IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA, CIVIL DIVISION

RAYMOND PEÑA, JR.,
individually and on behalf of
all similarly situated persons,

Plaintiff,

vs.

THE KOLTER GROUP, LLC.;
OZRE; OK TERRALARGO, LLC;
OK TERRALARGO CLUB, LLC;
OK JV2 LLC; OK JV2 HOLDINGS LLC;
and KC 9W57TH 2 LLC,

Defendants.
_____/

CLASS REPRESENTATION

CASE NO.: 2020-CA-002588

DIVISION: 11

AMENDED AND SUPPLEMENTAL
CLASS ACTION COMPLAINT
AND DEMAND FOR JURY TRIAL

Plaintiff, Raymond Peña Jr., individually and on behalf of all those similarly situated, sues Defendants, The Kolter Group, LLC; OZRE; OK Terralargo, LLC; OK Terralargo Club, LLC; OK JV2 LLC; OK JV2 Holdings LLC; and KC 9W57th 2 LLC, and alleges:

Introduction

1. This class action lawsuit concerns Club Membership Fees collected from residents of the TerraLargo community. In the face of a challenge to the legality of collecting Club Membership Fees, the community's developer flushed the dollars collected from TerraLargo's residents through various entities in an effort to avoid refunding the illegally collected Club Membership Fees.

2. Defendants are part of a web affiliated companies that owned and developed the residential community TerraLargo. When this class action lawsuit was first filed, TerraLargo's

governing documents required residents to pay Club Membership Fees to the developer, which could, under the governing documents, keep the Club Membership Fees as pure profit "without deduction of expenses or charges in respect of the club." Club Plan § 6.1.

3. According to TerraLargo's governing documents, a limited liability company known as "OK Terralargo Club, LLC" was the "Club Owner" entitled to receive the Club Membership Fees collected from TerraLargo's residents. However, it appears that OK Terralargo Club, LLC did not ultimately receive the Club Membership Fees collected from TerraLargo's residents. Instead, the funds flowed through and to the other named Defendants.

4. For example, financial records obtained in discovery in this action indicate that: (a) on or about January 5, 2018, the Club's operating account was debited for $50,000.00, for check number 205, payable to "The Kolter Group, LLC" for "Owner's Equity Draw-Payment to OK Terralargo for Profit"; and (b) on or about October 21, 2019, the Club's operating account was debited for $150,835.70, for check number 245, payable to "Ok Terralargo, LLC" for "Owner's Equity Draw."

5. There are discrepancies in and issues with the Club's financial records such that there is not a full accounting for all of the Club Membership Fees collected from TerraLargo's residents and the ultimate recipient of those funds. However, it appears that Defendant OK Terralargo Club, LLC (which on paper was the "Club Owner" entitled to receive the funds) does not have the funds available to refund to TerraLargo's residents all of the Club Membership Fees illegally collected from TerraLargo's residents.

6. For example, The Kolter Group, LLC's chief financial officer William Johnson signed articles of dissolution for OK Terralargo Club, LLC that were filed on or about December 27, 2021, with the Florida Department of State. The articles of dissolution state that "All debts,

obligations and liabilities of the Company have been paid or discharged"; "All property and assets of the Company have been distributed to the Member"; and "There are no suits pending against the Company in any court."

7. According to prior filings with the Department of State, "OK JV 2 LLC" is the "Member" of OK Terralargo Club, LLC. Thus, according to OK Terralargo Club, LLC's articles of dissolution, all of its property and assets have been distributed to OK JV 2 LLC.

8. OK JV 2 LLC is a foreign limited liability company that has not registered to do business in Florida. Upon information and belief, OK JV 2 LLC is a Delaware limited liability company whose members are KC 9W57TH 2 LLC and OK JV2 Holdings LLC. Both of these companies appear to be holding companies formed for a joint venture between The Kolter Group, LLC and OZRE. The joint venture appears to have involved The Kolter Group, LLC managing the development of the TerraLargo community with capital invested by or through OZRE. Ultimately, the profit from developing the TerraLargo community, including the profit from the illegally collected Club Membership Fees, went to The Kolter Group, LLC and OZRE.

9. The Kolter Group, LLC's chief financial officer William Johnson falsely stated in the articles of dissolution for OK Terralargo Club, LLC that "All debts, obligations and liabilities of the Company have been paid or discharged" and "There are no suits pending against the Company in any court." Indeed, at the time of the filing of the articles of dissolution, this class action lawsuit was pending against, among other defendants, OK Terralargo Club, LLC, which had unsuccessfully moved to dismiss Plaintiff's claim that it was unlawful to collect Club Membership Fees that must therefore be refunded to the proposed class of the residents of TerraLargo who had paid a Club Membership Fee. Furthermore, at the time of the filing of the articles of dissolution, the lawyers representing OK Terralargo Club, LLC in this action were also

representing Avatar Properties, Inc. in the case of *Gundel v. Avatar Properties, Inc.*, in which the court ruled that collecting Club Membership Fees (in the same manner and under the same type of governing documents recorded in this case) violated the Homeowners' Association Act. *See Final Judgment* rendered Nov. 2, 2021 in *Gundel v. Avatar Properties, Inc.*, Case No. 17-CA-1446 (Fla. 10th Cir. Polk Cty.) *aff'd sub. nom. Avatar Properties, Inc. v. Gundel*, 372 So. 3d 715 (Fla. 6th DCA 2023), *review denied*, No. SC2023-0946, 2023 WL 7220822 (Fla. Nov. 2, 2023).

10. The Kolter Group, LLC's chief financial officer William Johnson's statement (in the articles of dissolution for OK Terralargo Club, LLC) that "All property and assets of the Company have been distributed to the Member" is significant because (a) under Terralargo's governing documents, OK Terralargo Club, LLC was the entity entitled to receive all of the illegally collected Club Membership Fees; and (b) OK Terralargo Club, LLC had recently received $4.5 million from Terralargo Community Association, Inc. for the purchase of the real property that comprised the Club.

11. In other words, when faced with a challenge to the legality of collecting Club Membership Fees, persons employed by The Kolter Group, LLC caused one of the joint venture's holding companies to sell the real property that comprised the Club, then dissolved that holding company, after flushing all of the money up through the web of affiliated companies that owned and developed the residential community TerraLargo.

12. This class action lawsuit was initially filed to challenge the legality of collecting the Club Membership Fee in TerraLargo. After the court denied Defendants' motion to dismiss, this case was stayed by agreement of the parties until the resolution of the appeal from the final judgment rendered in *Gundel*. The appeal in Gundel has now been resolved, and the Sixth District Court of Appeal has held that collecting a Club Membership Fee violates the Homeowners'

Association Act, *Avatar Properties, Inc. v. Gundel*, 372 So. 3d 715 (Fla. 6th DCA 2023), *review denied*, No. SC2023-0946, 2023 WL 7220822 (Fla. Nov. 2, 2023). And Plaintiff has now discovered the fraudulent transfers described herein, through which Defendants have sought to avoid paying damages for the Club Membership Fees illegally collected in Terralargo. Accordingly, Plaintiff is now filing an amended and supplemental complaint to, among other things, include claims to avoid those fraudulent transfers.

Parties, Jurisdiction, and Venue

13. Plaintiff is a resident of and homeowner in the TerraLargo community in Polk County, Florida.

14. Defendant The Kolter Group, LLC is a Florida Limited Liability Company.

15. Defendant OZRE is an entity of unknown origin to Plaintiff at this time but OZRE is an entity affiliated with the remaining Defendants herein and, as such, OZRE's origin is known to Defendants.

16. Defendant OK Terralargo, LLC is a Florida Limited Liability Company.

17. Defendant OK Terralargo Club, LLC is a Florida Limited Liability Company

18. Defendant OK JV2 LLC is a Delaware Limited Liability Company.

19. Defendant OK JV2 Holdings LLC is a Delaware Limited Liability Company.

20. Defendant KC 9W57th 2 LLC is a Florida Limited Liability Company.

21. The damages in this action exceed $50,000, exclusive of interest, attorney fees, and costs.

22. Venue is proper under chapter 47, Florida Statutes, because the causes of action accrued in Polk County, Florida.

23. All conditions precedent to the maintenance of this action have occurred, been performed, or been waived.

Development of TerraLargo

24. TerraLargo is a residential community in which the developer has subjected home purchasers, through declarations recorded against all of the community's residential parcels, to perpetual assessments for Club Membership Fees. These recorded declarations, which are the governing documents of the community's homeowners' association, allow the developer to collect the Club Membership Fees as pure profit, while separately collecting from homeowners all of the expenses of owning, operating, and maintaining the club's facilities. Florida's Homeowners' Association Act governs declarations of covenants recorded against residential parcels and protects homeowners from the inherent risk of developers' abusing their power to record such declarations. Among other things, the Act only authorizes declarations that impose assessments for community expenses; the Act prohibits imposing assessments for profit.

25. In 2006, Avatar Holdings, Inc. (which later changed its name to AV Homes, Inc.; then was later acquired by Taylor Morrison Homes Corporation), through its subsidiary Avatar Properties, Inc., commenced development of 640 acres of land in Lakeland, Florida into the community TerraLargo.

26. In 2007, Avatar Properties, Inc., recorded a declaration of covenants that applied to all of the residential parcels in TerraLargo. Attached hereto as **Exhibit A** is a copy of the declaration recorded at OR 7464/1090, and attached hereto as **Composite Exhibit B** are copies of the amendments recorded to the declaration.

27. In 2009, Avatar Properties, Inc., spun off the TerraLargo development to TerraLargo Land, LLC, a variable interest entity for which Avatar Holdings, Inc. was the primary

beneficiary. Attached hereto as **Exhibit C** is the Assignment and Assumption of Development Rights (TerraLargo) entered into by Avatar Properties, Inc. and TerraLargo Land, LLC, on December 21, 2009, and recorded at OR 8045/362, and through which TerraLargo Land, LLC, assumed the development rights and all liabilities for the development.

28. In 2012, TerraLargo Land, LLC, sold the TerraLargo development to OK TerraLargo, LLC, and OK TerraLargo Club, LLC. Attached hereto as **Exhibit D** is the Assignment of Developer's Rights and Assumption Agreement that TerraLargo Land, LLC, entered into with OK TerraLargo, LLC, and OK TerraLargo Club, LLC, on October 22, 2012, and recorded at OR 8789/1666, and through which OK TerraLargo, LLC, and OK TerraLargo Club, LLC, assumed the development rights and all liabilities for the development.

29. The Agreement's recitals identified the rights of the Assignor, TerraLargo Land, LLC, as Developer under the TerraLargo Declaration and specified that "As Developer, Assignor controls the homeowner's association responsible for TerraLargo." And the Agreement assigned these rights, defined as the "Developer Assigned Rights," to OK TerraLargo, LLC.

30. The Agreement's recitals further identified the Assignor's rights as Club Owner under the Club Plan incorporated in the TerraLargo Declaration. And the Agreement assigned these rights, defined as the "Club Assigned Rights" to OK TerraLargo Club, LLC.

