section 11.11. Insurance Obtained by Owners. Each Owner shall have the right to obtain insurance for such Owner's benefit, at such Owner's expense, covering the Owner's personal property and personal liability (except to the extent any Owner's Lot is encumbered by an easement conveyed to the Master Association as Common Area, or to a Project Association as Project Common Area). In addition, each Owner may obtain such other and additional insurance coverage on and in relation to his Lot as such Owner concludes to be desirable; provided, however, that no insurance coverage obtained by an Owner shall operate to decrease the amount which the Board of Directors, on behalf of all Owners, may realize under any policy maintained by the Board or otherwise affect any insurance coverage obtained by the Master Association or cause the diminution or termination of that coverage. Any such insurance obtained by an Owner shall include a waiver of the particular insurance company's right of subrogation against the Master Association and other Owners.

ARTICLE XII MASTER ASSOCIATION AS ATTORNEY-IN-FACT

Each and every Owner hereby irrevocably constitutes and appoints the Master Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place and stead for the purpose of dealing with the Improvements on the Common Area upon damage or destruction as provided in this Article or a complete or partial taking as provided in Article XIV below. Acceptance by any grantee of a deed or other instrument of conveyance from Declarant or from any Owner shall constitute appointment of the Master Association as attorney-in-fact as provided in this Article. As attorney-in-fact, the Master Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, assignment, deed, waiver or other instrument with respect to the interest of any Owner which may be necessary or appropriate to exercise the powers granted to the Master Association as attorney-in-fact.

ARTICLE XIII DAMAGE OR DESTRUCTION

Section 13.1. Estimate of Damage or Destruction. As soon as practical after an event causing damage to or destruction of any part of the Common Area, the Master Association 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 of that part of the Common Area so damaged or destroyed. "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.

Section 13.2. Repair and Reconstruction. As soon as practical after obtaining estimates, the Master Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed

Improvements. As attorney-in-fact for the Owners, the Master Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner shall be necessary. Assessments of the Master Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

Section 13.3. Funds for Repair and Reconstruction. The proceeds received by the Master Association from any hazard insurance shall be used for the purpose of repair, replacement, and reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Master Association may, pursuant to Section 8.4 above, levy, assess and collect in advance from all Owners, without the necessity of a special vote of the Owners (except as provided in Section 8.4) a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair and reconstruction.

Section 13.4. Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Master Association and the amounts received from the Special Assessments provided for in Section 8.4 above constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made as a Special Assessment to the Master Association under Section 8.4 above, or, if no Special Assessments were made, then on the basis of the allocation to the Owners of Common Expenses under Section 8.3 above, first to the Mortgagees and then to the Owners, as their interests appear.

Section 13.5. Decision Not to Rebuild. If Owners representing at least 80% of the votes in the Master Association, including the vote of every Owner of Improvements that will not be restored and including, during the Special Declarant Rights Period, the vote of Declarant, and any other votes required by the Act, agree in writing not to repair and reconstruct and no alternative Improvements are authorized, then and in that event the Property shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Master Association in a neat and attractive condition. Any remaining insurance proceeds shall be distributed in accordance with the Act.

Section 13.6. Damage or Destruction Affecting Lots. In the event of damage or destruction to the Improvements located on any of the Lots, the Owner thereof shall promptly repair and restore the damaged Improvements to their condition prior to such damage or destruction. If such repair or restoration is not commenced within 180 days from the date of such damage or destruction, or if repair and reconstruction is commenced but then abandoned for a period of more than 90 days, then the Master Association may, after notice and hearing as provided in the Bylaws, impose a fine accruing at the rate of \$1,000 per day or such other rate imposed by the Board in compliance with the Act, charged against the Owner of the Lot until repair and reconstruction is commenced, unless the Owner can prove to the satisfaction of the Master Association that such failure is due to circumstances beyond the Owner's control. Such fine shall be a Default Assessment and lien against the Lot as provided in Section 8.8 above.