31. OK JV2 LLC, a Delaware limited liability company, is the sole member and sole manager of OK TerraLargo, LLC.

32. OK JV2 LLC appears to have been formed for a joint venture between OZRE (which participated in the joint venture through its holding company OK JV2 Holdings LLC) and The Kolter Group, LLC (which participated in the joint venture through its holding company KC 9W57th 2 LLC). The joint venture illegally profited from the club fee scheme, and persons

employed by Defendants appear to have controlled the development of TerraLargo, the operation of TerraLargo's club, and, among other things, the collection of Club Membership Fees.

33. By way of example, and without limitation, The Kolter Group LLC's executive Jim Harvey served as TerraLargo Association's president while also serving as vice president of OK TerraLargo, LLC and OK TerraLargo Club, LLC. In these multiple roles, Mr. Harvey executed TerraLargo's governing documents on behalf of TerraLargo Association, Club Owner, and Developer, all in furtherance of the club fee scheme. Furthermore, annual meeting minutes reflect that Kolter controlled the TerraLargo Association's board of directors, which also included Kolter executives David Langhout, Troy Simpson, Greg Meath, and Candice Smith. Furthermore, Kolter executives were also responsible for executing and submitting the filings necessary to form, maintain, and eventually dissolve OK TerraLargo LLC and OK TerraLargo Club LLC.

The Club Fee Scheme

34. The developer recorded the TerraLargo Declaration under the Homeowners' Association Act, chapter 720, Florida Statutes.

35. The TerraLargo Declaration includes articles of incorporation for TerraLargo Community Association, Inc. (hereinafter the "**TerraLargo Association**"), an "association" under the Homeowners' Association Act, more specifically section 720.301(9), Florida Statutes.

36. The TerraLargo Declaration includes a "**Club Plan**," which requires that every purchaser of a residential parcel in TerraLargo agree to purchase monthly membership in a for-profit club known as "**TerraLargo Club**."

37. The TerraLargo Declaration's Club Plan requires payment of monthly "**Club Dues**" for membership in the TerraLargo Club and access to the "**Club Facilities**." The Club Dues include the "**Club Membership Fee**," which is paid "without setoff or deduction" to the Club

Owner and "**Club Expenses**," which are paid pro rata by the residential parcel owners who thereby "collectively bear all expenses associated with the Club so that the Club Owner shall receive the Club Membership Fees without deduction of expenses or charges in respect of the Club." In other words, the Club Membership Fees are pure profit.

38. Under the TerraLargo Declaration's Club Plan, if the owner of a residential parcel does not pay Club Dues, then there is a lien on the residential parcel upon which the Club Owner may foreclose to collect unpaid Club Dues.

39. Section 14 of the TerraLargo Declaration incorporates the Club Plan and provides that the TerraLargo Association and each homeowner "shall be bound by and comply with the Club Plan."

40. Section 7.4.1.5 of the TerraLargo Association's Bylaws requires the Association to enforce the Club Plan when required by the Club Owner.

41. The developer took advantage of the Homeowners' Association Act and the TerraLargo Association to:

(a) enforce the TerraLargo Declaration and incorporated Club Plan;

(b) impose assessments for club membership fees on TerraLargo's residential parcels;

(c) collect assessments for club membership fees from residential parcel owners; and

(d) record liens and file foreclosure actions against residential parcels to collect unpaid assessments for club membership fees.

42. However, the developer has disregarded the provisions of the Homeowners' Association Act that protect residential parcel owners by prohibiting for-profit assessments.

43. In or about 2020, the developer reached the threshold of home sales at which association members other than the developer are entitled to elect a majority of the TerraLargo

Association's board of directors under section 720.307, Florida Statutes. However, the developer did not turn over the Club Property that the homeowners have collectively paid all of the expenses of owning, operating and maintaining (through assessments imposed under the TerraLargo Association's governing documents, which dedicate to association members the obligation to maintain the Club Property). Instead, the developer convinced the TerraLargo Association to pay the developer to purchase the Club Property.

Homeowners' Association Act

44. The Florida Legislature enacted the "Homeowners' Association Act," now codified in chapter 720, Florida Statutes, to address concerns over developers "retaining control of homeowners' associations, or misusing funds entrusted to the association." Fla. S. Comm. on Govt'l. Ops., CS/SB 1058 (1992) Staff Analysis 1 (March 5, 1992). The Act's stated purposes are to "give statutory recognition" to "not for profit" entities to operate residential communities; to provide operating procedures for homeowners' associations; and "to protect the rights of association members." § 720.302(1), Fla. Stat.

45. Under section 720.301(1), Florida Statutes, "assessment" means "a sum or sums of money payable to the association, to the developer or other owner of common areas, or to recreational facilities and other properties serving the parcels by the owners of one or more parcels as authorized in the governing documents, which if not paid by the owner of a parcel, can result in a lien against the parcel."

46. Under section 720.308(1)(a), Florida Statutes, assessments "must be in the member's proportional share of expenses as described in the governing document." *See also* § 720.308(3), Fla. Stat. ("assessments charged to a member shall not exceed the maximum

obligation of the member based on the total amount of the adopted budget and the member's proportionate share of the expenses as described in the governing documents").

47. Under section 720.305, Florida Statutes, the prevailing party is entitled to recover reasonable attorney fees and costs in an action to redress alleged failure or refusal to comply with the provisions of the Homeowners' Association Act or the community's governing documents.

Florida Deceptive and Unfair Trade Practices Act

48. The Florida Legislature enacted the "Florida Deceptive and Unfair Trade Practices Act" to "protect the consuming public . . . from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of trade or commerce." § 501.202(2), Fla. Stat.

49. Under section 501.204(1), Florida Statutes, "[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful."

50. Under section 501.203(3)(c), Florida Statutes, the violation of any "law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive or unconscionable acts or practices" constitutes a per se violation of the Florida Deceptive and Unfair Trade Practices Act. Thus, violations of the Homeowners' Association Act are per se violations of the Florida Deceptive and Unfair Trade Practices Act.

51. Under sections 501.2105(1) and 501.211(2), Florida Statutes, the prevailing party in civil litigation involving a violation of the Florida Deceptive and Unfair Trade Practices Act is entitled to recover attorney fees and costs.

Uniform Fraudulent Transfer Act

52. The Florida Legislature enacted the Uniform Fraudulent Transfer Act to adopt model legislation promulgated by the Uniform Law Commission to strengthen creditor protections by providing remedies for certain transactions by a debtor that are unfair to the debtor's creditors.

53. Sections 726.105 and 726.106, Florida Statutes, provide for certain scenarios in which a transfer is deemed fraudulent as to a creditor.

54. Section 726.108, Florida Statutes, provides that a creditor may, in an action for relief against a transfer that is fraudulent under section 726.105 or 725.106, Florida Statutes, obtain avoidance of the transfer to the extent necessary to satisfy the creditor's claim, among other remedies.

Class Representation Allegations

55. The proposed class is defined as follows:

> All persons who currently own, or previously owned, a home in TerraLargo and have paid, or have been obligated to pay, a Club Membership Fee under the Club Plan.

56. While the exact number of class members is unknown to Plaintiff at this time, there are hundreds of homes in TerraLargo, and the identities of the current and former homeowners are within the knowledge of and can be easily ascertained from Defendants' records.

57. The class is so numerous that joinder of all its members is impractical.

58. Plaintiff's claims are typical of the claims of the members of the class because Plaintiff, like all class members, purchased a home in TerraLargo and has paid and been obligated to pay a Club Membership Fee under the Club Plan.

59. This action poses numerous questions of law and fact that are common to Plaintiff and the class members, and those common questions predominate over any questions affecting only individual members of the class.

60. Plaintiff is committed to the vigorous prosecution of this action and has retained competent counsel experienced in handling class actions involving, among other things, community associations, consumer rights and unfair trade practices. As a result, Plaintiff is an adequate representative of the class and will fairly and adequately protect the interests of the class.

61. Plaintiff brings this class action under Florida Rule of Civil Procedure 1.220(b)(2) because Defendants have acted or refused to act on grounds generally applicable to all the members of the class, thereby making declaratory relief concerning the class as a whole appropriate.

62. Plaintiff also brings this class action under Florida Rule of Civil Procedure 1.220(b)(3) because a class action is superior to other available methods for the fair and efficient adjudication of this controversy. Because the amounts of the claims of each individual member of the class are small relative to the cost and scope of this litigation, and due to the financial resources of Defendants, none of the members of the class could afford to seek legal redress individually for the misconduct alleged in this case. Absent a class action, that misconduct would go unremedied. Further, individual litigation would significantly increase the delay and cost to all parties and would burden the judicial system. There will be no manageability problems with prosecuting this case as a class action.

Declaratory Relief Allegations

63. Plaintiff, individually, and on behalf of all those similarly situated, makes the following allegations supporting entitlement to the declaratory relief requested in the following counts, which request, among other remedies, declaratory relief under chapter 86, Florida Statutes,

and section 501.211(1), Florida Statutes, brought by Plaintiff and the class against Defendants under Florida Rule of Civil Procedure 1.220(b)(2).

64. Plaintiff and the class have been aggrieved by unfair methods of competition, unconscionable acts or practices, and unfair acts or practices by Defendants in the conduct of trade or commerce as more fully explained above in violation of sections 501.203(3) and 501.204, Florida Statutes.

65. Pursuant to section 501.211(1), Florida Statutes, without regard to any other remedy or relief to which a person is entitled, anyone aggrieved by a violation of the Florida Deceptive and Unfair Trade Practices Act may bring an action to obtain a declaratory judgment that an act or practice violates the Act.

66. There are justiciable, bona fide, and present controversies between the class members and Defendants concerning the proper interpretation of the TerraLargo Declaration and its incorporated Club Plan, the Homeowners' Association Act, the Florida Deceptive and Unfair Trade Practices Act, and the parties' attendant rights and obligations thereunder. Plaintiff and other class members are entitled to have these uncertainties removed and, more specifically, to the determinations requested in the counts set forth below.

67. The parties have an actual, present, or adverse and antagonistic interest upon the interpretation of their respective rights and obligations under the TerraLargo Declaration and its incorporated Club Plan, the Homeowners' Association Act, and the Florida Deceptive and Unfair Trade Practices Act.

68. All interested parties and potential adverse interests are before this Court.

69. The relief sought in this action is not merely to seek legal advice or to obtain answers to questions propounded out of curiosity.

70. The rights, status, or other equitable or legal relations of the parties are affected by the interpretation of the TerraLargo Declaration and its incorporated Club Plan, the Homeowners' Association Act, and the Florida Deceptive and Unfair Trade Practices Act.

71. Therefore, under section 86.021, Florida Statutes, Plaintiff and other class members may obtain a declaration of the rights, status, or other equitable or legal relations, as set forth below.

The Fraudulent Transfers

72. Defendants caused Club Membership Fees collected from TerraLargo's homeowners to be transferred to The Kolter Group, LLC; OK Terralargo, LLC; and potentially other Defendants as an "Owners Equity Draw" according to financial statements for the Club (the "**Equity Draw Transfers**").

73. Defendants caused Club Membership Fees collected from TerraLargo's homeowners to be transferred from OK Terralargo Club, LLC to other Defendants through transfers not accounted for in the financial statements for the Club (the "**Unaccounted for Transfers**").

74. On or about July 30, 2021, OK Terralargo Club, LLC sold the Club Property to the TerraLargo Association for $4.5 million. Defendants caused the proceeds from the sale of the Club Property to be transferred from OK Terralargo Club, LLC to other Defendants (the "**Club Sale Proceeds Transfers**").

75. The Equity Draw Transfers, the Unaccounted for Transfers, the Club Sale Proceeds Transfers, and any subsequent transfers are collectively referred to herein as the "**Fraudulent Transfers**."

76. In sum, OK Terralargo Club, LLC was entitled to receive Club Membership Fees under TerraLargo's governing documents, and OK Terralargo Club, LLC received $4.5 million when it sold the Club Property to TerraLargo Association. But through the Equity Draw Transfers, the Unaccounted for Transfers, the Club Sale Proceeds Transfers, and any subsequent transfers (collectively, the "**Fraudulent Transfers**"), Defendants have flushed all of the money out of OK Terralargo Club, LLC, in an attempt to avoid paying damages for illegally collecting Club Membership Fees from TerraLargo's residents.

Count I
(Homeowners' Association Act)

77. Plaintiff, individually and on behalf of all those similarly situated, re-alleges and incorporates the allegations in paragraphs 1 to 76.

78. The Homeowners' Association Act prohibits for-profit assessments and provides that an assessment must be in the amount of the homeowner's proportional share of expenses. *See* § 720.308, Fla. Stat.

79. Defendants have imposed and collected the Club Membership Fee as an "assessment" under the Homeowners' Association Act.

80. Defendants have profited from collection of the Club Membership Fee, which by definition under the Club Plan is an amount that exceeds each homeowner's proportional share of the Club's expenses.

81. Thus, all Club Membership Fees collected to date have been collected in violation of the Homeowners' Association Act.

82. Defendants should be required to provide Plaintiff and the Class with an accounting for their receipt and expenditure of all Club Dues (including the Club Membership Fee and the other components of Club Dues) collected under the Club Plan. And each of Defendants should

be disgorged of the illegal profits that each has taken from the collection of Club Membership Fees.

83. The collection of Club Membership Fees in violation of the Homeowners' Association Act has caused Plaintiff and the Class to suffer damages.

84. Under section 720.305, Florida Statutes, Plaintiff and the Class are entitled to recover reasonable attorney fees and costs for prevailing in a dispute regarding the Homeowners' Association Act's prohibition of for-profit assessments and the violation of this prohibition by the Club Plan incorporated in the TerraLargo Association's governing documents.

85. Under sections 501.2105 and 501.211, Florida Statutes, Plaintiff and the Class are entitled to recover reasonable attorney fees and costs in a claim for damages caused by Defendants' unfair practice of profiting from the Club Fee Scheme in violation of the Homeowners' Association Act.

86. Plaintiff and the Class are entitled to recover reasonable attorney fees and costs under sections 9.1, 12, and 14 of the Club Plan and section 57.105, Florida Statutes.

Count II
(Florida Deceptive and Unfair Trade Practices Act)

87. Plaintiff, individually and on behalf of all those similarly situated, re-alleges and incorporates the allegations in paragraphs 1 to 7680.

88. The club fee scheme violates the Homeowners' Association Act and is therefore a per se violation of the Florida Deceptive and Unfair Trade Practices Act.

89. Defendants' inclusion of the Club Plan in the TerraLargo Association's governing documents was an unfair practice that violates the Florida Deceptive and Unfair Trade Practices Act.

90. Other aspects of the club fee scheme, described above, are unfair practices that violate the Florida Deceptive and Unfair Trade Practices Act.

91. Under section 501.211(1), Plaintiff and the class are entitled to a judgment declaring that the club fee scheme violates the Florida Deceptive and Unfair Trade Practices Act.

92. Defendants' violations of the Florida Deceptive and Unfair Trade Practices Act have caused damages to Plaintiff and the class.

93. Under section 501.211(2), Plaintiff and the class are entitled to a recover their damages caused by Defendants' violations of the Florida Deceptive and Unfair Trade Practices Act.

94. Under sections 501.2105 and 501.211(2), Plaintiff and the class are entitled to recover their reasonable attorney fees and costs.

95. Plaintiff and the class are entitled to recover reasonable attorney fees and costs under sections 9.1, 12, and 14 of the Club Plan and section 57.105, Florida Statutes.

Count III
(Section 726.105, Florida Statutes)

96. Plaintiff, individually and on behalf of all those similarly situated, re-alleges and incorporates the allegations in paragraphs 1 to 76.

97. Plaintiff and the Class were creditors of Defendants at the time of the Fraudulent Transfers.

98. The Fraudulent Transfers were made, in exchange for no value, leaving one more Defendants unreasonably undercapitalized in view of their obligations to Plaintiff and the Class and unable to pay debts as they came due.

99. The Fraudulent Transfers were made with actual intent to hinder, delay or defraud Plaintiff and the Class in their ability to recover damages against Defendants. Among other things,

the following badges of fraud identified under section 726.105(b)(2) are present in that one more of the Fraudulent Transfers:

(a) was to an "insider" under section 726.102(8);

(b) was made at a time when Defendants either knew that collecting Club Membership Fees was illegal or, at the very least, that the legality had been challenged;

(c) resulted in one or more of the Defendants becoming insolvent; and

(d) constituted substantially all of the assets of one or more of the Defendants;

100. Pursuant to section 726.108, Florida Statutes, Plaintiff and the Class are entitled, among other remedies, to avoid the Fraudulent Transfers to the extent necessary to satisfy the claims against Defendants.

101. Plaintiff and the Class are entitled to recover reasonable attorney fees and costs under sections 9.1, 12, and 14 of the Club Plan and section 57.105, Florida Statutes.

Count IV
(Section 726.106, Florida Statutes)

102. Plaintiff, individually and on behalf of all those similarly situated, re-alleges and incorporates the allegations in paragraphs 1 to 76.

103. Plaintiff and the Class were creditors of Defendants at the time of the Fraudulent Transfers.

104. The Fraudulent Transfers were made for less than reasonably equivalent value.

105. The Fraudulent Transfers were made at a time when one or more Defendants were insolvent or were rendered insolvent as a result of such Fraudulent Transfers.

106. Pursuant to section 726.108, Florida Statutes, Plaintiff and the Class are entitled, among other remedies, to avoid the Fraudulent Transfers to the extent necessary to satisfy the claims against Defendants.

107. Plaintiff and the class are entitled to recover reasonable attorney fees and costs under sections 9.1, 12, and 14 of the Club Plan and section 57.105, Florida Statutes.

Request for Relief

WHEREFORE, Plaintiff, individually and on behalf of all those similarly situated, requests the following relief:

(a) an order certifying that this action is properly maintainable as a class action under Florida Rule of Civil Procedure 1.220(b)(2) and/or (b)(3), appointing Plaintiff and the undersigned attorneys to represent the class, and requiring reasonable and adequate notice to be given to prospective members of the Class following certification;

(b) under Counts I and II, a judgment disgorging Defendants of the profits received from collection of Club Membership Fees and awarding to Plaintiff and the Class the damages caused by the illegal collection of Club Membership Fees in violation of section 720.308, Florida Statutes and the Florida Deceptive and Unfair Trade Practices Act;

(c) under Counts III and IV, to avoid, attach, recover, levy upon, and impose a constructive trust, jointly and severally, over Defendants' interests in the Fraudulent Transfers to satisfy the claims of the Plaintiff and the Class in this action;

(d) a judgment against Defendants for attorney fees under the Homeowners' Association Act; the Florida Deceptive and Unfair Trade Practices Act; and sections 9.1, 12, and 14 of the Club Plan and section 57.105, Florida Statutes;

(e) such additional relief as the court deems fair and reasonable to protect the rights and interests of Plaintiff and the class.

Demand for Jury Trial

Plaintiff, individually and on behalf of the class, demands a trial by jury on all issues so triable against Defendants.

[Attorney's signature appears on the following page.]

CERTIFICATE OF SERVICE

I HERBY CERTIFY that a true and correct copy of the foregoing has been Electronically served through Florida Courts E-filing portal to All Counsel on this 6th day of December 2024.

J. Daniel Clark, FBN 0106471
CLARK & MARTINO, P.A.
3407 W. Kennedy Boulevard
Tampa, FL 33609
(813) 879-0700
(813) 879-5498 (Facsimile)
Primary email: dclark@clarkmartino.com
Secondary email: jliza@clarkmartino.com

J. Carter Andersen, FBN 143626
Harold Holder, FBN 118733
BUSH ROSS, P.A.
1801 North Highland Avenue
Tampa, FL 33602
Telephone: (813) 224-9255
Primary: candersen@bushross.com
Secondary: ksalter@bushross.com
Primary: hholder@bushross.com
Secondary: aflowers@bushross.com

John Marc Tamayo, FBN 030910
CAMPBELL, TROHN, TAMAYO & ARANDA
1701 S. Florida Avenue
Lakeland, FL 33803
Telephone: (863) 686-0043
Primary: j.tamayo@cttalaw.com
Secondary: c.velez@cttalaw.com

Attorneys for Plaintiff

EXHIBIT A

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POLK COUNTY
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THIS INSTRUMENT PREPARED BY:
JEFFREY R. MARGOLIS, ESQ.
JEFFREY R. MARGOLIS, P.A.
DUANE MORRIS LLP
200 SOUTH BISCAYNE BLVD., SUITE 3400
MIAMI, FLORIDA 33131

AVATAR PROPERTIES
201 ALHAMBRA CIRCLE 12TH FL
CORAL GABLES, FL 33134

DECLARATION FOR TERRALARGO

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EXHIBITS:

DECLARATION
FOR
TERRALARGO

THIS DECLARATION FOR TERRALARGO (this "**Declaration**") is made by Avatar Properties Inc., a Florida corporation ("**Avatar**") and joined in by TerraLargo Community Association, Inc., a Florida not-for-profit corporation ("**Association**").

R E C I T A L S

A. Avatar is or will be the owner of the real property in Polk County, Florida ("**County**") more particularly described in **Exhibit 1** attached to and made a part of this Declaration ("**TerraLargo**").

B. Subject to the terms of this Declaration, Avatar presently intends (although Avatar does not obligate itself to do so) to develop a community upon the real property described in **Exhibit 1** and such other properties as Avatar may, without obligation, subject to this Declaration from time to time on such additional portions of property.

C. Avatar may unilaterally, in its sole and absolute discretion, from time to time elect to (i) subject additional properties to this Declaration or withdraw portions of properties from this Declaration, (ii) amend this Declaration, and/or (iii) impose additional covenants, conditions and restrictions not set forth in this Declaration.

D. Association is the homeowners Association for TerraLargo and is responsible for the administration, enforcement and performance of certain duties under this Declaration.

E. Avatar desires to subject TerraLargo to the covenants, conditions and restrictions contained in this Declaration.

F. This Declaration is a covenant running with all of the land comprising TerraLargo, and each present and future owner of interests therein and their heirs, devisees, personal representatives, successors or assigns, are hereby subject to this Declaration;

NOW THEREFORE, in consideration of the premises and mutual covenants contained in this Declaration, Avatar hereby declares that every portion of TerraLargo, together with such additions to TerraLargo as are subsequently made pursuant to Section 5 of this Declaration, shall be owned, held, transferred, sold, conveyed, used, leased, mortgaged, occupied and improved subject to the covenants, conditions, restrictions, easements, reservations, regulations, charges and liens created or provided for by this Declaration, which shall run with TerraLargo or any part thereof.