ARTICLE XIV CONDEMNATION

Section 14.1. Rights of Owners. Whenever all or any part of the Common Area shall be taken or conveyed in lieu of and under threat of condemnation by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice of the taking, but the Master Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

Section 14.2. Partial Condemnation; Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Master Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which Improvements have been constructed, then unless, within 60 days after such taking, Owners representing at least 67% of the votes in the Master Association, including during the Special Declarant Rights Period, the vote of Declarant, shall otherwise agree, the Master Association shall restore or replace such Improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Committee. If such Improvements are to be repaired or restored, the provisions in Article XIII 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 Area, 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 on the basis of the Common Expenses allocated to the Owners under Section 8.3 above, first to the Mortgagees and then to the Owners, as their interests appear.

Section 14.3. Complete Condemnation. If all of Water Dance 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, and the portion of the condemnation award attributable to the Common Area shall be distributed as provided in Section 14.2 above.

ARTICLE XV EXPANSION AND WITHDRAWAL

Section 15.1. Reservation of Right to Expand. Declarant reserves the right, but shall not be obligated, to expand the effect of this Declaration to include all or part of the Expansion Property. The consent of the existing Owners and Mortgagees shall not be required for any such expansion, and Declarant may proceed with such expansion without limitation at its sole option. Declarant shall have the unilateral right to transfer to any other person this right to expand by an instrument duly recorded. Declarant shall pay all taxes and other governmental assessments relating to the Expansion Property as long as Declarant is the owner of such property.

Section 15.2. Incorporation of Additional Expansion Property. Declarant also reserves the right to incorporate into the Property real property that is not part of the Expansion Property, subject to the limitations of the Act.

Section 15.3. Declaration of Annexation. Any expansion may be accomplished by recording a Declaration of Annexation and one or more supplemental Plats in the records of the Clerk and Recorder of Summit County, Colorado, on or before the expiration of the Special Declarant Rights Period. The Declaration of Annexation shall describe the real property to be expanded, submit it to the covenants, conditions and restrictions contained in this Declaration, designate it as the whole or part of a Project, if the Expansion Property parcel subjected to this Declaration in that instance does in fact constitute all or part of a Project, and provide for voting rights and Assessment allocations as provided in this Declaration. Specifically, each such Lot shall be allocated one vote and liability for the Common Expenses equal to the liability allocated to each of the other Lots, and the proportionate voting interest and allocation of Common Expenses for the other Lots will be adjusted accordingly. Such Declaration of Annexation shall not require the consent of Owners. Any such expansion shall be effective upon the filing for record of such Declaration of Annexation, unless otherwise provided therein. The expansion may be accomplished in stages by successive supplements or in one supplemental expansion.

Upon the recordation of any such Declaration of Annexation, the definitions used in this Declaration shall be expanded automatically to encompass and refer to Water Dance as expanded. Such Declaration of Annexation may add supplemental covenants peculiar to the Expansion Property in question, or delete or modify provisions of this Declaration as it applies to the Expansion Property added. However, this Declaration may not be modified with respect to that portion of the Property already subject to this Declaration, except as provided below for amendment.

Upon the annexation of any additional Common Area or any other parcels of the Expansion Property or other real estate into Water Dance, the obligations of the Master Association for the maintenance and operation of the Common Area or other properties maintained by the Master Association for the use and benefit of the Owners, and the Assessments levied to fund those functions, may be increased appropriately, subject to the budget procedures set forth in the Water Dance Documents and the Act.

Section 15.4. Withdrawal of Property. Declarant reserves the right to withdraw from the jurisdiction of these Covenants any parcel of the Property (including the Expansion Property), subject to the limitations of the Act. After withdrawal of any parcel from the regime of this Declaration, the Common Expenses and votes attributable to the Lots remaining in the Property shall be allocated in accordance with Sections 4.5, 8.3 and 8.4 above.

ARTICLE XVI MORTGAGEE PROTECTIONS

Section 16.1. Introduction. This Article establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain Mortgages. This Article is supplemental to, and not in substitution for, any other provisions of this Declaration, but in the case of any conflict, this Article shall control.