1. Recitals. The foregoing Recitals are true and correct and are incorporated into and form a part of this Declaration.

2. Definitions. In addition to the terms defined elsewhere in this Declaration, all initially capitalized terms herein shall have the following meanings:

"**Access Control System**" shall mean any surveillance and/or system intended to control access to TerraLargo. By way of example, and not of limitation, the term Access Control System may include electronic entrance gates, a gatehouse and/or a roving attendant. THE PROVISION OF AN ACCESS CONTROL SYSTEM SHALL IN NO MANNER CONSTITUTE A WARRANTY OR REPRESENTATION AS TO THE PROVISION OF OR LEVEL OF SECURITY WITHIN TERRALARGO. DEVELOPER AND ASSOCIATION DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR BY IMPLICATION, THE MERCHANTABILITY OF FITNESS FOR USE OF ANY ACCESS CONTROL SYSTEM, OR THAT ANY SUCH SYSTEM (OR ANY OF ITS COMPONENTS OR RELATED SERVICES) WILL PREVENT INTRUSIONS OR OTHER OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE MONITORING SERVICE IS DESIGNED TO MONITOR THE SAME. EACH AND EVERY OWNER AND THE OCCUPANT OF EACH HOME ACKNOWLEDGES THAT DEVELOPER AND ASSOCIATION, THEIR EMPLOYEES, AGENTS, MANAGERS, DIRECTORS, AND OFFICERS, ARE NOT INSURERS OF OWNERS OR HOMES, OR THE PERSONAL PROPERTY LOCATED WITHIN HOMES. DEVELOPER AND ASSOCIATION WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES, OR DEATHS RESULTING FROM ANY SUCH EVENTS.

"**ARC**" shall mean the Architectural Review Committee for TerraLargo established pursuant to Section 17.1 hereof.

"**Articles**" shall mean the Articles of Incorporation of Association filed with the Florida Secretary of State in the form attached hereto as **Exhibit 2** and made a part hereof, as amended from time to time.

"**Assessments**" shall mean any assessments made in accordance with this Declaration and as further defined in Section 15 hereof.

"**Association**" shall mean TerraLargo Community Association, Inc., its successors and assigns.

"**Association Documents**" shall mean this Declaration, the Articles, the By-Laws, the Rules and Regulations, and the Community Standards, as amended from time to time.

"**Avatar**" shall mean Avatar Properties Inc., a Florida corporation, its successors and assigns.

"**Board**" shall mean the Board of Directors of Association.

"**Builder**" shall mean any person or entity that purchases a Parcel or Lot from Developer for the purpose of constructing one or more Homes.

"**By-Laws**" shall mean the By-Laws of Association in the form attached hereto as **Exhibit 3** and made a part hereof, as amended from time to time.

"**Cable Services**" shall mean "basic service tier" as described in Section 623(b)(7)(A) of the Cable Television Consumer Protection Act of 1992, video programming services offered on a per-channel or per-program basis, video programming services offered in addition to basic service tier, any method of delivering video programming to Homes including, without limitation, interactive video programming, and any channel recognized in the industry as premium including, without limitation, HBO, Showtime, Disney, Cinemax and the Movie Channel. By way of example, and not of limitation, the term Cable Services may include cable television, satellite master antenna television, individual satellite dishes, multipoint distribution systems, video dialtone, open video system or any combination thereof.

"**City**" shall mean the City of Lakeland, Florida, its agencies, subdivisions, divisions, departments, employees, attorneys and/or agents authorized to act on its behalf.

"**Club**" shall mean Club TerraLargo, including the land and club facilities provided for the Owners pursuant to the provisions of the Club Plan.

"**Club Dues**" shall mean the charges related to the Club to be paid by the Owners pursuant to the provisions of the Club Plan including, without limitation, the Club Membership Fee.

"**Club Expenses**" shall have the meaning set forth in the Club Plan.

"**Club Membership Fee**" shall mean the fee to be paid to the Club Owner by each Owner pursuant to the provisions of this Declaration and the Club Plan.

"**Club Manager**" shall mean the entity operating and managing the Club at any given time.

"**Club Owner**" shall mean the owner of the Club, its successors and assigns. Presently the Club Owner is Avatar.

"**Club Plan**" shall mean Club TerraLargo Club Plan together with all amendments and modifications thereof. A copy of the Club Plan is attached hereto as **Exhibit 4** and made a part hereof. This Declaration is subordinate in all respects to the Club Plan.

"**Common Areas**" shall mean all real property interests and personalty within TerraLargo designated as Common Areas from time to time by Plat or recorded amendment to this Declaration and provided for, owned, leased by, or dedicated to the common use and enjoyment of the Owners within TerraLargo. The Common Areas may include, without limitation, open space areas, preservation areas, retention areas, water fountain, recreational dock, recreational facilities, passive recreation areas, tot lots, landscape easement areas, entrance ways and entrance features, walls and fences, improvements, easement areas owned by others, additions, irrigation pumps, wetlands, wetland mitigation areas, lakes, canals, irrigation areas, irrigation lines, Surface Water Management System (including Conservation Areas), sidewalks, streets/roads, street lights, service roads, lakes, pool, dam, drainage system, public golf cart tunnel, commonly used utility facilities, signage (including traffic signs), parking areas, other lighting, and landscaping within property owned by Association, electronic gates, and gatehouses. The Common Areas do not include any portion of a Home or the Club. NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, THE DEFINITION OF "COMMON AREAS" AS SET FORTH IN THIS DECLARATION IS FOR DESCRIPTIVE PURPOSES ONLY AND SHALL IN NO WAY BIND, OBLIGATE OR LIMIT DEVELOPER TO CONSTRUCT OR SUPPLY ANY SUCH ITEM AS SET FORTH IN SUCH DESCRIPTION, THE CONSTRUCTION OR SUPPLYING OF ANY SUCH ITEM BEING IN DEVELOPER'S SOLE DISCRETION. FURTHER, NO PARTY SHALL BE ENTITLED TO RELY UPON SUCH DESCRIPTION AS A REPRESENTATION OR WARRANTY AS TO THE EXTENT OF THE COMMON AREAS TO BE OWNED, LEASED BY OR DEDICATED TO ASSOCIATION, EXCEPT AFTER CONSTRUCTION AND DEDICATION OR CONVEYANCE OF ANY SUCH ITEM.

"**Community Completion Date**" shall mean the date upon which all Homes in TerraLargo, as ultimately planned and as fully developed, have been conveyed by Developer and/or Builder to Owners.

"**Community Standards**" shall mean such standards of conduct, maintenance or other activity, if any, established by the ARC pursuant to Section 17.5 hereof.

"**Conservation Areas**" shall have the meaning set forth in Section 10.6 herein. The Conservation Areas will be part of the Common Areas and will be maintained by Association.

"**Contractors**" shall have the meaning set forth in Section 17.12 hereof.

"**County**" shall mean Polk County, Florida including all of its agencies, divisions, departments, attorneys and/or agents employed to act on its behalf.

"**Data Transmission Services**" shall mean (i) internet access services and (ii) enhanced services as defined in Section 64.702 of Title 47 of the Code of Federal Regulations, as amended from time to time, and without regard to whether the transmission facilities are used in interstate commerce.

"**Declaration**" shall mean this Declaration together with all amendments, supplements and modifications of this Declaration.

"**Developer**" shall mean Avatar and any of its designees (including its affiliated or related entities which conduct land development, homebuilding and sales activities), successors and assigns who receive a written assignment of all or some of the rights of Developer hereunder. Such assignment need not be recorded in the Public Records in order to be effective. In the event of such a partial assignment, the assignee shall not be deemed Developer, but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis. The rights of Developer under this Declaration are independent of the Developer's right to control the Board and, accordingly, shall not be deemed waived, transferred or assigned to the Owners, the Board or the Association upon transfer of control of the Association.

"**Home**" shall mean each residential home and appurtenances thereto constructed within TerraLargo. A Home may include, without limitation, a villa, townhouse, unit, or single family home. The term Home may not reflect the same division of property as reflected on a Plat. A Home shall be deemed created and have perpetual existence upon the issuance of a final or temporary Certificate of Occupancy for such residence; provided, however, the subsequent loss of such Certificate of Occupancy (*e.g.*, by casualty or remodeling) shall not affect the status of a Home, or the obligation of Owner to pay Assessments with respect to such Home. The term "Home" includes any interest in land, improvements, or other property appurtenant to the Home.

"**Individual Assessments**" shall have the meaning set forth in Section 15.2 hereof.

"**Improvement**" shall have the meaning set forth in Section 19.1 hereof.

"**Initial Contribution**" shall have the meaning set forth in Section 15.12 herein.

"**Installment Assessments**" shall have the meaning set forth in Section 15.2 hereof.

"**Lender**" shall mean (i) the institutional and licensed holder of a first mortgage encumbering a Lot or Home or (ii) Developer and its affiliates, to the extent Developer or any of its affiliates finances the purchase of a Home or Lot initially or by assignment of an existing mortgage.

"**Lessee**" shall mean the lessee or tenant named in any written lease respecting a Home who is legally entitled to possession of any rental Home within TerraLargo.

"**Lift Station Easement Area**" shall have the meaning set forth in Section 9.11 hereof.

"**Losses**" shall have the meaning set forth in Section 9.8.6 hereof.

"**Lot**" shall mean any platted residential lot shown on a Plat.

"**Master Plan**" shall mean collectively any full or partial concept plan for the development of TerraLargo, as it exists as of the date of recording this Declaration, regardless of whether such plan is currently on file with one or more governmental agencies. The Master Plan is subject to change as set forth herein. The Master Plan is not a representation by Developer as to the development of TerraLargo or its amenities, as Developer reserves the right to amend all or part of the Master Plan from time to time.

"**Management Company**" shall have the meaning set forth in Section 9.7 hereof.

"**Member**" shall have the meaning set forth in Section 7.3 hereof.

"**NFIP**" shall have the meaning set forth in Section 12.1.1 hereof.

"**Operating Costs**" shall mean all costs and expenses of Association relating, directly or indirectly, to the ownership, operation, administration, management, insurance, maintenance, repair, replacement and/or alteration of Association and the Common Areas. Operating Costs may include, without limitation, all of the costs of ownership (to the extent the Common Areas are owned by Association); janitorial services for the Common Areas; operation; administration; all amounts payable by Association; all amounts required to maintain the Surface Water Management System; all costs for monitoring and maintenance of the wetland mitigation areas; all amounts payable in connection with any private street lighting agreement between Association and Lakeland Electric or another local provider or utility company; amounts payable to a Telecommunications Provider for Telecommunications Services furnished to all Owners; costs related to the lift station located within TerraLargo; utilities; taxes; insurance; bonds; Access Control Systems, if any; salaries; management fees; professional fees; service costs; supplies; maintenance; repairs; replacements; refurbishments; Common Area landscape maintenance and any and all of the costs relating to the discharge of the obligations hereunder and/or under the Club Plan, or as determined to be part of the Operating Costs by Association. By way of example, and not of limitation, Operating Costs shall include all of Association's

legal expenses and costs relating to or arising from the enforcement and/or interpretation of this Declaration and/or the Club Plan.

"**Owner**" shall mean the record owner (whether one or more persons or entities) of fee simple title to any Home. The term "Owner" shall not include Developer, Builder, Club Owner, or a Lender.

"**Parcel**" shall mean any portion of TerraLargo upon which one or more Homes may be constructed.

"**Permit**" shall mean the permit attached as **Exhibit 5** issued by the SWFWMD.

"**Plat**" shall mean any plat of any portion of TerraLargo filed in the Public Records, as the same may be amended by Developer, from time to time.

"**Public Records**" shall mean the Public Records of County.

"**Required Demolition**" shall have the meaning set forth in Section 12.2.2 hereof.

"**Required Repair**" shall have the meaning set forth on Section 12.2.2 hereof.

"**Re-Sale Contribution**" shall have the meaning set forth in Section 15.13 hereof.

"**Reserves**" shall have the meaning set forth in Section 15.2.4 hereof.

"**Rules and Regulations**" shall mean collectively the Rules and Regulations governing TerraLargo as adopted by the Board from time to time.

"**SWFWMD**" shall mean the Southwest Florida Water Management District.

"**Special Assessments**" shall mean those Assessments more particularly described as Special Assessments in Section 15.2.2 hereof.

"**Surface Water Management System**" shall mean the collection of devices, improvements, or natural systems whereby surface waters are controlled, impounded or obstructed. This term may include exfiltration trenches, wetlands, mitigation areas, lakes, retention areas, water management areas, ditches, culverts, structures, dams, impoundments, reservoirs, drainage maintenance easements, those works defined in Section 373.403(1)-(5) of the Florida Statutes and those works authorized by SWFWMD pursuant to the Permit.

"**Telecommunications Provider**" shall mean any party contracting with Association and/or Owners directly to provide Owners with one or more Telecommunications Services. Developer may be a Telecommunications Provider. With respect to any particular Telecommunications Services, there may be one or more Telecommunications Providers. By way of example, with respect to Data Transmission Services, one Telecommunications Provider may provide Association or Owners such service while another may own, maintain and service the Telecommunications Systems which allow delivery of such Data Transmission Services.

"**Telecommunications Services**" shall mean delivered entertainment services; all services that are typically and in the future identified as telecommunication services; Telephony Services; Cable Services; and Data Transmission Services. Without limiting the foregoing, such Telecommunications Services include the development, promotion, marketing, advertisement, provision, distribution, maintenance, transmission, and servicing of any of the foregoing services. The term Telecommunications Services is to be construed as broadly as possible.

"**Telecommunications Systems**" shall mean all facilities, items and methods required and/or used in order to provide Telecommunications Services to TerraLargo. Without limiting the foregoing, Telecommunications Systems may include wires (fiber optic or other material), conduits, passive and active electronic equipment, pipes, pedestals, wireless cell sites, computers, modems, satellite antenna sites, individual satellite dishes, transmission facilities, amplifiers, junction boxes, trunk distribution, feeder cables, lock boxes, taps, drop cables, related apparatus, converters, connections, head-end antennas, earth stations, individual satellites, appurtenant devices, network facilities necessary and appropriate to support provision of local exchange services and/or any other item appropriate or necessary to support provision of Telecommunications Services. Ownership and/or control of all or a portion of any part of the Telecommunications Services may be bifurcated among network distribution architecture, system head-end equipment, and appurtenant devices (*e.g.*, individual adjustable digital units).

"**Telephony Services**" shall mean local exchange services provided by a certified local exchange carrier or alternative local exchange company, intraLATA and interLATA voice telephony and data transmission.

"**TerraLargo**" shall initially mean the community located on the real property described on **Exhibit 1** to this Declaration (including all improvements thereon), plus whatever portions of other properties (together with improvements thereon) that Avatar declares as part of TerraLargo in any amendment to this Declaration, less whatever portions of such property (together with improvements thereon) that are declared to be withdrawn from the provisions of this Declaration in any amendment to this Declaration, and shall include the Common Areas, each Home, each Parcel, Lot, tract, unit or other subdivision of real property. Developer may, when amending or modifying the description of real property which is subject to the operation of this Declaration, also amend or modify the definition of TerraLargo.

"**Title Documents**" shall have the meaning set forth in Section 26.8 hereof.

"**Toll Calls**" shall have the meaning given to such term by the Florida Public Service Commission and\or the Federal Communications Commission.

"**Turnover Date**" shall mean the date on which Developer transfers control of Association to the Owners. Without limiting the foregoing, Developer shall never be obligated to transfer control of Association prior to the date currently required by law.

"**Use Fees**" shall have the meaning set forth in Section 15.2 hereof.

3. Plan of Development. The planning process for TerraLargo is an ever-evolving one and must remain flexible in order to be responsible to and accommodate the needs of Developer's buyers. Subject to the Title Documents, Developer may wish and has the right, but not the obligation, to develop TerraLargo and adjacent property now or hereafter owned by Developer into residences, comprised of homes, villas, coach homes, townhomes, zero lot line homes, patio homes, multi-family homes, single family homes, estate homes, condominiums, rental apartments, and other forms of residential dwellings, as well as commercial development, which may include shopping centers, stores, office buildings, showrooms, industrial facilities, technological facilities, and professional offices. The existence at any point in time of walls, landscape screens, or berms is not a guaranty or promise that such items will remain or form part of TerraLargo as finally developed. Developer shall have the absolute right to plan, develop and construct TerraLargo and the adjacent properties at Developer's sole discretion.

4. Amendment.

4.1 General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to this Declaration shall affect the rights of Developer or Club Owner unless such amendment receives the prior written consent of Developer or Club Owner, as applicable, which consent may be withheld or delayed for any reason whatsoever. No amendment shall alter the provisions of this Declaration benefiting Lenders without the prior approval of the Lender(s) enjoying the benefit of such provisions. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to this Declaration, then the prior written consent of such entity or agency must also be obtained. All amendments must comply with Section 10.5 hereof which benefits the SWFWMD. No amendment shall be effective until it is recorded in the Public Records.

4.2 No Vested Rights. Each Owner by acceptance of a deed to a Home irrevocably waives any claim that such Owner has any vested rights pursuant to case law or statute with respect to this Declaration or any of the other Association Documents. It is expressly intended that Developer and Association have the unfettered right to amend this Declaration and the other Association Documents except as expressly set forth herein.

4.3 Amendments Prior to and Including the Turnover Date. Prior to and including the Turnover Date, Developer shall have the right to amend this Declaration as it deems appropriate in Developer's sole discretion, without the joinder or consent of any person or entity whatsoever. Such amendments may include, without limitation, the creation of easements for Telecommunications Systems, utility, drainage, ingress and egress and roof overhangs over any portion of TerraLargo; additions or deletions from the properties comprising the Common Areas; changes in the Rules and Regulations, modifications of restrictions on the Homes, and maintenance standards for landscaping. Developer's right to amend under this provision is to be construed as broadly as possible. By way of example, and not as a limitation, Developer may create easements over Homes conveyed to Owners provided that such easements do not prohibit the use of such Homes as residential homes. In the event that Association shall desire to amend this Declaration prior to and including the Turnover Date, Association must first obtain Developer's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Developer may be adopted by Association pursuant to the requirements for amendments from and after the Turnover Date. Thereafter, Developer shall join in such identical amendment so that its consent to the same will be reflected in the Public Records. Notwithstanding the foregoing, at all times after the Turnover Date, Developer shall have the right to amend the Association Documents unilaterally to correct scrivener's errors.

4.4 Amendments After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, this Declaration may be amended with the approval of (i) sixty six and two-thirds percent (66 2/3%) of the Board; and (ii) seventy-five percent (75%) of all of the votes present (in person or by proxy) at a duly noticed meeting of the Members in at which there is a quorum.

5. Annexation and Withdrawal.

5.1 Annexation by Developer. Prior to and including the Turnover Date, Developer may submit additional lands as part of TerraLargo, at Developer's sole discretion. Such additional lands to be annexed may or may not be adjacent to TerraLargo. Except for applicable governmental approvals (if any), no consent to such annexation shall be required from any other party (including, but not limited to, Association, Owners or any Lenders of any portion of TerraLargo, including a Lot, Parcel, or Home). Such annexed lands shall be brought within the provisions and applicability of this Declaration by the recording of an amendment to this Declaration in the Public Records. The amendment shall subject the annexed lands to the covenants, conditions, and restrictions contained in this Declaration as fully as though the annexed lands were described herein as a portion of TerraLargo. Such amendment may contain additions to, modifications of or omissions from the covenants, conditions, and restrictions contained in this Declaration as deemed appropriate by Developer and as may be necessary to reflect the different

character, if any, of the annexed lands. Prior to and including the Turnover Date, only Developer may add additional lands to TerraLargo.

5.2 Annexation by Association. After the Turnover Date, and subject to applicable governmental approvals (if any), additional lands may be annexed with the approval of (i) sixty-six and two-thirds percent (66 2/3%) of the Board; and (ii) seventy-five percent (75%) of all of the votes present (in person or by proxy) at a duly noticed meeting of the Members in which there is a quorum.

5.3 Withdrawal. Prior to and including the Turnover Date, Developer may withdraw any portions of TerraLargo (or any additions thereto) from the provisions and applicability of this Declaration by the recording of an amendment to this Declaration in the Public Records. The right of Developer to withdraw portions of TerraLargo shall not apply to any Home which has been conveyed to an Owner unless that right is specifically reserved in the instrument of conveyance or the prior written consent of the Owner is obtained. The withdrawal of any portion of TerraLargo shall not require the consent or joinder of any other party (including, but not limited to, Association, Owners, or any Lenders of any portion of TerraLargo). Association shall have no right to withdraw land from TerraLargo.

6. Dissolution.

6.1 Generally. In the event of the dissolution of Association without reinstatement within thirty (30) days, other than incident to a merger or consolidation, any Owner may petition the circuit court of the appropriate judicial circuit of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and to manage the Common Areas in the place and stead of Association, and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association. In the event Association is dissolved, and any portion of the Surface Water Management System is part of the Common Areas, the Surface Water Management System shall be conveyed to an appropriate agency of local government and, if not accepted, then the Surface Water Management System shall be dedicated to a similar non-profit corporation.

6.2 Applicability of Declaration after Dissolution. In the event of dissolution of Association, TerraLargo and each Home therein shall continue to be subject to the provisions of this Declaration, including, without limitation, the provisions respecting Assessments and Club Dues specified in this Declaration and/or the Club Plan. Each Owner shall continue to be personally obligated to the successors or assigns of Association and/or Club Owner, as the case may be, for Assessments and Club Dues to the extent that Assessments and Club Dues are required to enable the successors or assigns of Association and/or Club Owner to properly maintain, operate and preserve the Common Areas and/or Club. Without limiting the foregoing, the obligation of each Owner to pay the Club Membership Fee shall survive the dissolution of Association. The provisions of this Section shall only apply with regard to the maintenance, operation, and preservation of those portions of TerraLargo which had been Common Areas and/or comprised part of the Club and continue to be so used for the common use and enjoyment of the Owners.