Section 16.2. Percentage of Eligible Mortgage Holders. Wherever in this Declaration the approval or consent of a specified percentage of Eligible Mortgage Holders is required, it shall mean the approval or consent of Eligible Mortgage Holders under Mortgages encumbering Lots which in the aggregate have allocated to them such specified percentage of votes in the Master Association when compared to the total allocated to all Lots then subject to Mortgages held by Eligible Mortgage Holders.

Section 16.3. Notice of Actions. The Master Association shall give prompt written notice to each Eligible Mortgage Holder of the following:

16.3.1. Any condemnation loss or any casualty loss which affects a material portion of the Common Area or any Lot in which an interest is held by the Eligible Mortgage Holder.

16.3.2. Any delinquency which remains uncured for 60 days in the payment of Assessments by an Owner whose Lot is encumbered by a Mortgage held by such Eligible Mortgage Holder.

16.3.3. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Master Association.

16.3.4. Any proposed action which would require the consent of Eligible Mortgage Holders as required in Section 16.4 below.

16.3.5. Any judgment rendered against the Master Association.

Section 16.4. Consent Required.

16.4.1. Document Changes. No amendment of any material provision of this Declaration described in this Section 16.4.1. may be effective without the vote of at least 67% of the Owners in the Master Association (subject to Section 19.3 below) and the approval in writing of at least 51% of the Eligible Mortgage Holders. "Material" provisions include any provision affecting the following:

(a) Assessments, Assessment liens, or subordination or the priority of Assessment liens.

- (b) Voting rights.
- (c) Reserves for maintenance, repair and replacement of Common Area.
- (d) Responsibility for maintenance and repairs.
- (e) Rights to use the Common Area.
- (f) Expansion or contraction of Water Dance, or the addition, annexation or withdrawal of property to or from Water Dance, except as provided in Article XV above.
- (g) Insurance or fidelity bonds.
- (h) Imposition of any restrictions on an Owner's right to sell or transfer his Lot.
- (i) Restoration or repair of the Property after hazard damage or partial condemnation in a manner other than that specified in this Declaration.
- (j) Termination of this Declaration after the occurrence of substantial destruction or condemnation.
- (k) The benefits of Eligible Mortgage Holders.

16.4.2. Actions. The Master Association may not take any of the following actions, except as such rights have been specifically reserved by Declarant under the provisions of this Declaration, without the approval of at least 51% of the Eligible Mortgage Holders:

- (a) Conveyance or encumbrance of the Common Area (provided, however, that the granting of easements for public utilities, for construction and maintenance of roads within Water Dance, or for other public purposes not inconsistent with the use of the Common Area by the Owners shall not be deemed a transfer within the meaning of this clause).
- (b) Restoration or repair of the Property (after hazard damage or partial condemnation) in a manner other than that specified in this Declaration.
- (c) Termination of this Declaration for reasons other than substantial destruction or condemnation, as permitted with the approval percentages specified in Articles XIII and XIV above.
- (d) Merger of Water Dance with any other common interest community.
- (e) The granting of easements, leases, licenses or concessions through or over the Common Area (excluding, however, any such grants for public utilities or other public purposes not inconsistent with the use of the Common Area by the Owners).
- (f) The assignment of the future income of the Master Association, including its right to receive Assessments.
- (g) Any action not to repair or replace the Common Area except as permitted under Articles XIII and XIV above.

Section 16.5. Notice of Objection. Unless an Eligible Mortgage Holder provides the Secretary of the Master Association with written notice of its objection, if any, to any proposed amendment or action outlined above

within 30 days following the receipt of notice delivered by certified or registered mail, return receipt requested, of such proposed amendment or action, the Eligible Mortgage Holder shall be deemed conclusively to have approved the proposed amendment or action.

Section 16.6. First Mortgagees' Rights.

16.6.1. Payment of Taxes and Insurance. First Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Area or Improvements thereon, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Area. First Mortgagees making such payments shall be owed immediate reimbursement from the Master Association.

16.6.2. Payment of Assessments. Eligible Mortgage Holders shall be entitled to cure any delinquency of the Owner of the Lot encumbered by the Eligible Mortgage Holder in the payment of Assessments of which the Eligible Mortgage Holder has received notice under Section 16.3.2. above. In that event, the Eligible Mortgage Holder shall be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

Section 16.7. Title Taken by First Mortgagee. Any First Mortgagee who obtains title to the Lot pursuant to the remedies provided in the First Mortgage, including foreclosure of the First Mortgage, shall be liable for all Assessments due and payable as of the date title to the Lot vests in the First Mortgagee under the statutes of Colorado governing foreclosures. Except as provided in the Act, such First Mortgagee shall not be liable for any unpaid dues and charges attributable to the Lot which accrue prior to the date such title vests in the First Mortgagee.

ARTICLE XVII
ENFORCEMENT OF COVENANTS

Section 17.1. Violations Deemed a Nuisance. Every violation of this Declaration or any other of the Water Dance Documents is deemed to be a nuisance and is subject to all the remedies provided for the abatement or correction of the violation. In addition, all public and private remedies allowed at law or equity against anyone in violation of these Covenants shall be available.

Section 17.2. Compliance. Each Owner or other occupant of any part of the Property shall comply with the provisions of the Water Dance Documents as the same may be amended from time to time.

Section 17.3. Failure to Comply. Failure to comply with the Water Dance Documents shall be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Reasonable notice and an opportunity for a hearing as provided in the Bylaws shall be given to the delinquent party prior to commencing any legal proceedings.

Section 17.4. Who May Enforce. Any action to enforce the Water Dance Documents may be brought by Declarant, the Board, the Design Review Committee or the Manager in the name of the Master Association on behalf of the Owners. If, after a written request from an aggrieved Owner, none of the foregoing persons or entities commences an action to enforce the Water Dance Documents, then the aggrieved Owner may bring such an action.

Section 17.5. Remedies. In addition to the remedies set forth above in this Article, any violation of the Water Dance Documents shall give to the Board, the Manager, the Design Review Committee or Declarant, on behalf of the Owners, the right to enter upon the offending premises or take appropriate peaceful action to abate, remove, modify, or replace, at the expense of the offending Owner, any structure, thing or condition that may exist thereon contrary to the interest of the Owners and meaning of the Water Dance Documents. If the offense occurs on

any easement, walkway, Common Area or the like, the cure shall be at the expense of the Owner or other person responsible for the offending condition.

Section 17.6. Nonexclusive Remedies. All the remedies set forth herein are cumulative and not exclusive.

Section 17.7. No Waiver. The failure of the Board of Directors, Declarant, the Design Review Committee, the Manager or any aggrieved Owner to enforce the Water Dance Documents shall not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of the Water Dance Documents at any future time.

Section 17.8. No Liability. No member of the Board of Directors, Declarant, the Design Review Committee, the Manager or any Owner shall be liable to any other Owner for the failure to enforce any of the Water Dance Documents at any time.

Section 17.9. Recovery of Costs. If legal assistance is obtained to enforce any of the provisions of the Water Dance Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Water Dance Documents or the restraint of violations of the Water Dance Documents, the prevailing party shall be entitled to recover all costs incurred by it in such action, including reasonable attorneys' fees (and legal assistants' fees) as may be incurred, or if suit is brought, as may be determined by the court.

ARTICLE XVIII RESOLUTION OF DISPUTES

If any dispute or question arises between Members or between Members and the Master Association or relating to the interpretation, performance or nonperformance, violation or enforcement of the Water Dance Documents, such dispute or violation may be subject to a hearing and determination by the Board in accordance with the procedures set forth in the Bylaws.

ARTICLE XIX DURATION OF THESE COVENANTS AND AMENDMENT

Section 19.1. Term. This Declaration and any amendments or supplements hereto shall remain in effect from the date of recordation until the 21st anniversary of the date this Declaration is first recorded in the office of the Clerk and Recorder of Summit County, Colorado. Thereafter these Covenants shall be automatically extended for successive periods of 10 years each, unless otherwise terminated or modified as provided below.