7. Binding Effect and Membership.

7.1 Term. This Declaration and all covenants, conditions and restrictions contained in this Declaration are equitable servitudes, perpetual and run with the land. Each Owner, by acceptance of a deed to a Home or Lot, and any person claiming by, through or under such Owner (i) agrees to be subject to the provisions of this Declaration and (ii) irrevocably waives any claim and any right to deny that this Declaration and all covenants, conditions and restrictions contained in this Declaration are not enforceable under the Marketable Record Titles to Real Property Act, Chapter 712 of the Florida Statutes. It is expressly intended that the Marketable Record Titles to Real Property Act will not operate to extinguish any encumbrance placed on TerraLargo by this Declaration. It is further expressly intended that no re-filing or notice of preservation is necessary to continue the applicability of this Declaration and the applicability of all covenants, conditions, and restrictions contained in this Declaration. This provision is not subject to amendment, except by Developer.

7.2 Transfer. The transfer of the fee simple title to a Home, whether voluntary or by operation of law, terminating the Owner's title to that Home shall terminate the Owner's rights to the use of and enjoyment of the Common Areas as it pertains to that Home and shall terminate such Owner's membership in Association. An Owner's rights and privileges under this Declaration are not assignable separately from a Home. The Owner of each Home is entitled to the benefits of, and is burdened with the duties and responsibilities set forth in, the provisions of this Declaration. All parties acquiring any right, title and interest in and to any Home shall be fully bound by the provisions of this Declaration. In no event shall any Owner acquire any rights that are greater than the rights granted to, and limitations placed upon its predecessor in title pursuant to the provisions of this Declaration. In the event that any Owner desires to sell or otherwise transfer title of his or her Home, such Owner shall give the Board at least fourteen (14) days prior written notice of the name and address of the purchaser or transferee, the date on which such transfer of title is to take place, and such other information as the Board may reasonably require. The transferor shall remain jointly and severally liable with the transferee for all obligations of the Owner and the Home pursuant to this Declaration including, without limitation, payment of all Assessments accruing prior to the date of transfer. Until written notice is received as provided in this Section, the transferor and transferee shall be jointly and severally liable for Assessments accruing subsequent to the date of transfer. In the event that upon the conveyance of a Home an Owner fails in the deed of conveyance to reference the imposition of this Declaration on the Home, the transferring Owner shall remain liable for Assessments accruing on the Home from and after the date of conveyance.

7.3 Membership. Upon acceptance of title to a Home, and as more fully provided in the Articles and By-Laws, each Owner shall become a member of Association (a "**Member**"). Membership rights are governed by

the provisions of this Declaration, the deed to a Home, the Articles and By-Laws. Membership shall be an appurtenance to and may not be separated from, the ownership of a Home. Developer rights with respect to Association are set forth in this Declaration, the Articles and By-Laws. Club Owner shall be a member of Association as set forth herein and in the By-Laws.

7.4 Ownership by Entity. In the event that an Owner is other than a natural person, that Owner shall, prior to occupancy of the Home, designate one or more persons who are to be the occupants of the Home and register such persons with Association. All provisions of this Declaration and the other Association Documents shall apply to both such Owner and the designated occupants.

7.5 Voting Interests. Voting interests in Association are governed by the provisions of the Articles and By-Laws.

7.6 Document Recordation by Owners Prohibited. Neither Association nor any Owner, nor group of Owners, may record any documents that, in any way, affect or restrict the rights of Developer or Club Owner, or conflict with the provisions of this Declaration or the other Association Documents.

7.7 Composition of the Board. Developer reserves the right to change, from time to time prior to and including the Turnover Date, the composition of the Board. Without limiting the foregoing, Developer may change the number of Board members, the effect of a vote by a Board member or how a Board member is elected or appointed prior to and including the Turnover Date.

7.8 Conflicts. In the event of any conflict among this Declaration, the Articles, the By-Laws or any of the other Association Documents, this Declaration shall control.

8. Paramount Rights of Developer. Notwithstanding anything to the contrary herein, prior to the Community Completion Date, Developer shall have the paramount right to dedicate, transfer, and/or convey (by absolute conveyance, easement, or otherwise) portions of TerraLargo for various public purposes or for the provision of Telecommunications Systems, utilities, or to make any portions of TerraLargo part of the Common Areas, or to create and implement a community development district, special taxing district and/or special lighting district which may include all or any portion of TerraLargo. In addition, the Common Areas of TerraLargo may include decorative improvements, berms, and waterbodies. Notwithstanding anything to the contrary herein, the waterbodies may be dry during certain weather conditions or during certain times of the year. Developer may remove, modify, eliminate or replace these items from time to time in its sole discretion. SALES BROCHURES, SITE PLANS, AND MARKETING MATERIALS ARE CURRENT CONCEPTUAL REPRESENTATIONS AS TO WHAT FACILITIES, IF ANY, WILL BE INCLUDED WITHIN THE COMMON AREAS. DEVELOPER SPECIFICALLY RESERVES THE RIGHT TO CHANGE THE LAYOUT, COMPOSITION, AND DESIGN OF ANY AND ALL COMMON AREAS AT ANY TIME WITHOUT NOTICE AT ITS DISCRETION.

9. Operation of Common Areas.

9.1 Prior to Conveyance. Prior to the conveyance, identification and/or dedication of the Common Areas to Association as set forth in Section 9.4 herein, any portion of the Common Areas owned by Developer shall be operated, maintained, repaired, replaced, insured and administered at the sole cost of Association for all purposes and uses reasonably intended, as Developer in its sole discretion deems appropriate. During such period, Developer shall own, operate, and administer the Common Areas without interference from any Owner or Lender of a Home or Parcel or any portion of TerraLargo or any other person or entity whatsoever. Owners shall have no right in or to any Common Areas referred to in this Declaration unless and until same are actually constructed, completed, and conveyed to, operated by, dedicated to, and/or maintained by Association. The current conceptual representations, if any, regarding the composition of the Common Areas are not a guarantee of the final composition of the Common Areas. No party should rely upon any statement contained herein as a representation or warranty as to the extent of the Common Areas to be owned, operated by, or dedicated to Association. Developer, so long as it controls Association, further specifically retains the right to add to, delete from, or modify any of the Common Areas referred to herein in its sole discretion and without notice.

9.2 Construction of Common Areas Facilities. Developer has constructed or will construct, at its sole cost and expense, certain facilities and improvements as part of the Common Areas, together with equipment and personalty contained therein, and such other improvements and personalty as Developer determines in its sole discretion. Developer shall be the sole judge of the composition of such facilities and improvements. Prior to the Community Completion Date Developer reserves the absolute right to construct additional Common Areas facilities and improvements within TerraLargo, from time to time, in its sole discretion, and to remove, add to, modify and change the boundaries, facilities and improvements now or then part of the Common Areas. Developer is not obligated to, nor has it represented that it will, modify or add to the facilities, improvements, or Common Areas as they are contemplated as of the date hereof. Developer is the sole judge of the foregoing, including the plans, specifications, design, location, completion schedule, materials, size, and contents of the facilities, improvements, appurtenances, personalty (*e.g.*, furniture), color, textures, finishes, or Common Areas, or changes or modifications to any of them.

9.3 Use of Common Areas by Developer. Until the Community Completion Date Developer shall have the right to use any portion of the Common Areas and the Club, without charge, for any purpose deemed appropriate by Developer, and to the exclusion of others.

9.4 Conveyance.

9.4.1 Generally. As determined by Developer in its sole discretion, or as may be required by law, all or portions of the Common Areas may be dedicated by Plats, created in the form of easements, or conveyed by written instrument or by quitclaim deed recorded in the Public Records from Developer to Association. Association shall pay all of the costs of the conveyance. The dedication, creation by easement, or conveyance shall be subject to easements, restrictions, reservations, conditions, limitations, and declarations of record, real estate taxes for the year of conveyance, zoning, land use regulations and survey matters. Association shall be deemed to have assumed and agreed to pay all continuing obligations and service and similar contracts relating to the ownership operation, maintenance, and administration of the conveyed portions of Common Areas and other obligations relating to the Common Areas imposed herein. Association shall, and does hereby, indemnify and hold Developer harmless on account thereof. Association, by its joinder in this Declaration, hereby accepts such dedication(s) or conveyance(s) without setoff, condition, or qualification of any nature. The Common Areas, personal property and equipment thereon and appurtenances thereto shall be dedicated or conveyed in "as is, where is" condition WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION, FITNESS OR MERCHANTABILITY OF THE COMMON AREAS BEING CONVEYED. Notwithstanding the foregoing, any such conveyance or encumbrance of such Common Areas is subject to each Owner's irrevocable ingress and egress easement to his or her Home as set forth in this Declaration.

9.4.2 Form of Deed. Each deed of the Common Areas shall be subject to the following provisions:

9.4.2.1 a perpetual nonexclusive easement in favor of governmental agencies for the maintenance and repair of existing road, speed and directional signs, if any;

9.4.2.2 matters reflected in the plat(s) of TerraLargo;

9.4.2.3 perpetual non-exclusive easements in favor of Developer, its successors, and assigns in, to, upon and over all of the Common Areas for the purpose of vehicular and pedestrian ingress and egress, installation of utilities, landscaping and/or drainage, without charge, including, without limitation, the right to use such Common Areas for construction vehicles and equipment. The easements reserved in the deed shall run in favor of Developer, and its employees, representatives, agents, licensees, guests, invitees, successors and/or assigns;

9.4.2.4 all restrictions, easements, covenants and other matters of record;

9.4.2.5 in the event that Association believes that Developer shall have failed in any respect to meet Developer's obligations under this Declaration or has failed to comply with any of Developer's obligations under law or the Common Areas conveyed herein are defective in any respect, Association shall give written notice to Developer detailing the alleged failure or defect. Once Association has given written notice to Developer pursuant to this Section, Association shall be obligated to permit Developer and its agents to perform inspections of the Common Areas and to perform all tests and make all repairs/replacements deemed necessary by Developer to respond to such notice at all reasonable times. Association agrees that any inspection, test and/or repair/replacement scheduled on a business day between 9 a.m. and 5 p.m. shall be deemed scheduled at a reasonable time. The rights reserved in this Section include the right of Developer to repair or address, in Developer's sole option and expense, any aspect of the Common Areas deemed defective by Developer during its inspections of the Common Areas. Association's failure to give the notice and/or otherwise comply with the provisions of this Section will damage Developer. At this time, it is impossible to determine the actual damages Developer might suffer. Accordingly, if Association fails to comply with its obligations under this Section in any respect, Association shall pay to Developer liquidated damages in the amount of $250,000.00 which Association and Developer agree is a fair and reasonable remedy; and

9.4.2.6 a reservation of right in favor of Developer (so long as Developer owns any portion of TerraLargo) to require that Association reconvey all or a portion of the Common Areas conveyed by quitclaim deed in favor of Developer in the event that such property is required to be owned by Developer for any purpose, including, without limitation, the reconfiguration of any adjacent property by replatting or otherwise.

9.5 Operation After Conveyance. After the conveyance or dedication of any portion of the Common Areas to Association, the portion of the Common Areas so dedicated shall be owned, operated, maintained, and administered by Association for the use and benefit of the owners of all property interests in TerraLargo including, but not limited to, Association, Developer, Club Owner, Owners and any Lenders. Notwithstanding the foregoing, subject only to Association's right to grant easements and other interests as provided herein, Association may not convey, abandon, alienate, encumber, or transfer all or a portion of the Common Areas to a third party without (i) if prior to the Turnover Date, the approval of (a) a majority of the Board; and (b) the consent of Developer and Club Owner, or (ii) from and after the Turnover Date, approval of (a) sixty-six and two-thirds percent (66⅔%) of the Board; (b) seventy-five percent (75%) of all of the votes in Association being first had and obtained; and (c) consent of the Club Owner being first had and obtained.

9.6 Paved Areas. The Common Areas may contain certain paved areas. Without limiting any other provision of this Declaration, Association is responsible for the maintenance and/or resurfacing of all paved surfaces including, but not limited to, roads, pathways, bicycle paths, and sidewalks forming a part of the Common Areas, if any. In addition, Association is responsible for maintaining all traffic signs and pavement markings in accordance with the U.S. Department of Transportation Federal Highway Administration's Manual on Uniform Traffic Control

Devices ("**MUTCD**"). Although pavement appears to be a durable material, it requires maintenance. Association shall have the right, but not the obligation, to arrange for an annual inspection of all paved surfaces forming a part of the Common Areas by a licensed paving contractor and/or engineer. The cost of such inspection shall be a part of the Operating Costs of Association. Association shall determine annually the parameters of the inspection to be performed, if any. By way of example, and not of limitation, the inspector may be required to inspect the roads and sidewalks forming part of the Common Areas annually for deterioration and to advise Association of the overall pavement conditions including any upcoming maintenance needs. Any patching, grading, or other maintenance work should be performed by a company licensed to perform such work. From and after the Community Completion Date, Association should monitor the roads and sidewalks forming the Common Areas monthly to ensure that vegetation does not grow into the asphalt and that there are no eroded or damaged areas that need immediate maintenance.

9.7 Delegation and Managers. Once conveyed or dedicated to Association, the Common Areas and facilities and improvements located thereon shall, subject to the provisions of this Declaration and the document of conveyance or dedication, at all times be under the complete supervision, operation, control, and management of Association. Notwithstanding the foregoing Association may delegate all or a portion of its obligations hereunder to a licensed manager or professional management company ("**Management Company**"). Association specifically shall have the right to pay for management services on any basis approved by the Board (including bonuses or special fee arrangements for meeting financial or other goals). Developer, its affiliates and/or subsidiaries shall have the right to manage Association, in which event such manager shall be included in the term Management Company. Owners and Association acknowledge that it is fair and reasonable to have Developer, its affiliates and/or subsidiaries manage Association. Further, in the event that a Common Area is created by easement, Association's obligations and rights with respect to such Common Area may be limited by the terms of the document creating such easement.

9.8 Use.

9.8.1 Nonexclusive Use. The Common Areas shall be used and enjoyed by the Owners on a non-exclusive basis in common with other persons, entities and corporations (who may, but are not required to be, Members) entitled to use those portions of the Common Areas. Prior to the Community Completion Date, Developer, and thereafter, Association, has the right, at any and all times, and from time to time, to further provide and make the Common Areas available to other individuals, persons, firms, or corporations, as it deems appropriate. The granting of such rights shall not invalidate this Declaration, reduce or abate any Owner's obligations pursuant to this Declaration, or give any Owner the right to avoid any of the covenants, agreements or obligations to be performed hereunder. Without limiting the foregoing, Club Owner and all persons having a right to use the Club (whether or not they are Owners or members of the general public) shall have the right to use the Common Areas for pedestrian and vehicular ingress and egress to the Club for all purposes, and for maintenance, repair, and replacement of the Club.

9.8.2 Right to Allow Use. Developer and/or Association may enter into easement agreements or other use or possession agreements whereby the Owners, Telecommunications Providers, Association and/or others may obtain the use, possession of, or other rights regarding certain property, on an exclusive or non-exclusive basis, for certain specified purposes. Association may agree to maintain and pay the taxes, insurance, administration, upkeep, repair, and replacement of such property, the expenses of which shall be Operating Costs. Any such agreement by Association prior to the Community Completion Date shall require the consent of Developer and Club Owner. Thereafter, any such agreement shall require the approval of the majority of the Board, and the consent of Club Owner, which consent shall not be unreasonably withheld or delayed.

9.8.3 Waterbodies. BY ACCEPTANCE OF A DEED TO A HOME OR LOT, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL LAKES AND OTHER WATERBODIES MAY VARY. THERE IS NO GUARANTY BY DEVELOPER, SWFWMD, OR ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME; AT TIMES, WATER LEVELS MAY BE NONEXISTENT. Developer, SWFWMD, and Association shall not be obligated to erect fences, gates or walls around or adjacent to any waterbody or waterfall within TerraLargo. Notwithstanding the foregoing, an Owner may erect a fence adjacent to the boundary of a waterbody but within the boundary of a Home with the prior approval of the ARC. No fence or other structure may be placed within any lake maintenance easement. Swimming will not be permitted in any waterbody and boating will not be permitted except as otherwise provided in Section 11.46 hereof. No private docks may be erected within any waterbody forming part of the Common Areas.

9.8.4 Obstruction of Common Areas. No portion of the Common Areas may be obstructed, encumbered, or used by Owners for any purpose other than as permitted by Association.

9.8.5 Assumption of Risk. Without limiting any other provision herein, each person within any portion of TerraLargo accepts and assumes all risk and responsibility for noise, liability, injury, or damage connected with use or occupancy of any portion of TerraLargo (*e.g.*, the Common Areas) including, without limitation, (a) noise from maintenance equipment, (b) use of pesticides, herbicides and fertilizers, (c) view restrictions caused by maturation of trees and shrubbery, (d) reduction in privacy caused by the removal or pruning of shrubbery or trees within TerraLargo and (e) design of any portion of TerraLargo. Each person entering onto any portion of TerraLargo also expressly indemnifies and agrees to hold harmless Developer, Association, Club Owner, Club Manager, Builders and their employees, directors, representatives, officers, agents, partners, affiliates and attorneys in-house and outsourced (collectively, the "**Indemnified Parties**"), from any and all damages, whether direct or consequential, arising from or related to the person's use of the Common Areas, including attorneys' fees, paraprofessional fees and costs, pre-trial and at all levels of proceedings, including appeals. Without limiting the

foregoing, all persons using the Common Areas, including without limitation, all waterbodies, lakes, pools or areas adjacent to a lake, do so at their own risk. BY ACCEPTANCE OF A DEED, EACH OWNER ACKNOWLEDGES THAT THE COMMON AREAS MAY CONTAIN WILDLIFE SUCH AS ALLIGATORS, DOGS, RACCOONS, SNAKES, DUCKS, DEER, SWINE, TURKEYS, BEES, FIRE ANTS AND FOXES. DEVELOPER, BUILDERS AND ASSOCIATION, CLUB OWNER, AND CLUB MANAGER SHALL HAVE NO RESPONSIBILITY FOR MONITORING SUCH WILDLIFE OR NOTIFYING OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE. EACH OWNER AND HIS OR HER GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN SAFETY.

9.8.6 Owner's Obligation to Indemnify. Each Owner agrees to indemnify and hold harmless the Indemnified Parties against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever ("**Losses**") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to the Common Areas including, without limitation, use of the lakes and other waterbodies adjacent to or within TerraLargo by Owners, and their guests, family members, invitees, or agents, or the interpretation of this Declaration and/or exhibits attached hereto and/or from any act or omission of Developer, Association, Club Owner, or Club Manager, or of any of the Indemnified Parties. Should any Owner bring suit against Developer, Association, Club Owner, or Club Manager, or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, such Owner shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorneys' fees, paraprofessional fees and costs, at pre-trial and at all levels of proceedings, including appeals.

9.9 Rules and Regulations.

9.9.1 Generally. Prior to and including the Turnover Date, Developer, and thereafter Association, shall have the right to adopt Rules and Regulations governing the use of the Common Areas and TerraLargo. The Rules and Regulations need not to be recorded in the Public Records. The Common Areas shall be used in accordance with this Declaration and Rules and Regulations promulgated hereunder.

9.9.2 Developer Not Subject to Rules and Regulations. The Rules and Regulations shall not apply to Developer or to any property owned by Developer and shall not be applied in a manner which would prohibit or restrict the development or operation of the Club or adversely affect the interests of Developer. Without limiting the foregoing, Developer, Builder and/or their assigns, shall have the right to: (i) develop and construct commercial uses, club uses, industrial uses, Homes, Common Areas, and the Club and related improvements within TerraLargo, and make any additions, alterations, improvements, or changes thereto; (ii) maintain sales offices (for the sale and re-sale of (a) Homes and (b) residences and properties located outside of TerraLargo), general offices and construction operations within TerraLargo; (iii) place, erect or construct portable, temporary or accessory buildings or structure within TerraLargo for sales, construction storage or other purposes; (iv) temporarily deposit, dump or accumulate materials, trash, refuse and rubbish in connection with the development or construction of any portion of TerraLargo; (v) post, display, inscribe or affix to the exterior of any portion of the Common Areas or portions of TerraLargo owned by Developer, signs and other materials used in developing, constructing, selling or promoting the sale of any portion TerraLargo including, without limitation, Homes; (vi) excavate fill from TerraLargo or adjacent property by dredge or dragline, store fill within TerraLargo and remove and/or sell excess fill; (vii) grow or store plants and trees within, or contiguous to, TerraLargo and use and/or sell excess plants and trees; and (viii) undertake all activities which, in the sole opinion of Developer, are necessary for the development and sale of any lands and improvements comprising TerraLargo.

9.10 Public Facilities. TerraLargo may include one or more facilities which may be open and available for the use of the general public. By way of example, and not as a limitation, there may be a public park or other facility within the boundaries of TerraLargo.

9.11 Lift Station. City owns a lift station that is located within the boundaries of TerraLargo. The City is hereby granted a perpetual, non-exclusive easement over and across the real property described on **Exhibit 6** attached hereto (the "**Lift Station Easement Area**") for the purpose of maintaining the lift station. The City may access the Lift Station Easement Area through TerraLargo.

9.12 Default by Another Owner. No default by any Owner in the performance of the covenants and promises contained in this Declaration or by any person using the Common Areas or any other act or omission by any of them shall be construed or considered (a) a breach by Developer or Association or a non-defaulting Owner or other person or entity of any of their promises or covenants in this Declaration; or (b) an actual, implied or constructive dispossession of another Owner from the Common Areas; or (c) an excuse, justification, waiver or indulgence of the covenants and promises contained in this Declaration.

9.13 Special Taxing Districts. For as long as Developer controls Association, Developer shall have the right, but not the obligation, to dedicate or transfer or cause the dedication or transfer of all or portions of the Common Areas to a special taxing district or a public agency or authority under such terms as Developer deems appropriate in order to create or contract with special taxing districts and community development districts (or others) for lighting, perimeter walls, entrance features, roads, landscaping, irrigation areas, lakes, dams, waterways, ponds, surface water management systems, wetlands mitigation areas, parks, recreational or other services, security or communications, or other similar purposes deemed appropriate by Developer, including without limitation, the maintenance and/or operation of any of the foregoing. As hereinafter provided, Developer may sign any taxing district petition as attorney-in-fact for each Owner. Each Owner's obligation to pay taxes associated with such district shall be in addition to such Owner's obligation to pay Assessments. Any special taxing district shall be created pursuant to all applicable ordinances of County and all other applicable governing entities having

jurisdiction with respect to the same. Without limiting the foregoing, it is anticipated but not guaranteed that a special taxing district will be set up through County in order to maintain the street lights leased from Lakeland Electric.