Section 19.2. Amendment. Except as otherwise provided in this Article XIX, this Declaration, or any provision of it, may be terminated, extended, modified, amended or revoked as to the whole or any portion of the Property, upon the written consent of Owners holding 67% or more of the votes in the Master Association, allocated pursuant to Section 4.5 above, and upon compliance with Article XVI above, as appropriate. Amendments made pursuant to this Section shall inure to the benefit of and be binding upon all Owners of any part of the Property, their family, tenants, guests, invitees and employees, and their respective heirs, successors and assigns. A certificate of a licensed abstract or title company showing record ownership of the Property and a certificate of the Secretary of the Master Association documenting votes held and voting rights exercised on the basis of such ownership records shall be evidence of such ownership and voting representation for the purposes of any such amendment.

Section 19.3. Requirement for Declarant's Approval Generally. Notwithstanding the provisions of Section 19.2, (i) no termination, extension, modification, amendment or restatement of this Declaration shall be effective

in any event during the Period of Declarant Control, unless the written approval of Declarant is first obtained; and (ii) no termination, extension, modification, amendment or restatement of this Declaration may be made during the Special Declarant Rights Period affecting (x) the right of Declarant to appoint the Design Review Committee, (y) any Special Declarant Right or other right expressly reserved to Declarant under this Declaration or (z) the protection of Declarant's rights under this Article 19, without Declarant's written consent.

Section 19.4. Notice of Amendment. No amendment or revocation of this Declaration shall be effective unless a written notice of the proposed amendment is sent to every Owner reasonably in advance of any action taken or purported to be taken and such Owner has been given the opportunity to vote or give its consent thereto.

Section 19.5. Effective on Recording. Any modification, amendment or revocation shall be immediately effective upon recording in Summit County, Colorado, a copy of such amendment, modification or revocation executed and acknowledged by the necessary number of Owners (and by Declarant, as required), accompanied by either a certificate of a licensed abstract or title company as to ownership, or a duly authenticated certificate of the Secretary of the Master Association stating that the required number of consents of Owners were obtained, based on a certificate of a licensed title or abstract company or other authoritative evidence of compliance with the requirements of this Declaration regarding amendments, which shall be placed on file in the office of the Master Association.

ARTICLE XX MISCELLANEOUS PROVISIONS

Section 20.1. Severability. This Declaration, to the extent possible, shall be construed or reformed so as to give validity to all of its provisions. Any provision of this Declaration found to be prohibited by law or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating any other part hereof.

Section 20.2. Construction. In interpreting words in this Declaration, unless the context shall otherwise provide or require, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

Section 20.3. Headings. The headings are included only for purposes of convenient reference, and they shall not affect the meaning or interpretation of this Declaration.

Section 20.4. Waiver. No failure on the part of the Master Association or the Board to give notice of default or to exercise or to delay in exercising any right or remedy shall operate as a waiver, except as specifically provided above in the event the Board fails to respond to certain requests. No waiver shall be effective unless it is in writing and signed by the President or Vice President of the Board on behalf of the Master Association.

Section 20.5. Limitation of Liability. Neither the Master Association nor any officer or member of the Board shall be liable to any party for any action or for any failure to act with respect to any matter arising by, through or under the Water Dance Documents if the action or failure to act was made in good faith. The Master Association shall indemnify all of the officers and Board members with respect to any act taken in their official capacity to the extent provided in this Declaration and by law and in the Articles of Incorporation and Bylaws.

Section 20.6. Conflicts Between Documents. In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In case of conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control.

Section 20.7. Assignment. Subject to the requirements and limitations of the Act, Declarant may assign all or any part of the Special Declarant Rights or any of Declarant's other rights and reservations hereunder to

any successor who takes title to all or part of the Property in a bulk purchase for the purpose of development and sale. Such successor shall be identified, the particular rights being assigned shall be specified, and, to the extent required, concomitant obligations shall be expressly assumed by such successor, all in a written instrument duly recorded in the records of the Clerk and Recorder of Summit County, Colorado.

[SEAL]
Attest:
Randy P. Myers Secretary

WATER DANCE, LTD.,
a Colorado corporation

By: Jeff Temple, Pres.
Jeff Temple, President

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 17 day of November 1994, by Jeff Temple as President and Randy P. Myers as Secretary of WATER DANCE, LTD., a Colorado corporation.

WITNESS my hand and official seal.

My commission expires: _____

[SEAL]

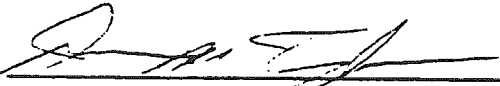
Laura Russette
Notary Public

LAURA RUSSETTE
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires 3-13-96

CONSENT OF PROPERTY OWNER

Rainbow Forest Limited Liability Company, a Wyoming limited liability company ("Rainbow Forest"), as owner of a portion of the Expansion Property described on Exhibit B attached to the foregoing Master Declaration for Water Dance, consents to the inclusion of the property owned by Rainbow Forest within the definition of Expansion Property under the Declaration. The execution of this Consent will not operate to impose on Rainbow Forest any obligations or liability as declarant or otherwise under the Declaration.

**RAINBOW FOREST LIMITED LIABILITY COMPANY, a
Wyoming limited liability company**

By: 
James M. Temple, Manager

APPROVAL OF LIENOR

The undersigned, beneficiary under a Deed of Trust dated July, 1994, and recorded 10/28, 1994, under Reception No. 479114 in the office of the Clerk and Recorder of Summit County, Colorado, approves the foregoing Master Declaration for Water Dance on Lake Dillon (the "Declaration"), and the undersigned agrees and acknowledges that any foreclosure or enforcement of any other remedy available to the undersigned under the Deed of Trust shall not render void or otherwise impair the validity of the Declaration and the covenants running with the land described in the Declaration.

Dated: Nov. 14, 1994.

RAINBOW FOREST LIMITED LIABILITY COMPANY, a Wyoming limited liability company

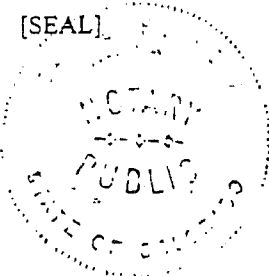
By: [Signature]
James M. Temple, Manager

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 14th day of November 1994, by James M. Temple as Manager of Rainbow Forest Limited Liability Company, a Wyoming limited liability company.

WITNESS my hand and official seal.

My commission expires: 8-2-95.



[Signature]
Notary Public

EXHIBIT C
TO
DECLARATION
FOR
WATER DANCE ON LAKE DILLON

Recorded Easements and Licenses

List of Title Exceptions

1. Right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the Property, and a right-of-way for ditches or canals constructed by the authority of the United States, as reserved in United States Patent recorded November 14, 1896 in Book 74 at Page 574, Summit County, Colorado.
2. Utility easement as granted to Public Service Company of Colorado in instrument recorded May 31, 1962, in Book 164 at Page 42 under Reception No. 95079, Summit County, Colorado.
3. Terms, conditions and provisions of Ordinance No. 72-5 recorded March 27, 1972, under Reception No. 125369, Summit County, Colorado.
4. Dedications, easements and covenants as shown on the Plat recorded Nov. 23, 1994, under Reception No. 481090, Summit County, Colorado.
5. Terms, conditions and provisions of Water Line Extension Contract and Agreement for grant of utility access recorded July 28, 1994, under Reception No. 472797, Summit County, Colorado.
6. Terms, conditions and provisions of Agreement for Bike and Recreation Path Dedication recorded July 28, 1994, under Reception No. 472799, Summit County, Colorado.
7. Easements as shown on the plat for Water Dance, A Resubdivision of Tract 1, Rainbow Forest Subdivision recorded September 26, 1994 under reception no. 476735.

Note: Ratification and Confirmation of plat for Water Dance recorded September 26, 1994 under reception no. 476736.