9.14 Water Transmission and Distribution Facilities Easement and Repair. Developer hereby grants and conveys to City or County, their successors and assigns, the non-exclusive right, privilege and easement to construct, re-construct, lay, install, operate, maintain, relocate, repair, replace, improve and inspect water transmission and distribution facilities and sewer collection facilities and all appurtenances thereto, and all appurtenant equipment, with the full right of ingress thereto and egress therefrom, within TerraLargo (excluding such facilities located inside a Home) in accordance with plans approved by Developer or Association. Certain water transmission and distribution facilities and sewer collection facilities may be covered with decorative brick pavers that do not conform to City or County regulations ("**Non-Conforming Pavers**") in the course of construction of Homes and Common Areas, as and to the extent permitted under the terms of this Declaration. In the event City or County or any of their subdivisions, agencies and/or divisions shall damage any Non-Conforming Pavers as a result of construction, repair or maintenance operations of the water and/or sewer facilities or the City's or County's use of its easement rights granted in this Section 9.14, then Association shall replace or repair such damage at the expense of the Owner of the affected Home and such cost shall be billed to such Owner as an Individual Assessment, unless, and only to the extent that, such cost is not paid by City or County or such other subdivisions, agencies and/or divisions. Association shall indemnify and hold harmless City or County and their officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees, paraprofessional fees and costs of defense, which City or County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance by Association of Association's obligations under this Section 9.14.

9.15 Association's Obligation to Indemnify. Association and Owners each covenant and agree jointly and severally to indemnify, defend and hold harmless Developer and its officers, directors, members, managers, shareholders, representatives, agents, partners, affiliates and any related persons or corporations and their employees from and against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life, or damage to property, sustained on or about the Common Areas or other property serving Association, and improvements thereon, or resulting from or arising out of activities or operations of Association or Owners, and from and against all costs, expenses, court costs, attorneys' fees and paraprofessional fees (including, but not limited to, attorneys' fees and paraprofessional fees pre-trial, and at all levels of proceedings, including appeals), expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders judgments or decrees which may be entered relating thereto. The costs and expense of fulfilling this covenant of indemnification shall be Operating Costs to the extent such matters are not covered by insurance maintained by Association.

9.16 Site Plans and Plats. TerraLargo may be subject to one or more plats (each individually, a "**Plat**") as may be amended from time to time. The Plat may identify some of the Common Areas within TerraLargo. The description of the Common Areas on a Plat is subject to change (contingent upon receipt of the appropriate plat approval(s)) and the notes on a Plat are not a guarantee of what facilities will be constructed on such Common Areas. Site plans used by Developer in its marketing efforts illustrate the types of facilities which may be constructed on the Common Areas, but such site plans are not a guarantee of what facilities will actually be constructed. Each Owner should not rely on a Plat or any site plans used for illustration purposes as the Declaration governs the rights and obligations of Developer and Owners with respect to the Common Areas.

10. Maintenance by Association.

10.1 Common Areas. Except as otherwise specifically provided in this Declaration to the contrary, Association shall at all times maintain, administer, operate, repair, replace and insure the Common Areas, and all improvements placed thereon (*e.g.*, sprinkler systems) including, without limitation, Common Area landscaping and irrigation. Without limiting the foregoing, perimeter walls within Lots shall be maintained by Association. Association shall be responsible for root pruning trees within the Common Areas.

10.2 Drainage. Association shall at all times maintain the drainage systems and facilities within the Common Areas.

10.3 Maintenance of Lawn and Landscaping. Association shall have no responsibility for maintenance of yards within a Home. All lawn maintenance of Homes shall be the responsibility of each Owner. Association shall be responsible for the maintenance of the sprinkler system serving the Common Areas including the private roads, within TerraLargo. If an Owner has installed a fence or wall around a Home or any portion thereof with ARC approval, then such Owner shall be responsible for maintenance of any portion of the Common Areas that are no longer readily accessible to Association any or all landscaping and other improvements within any fenced portion of the Common Areas. In the event grass in any portion of a Lot is not maintained, Association may, but shall not be obligated to, cut the grass. The costs and expenses of such maintenance plus $25.00 (or such other amount determined by Association in its sole discretion) shall be charged to such Owner as an Individual Assessment.

10.4 Duty to Maintain Surface Water Management System. The Surface Water Management System within TerraLargo will be owned, maintained and operated by Association as permitted by the SWFWMD. The costs of the operation and maintenance of the Surface Water Management System shall be part of the Operating Costs of Association. Notwithstanding the foregoing, the SWFWMD has the right to take enforcement action, including a civil action for injunction and penalties against Association to compel it to correct any outstanding

problems with the Surface Water Management System facilities or in mitigation or conservation areas under the responsibility or control of Association. Association shall accept any and all transfer of permits from Developer. Association shall cooperate with Developer with any applications, certifications, documents or consents required to effectuate any such transfer of permits to Association. Each Builder and Owner within TerraLargo, at the time of construction of a building, residences or structure, shall comply with the construction plans for the Surface Water Management System approved and on file with the SWFWMD.

10.5 Amendments Affecting Surface Water Management System. Any proposed amendment to the Association Documents which will affect the Surface Water Management System including any environmental conservation area and the water management portions of the Common Areas, must have the prior written approval of the SWFWMD. Association's registered agent shall maintain copies of all Surface Water Management System permits and correspondence respecting such permits, and any future SWFWMD permit actions shall be maintained by Association's registered agent for Association's benefit.

10.6 Conservation Areas. Lots may contain or be adjacent to wetlands, wetland mitigation or preservation areas, upland conservation areas and drainage easements, which may be dedicated by Plat and/or protected by a conservation easement ("**Conservation Areas**"). Owners of Homes abutting Conservation Areas shall not remove native vegetation (including, without limitation, cattails) that becomes established within the Conservation Areas abutting their Home. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass. Owners shall address any questions regarding authorized activities within the Conservation Areas to the SWFWMD.

10.7 Use Restrictions for Conservation Areas. The Conservation Areas may in no way be altered from their natural or permitted state. These use restrictions may be defined on the Permit and the plats associated with TerraLargo. Activities prohibited within the Conservation Areas include, but are not limited to, the following:

10.7.1 Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

10.7.2 Dumping or placing of soil or other substances or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

10.7.3 Removal or destruction of tress, shrubs or other vegetation; with exception of nuisance and exotic plant species as may be required by Developer.

10.7.4 Excavation, dredging, or removal of loam, peat, gravel, soil, rock or other material substance in such manner as to affect the surface;

10.7.5 Surface use except for purposes that permit the land or water area to remain predominately in its natural condition;

10.7.6 Activities detrimental to drainage, flood control, water conservation, erosion control, or fish and wildlife habitat preservation or conservation;

10.7.7 Acts or uses detrimental to such aforementioned retention and maintenance of land or water areas; and

10.7.8 Acts or uses detrimental to the preservation of any features or aspects of the property having historical, archeological or cultural significance.

10.7.9 No Owner within TerraLargo may construct or maintain any building, residence, or structure, or undertake or perform any activity in the Conservation Areas described in the Permit and recorded plat(s) of TerraLargo, unless prior approval is received from the SWFWMD.

10.7.10 Each Owner within TerraLargo at the time of construction of a building, residence, or structure shall comply with the construction plans for the Surface Water Management System approved and on file with the SWFWMD.

10.8 Monitoring and Maintenance of Wetland Mitigation Areas. Since TerraLargo has on-site wetland mitigation requiring ongoing monitoring and maintenance in accordance with the rules and regulations of the SWFWMD, Association shall allocate sufficient funds in its budget for such monitoring and maintenance of wetland mitigation areas each year until the SWFWMD determines that the area(s) is successful in accordance with the requirements under the Permit. The costs of such monitoring and maintenance shall be Operating Costs.

10.9 Perimeter Walls and Fences. Association shall be responsible for maintaining any perimeter walls and fences, including columns, of TerraLargo even if such walls, fences and columns lie within one or more Lots. Notwithstanding the foregoing, each Owner shall be responsible for maintaining any shadow box fencing within his or her Lot.

10.10 Adjoining Areas. Association shall maintain those drainage areas, swales, lakes maintenance easements, driveways, and landscape areas that are within the Common Areas and immediately adjacent to a Home, provided that such areas are readily accessible to Association. Under no circumstances shall Association be responsible for maintaining any inaccessible areas within fences or walls that form a part of a Home.

10.11 Negligence. The expense of any maintenance, repair or construction of any portion of the Common Areas necessitated by the negligent or willful acts of an Owner or persons utilizing the Common Areas, through or under an Owner, shall be borne solely by such Owner, and the Home and/or Lot owned by that Owner shall be subject to an Individual Assessment for that expense. By way of example, and not of limitation, an Owner shall be responsible for the removal of all landscaping and structures placed within easements or Common Areas without the prior written approval of Association.

10.12 Right of Entry. Developer, Club Owner, the City, the County and Association are granted a perpetual and irrevocable easement over, under and across TerraLargo for the purposes herein expressed, including, without limitation, for inspections to ascertain compliance with the provisions of this Declaration, and for the performance of any right, obligation, maintenance, alteration or repair which it is entitled or required to exercise or perform. Without limiting the foregoing, Developer specifically reserves easements for all purposes necessary to comply with any governmental requirement or to satisfy any condition that is a prerequisite for a governmental approval. By way of example, and not of limitation, Developer may construct, maintain, repair, alter, replace and/or remove improvements; install landscaping; install utilities; and/or remove structures on any portion of TerraLargo if Developer is required to do so in order to obtain the release of any bond posted with any governmental agency. Association shall have a perpetual non-exclusive easement over all areas of the Surface Water Management System for access to operate, maintain or repair such system. By this easement, Association shall have the right to enter upon any portion of any Lot which is a part of the Surface Water Management System, at a reasonable time and in a reasonable manner, to operate, maintain or repair the Surface Water Management System as required by the Permit. Additionally, Association shall have a perpetual non-exclusive easement for drainage over the entire Surface Water Management System. No person shall alter the drainage flow of the Surface Water Management System, including buffer areas or swales, without the prior written consent of the Association.

10.13 Maintenance of Property Owned by Others. Association shall, if designated by Developer (or by Association after the Community Completion Date) by amendment to this Declaration or by other notice or direction, maintain vegetation, landscaping, sprinkler system, community identification features and/or other areas or elements designated by Developer (or by Association after the Community Completion Date) upon areas which are within or outside of TerraLargo and which are owned by, or dedicated to, others including, but not limited to, a utility, governmental or quasi-governmental entity, so as to enhance the appearance of TerraLargo. These areas may include (by way of example and not limitation) swale areas or median areas within the right-of-way of public streets (including, without limitation, Sleepy Hill Road), roads, drainage areas, community identification or entrance features, community signage or other identification and/or areas within canal rights-of-ways or other abutting waterways.

10.14 Driveway and Sidewalk Easement. Each Owner shall be responsible to timely repair, maintain and/or replace the driveway which comprises part of a Home and the sidewalk abutting the front Lot or side of the Home, including, but not limited to, any damage caused by Developer, Association or by the holder of any easement over which such driveway or sidewalk is constructed. Each Owner, by acceptance of a deed to a Home, shall be deemed to have agreed to indemnify and hold harmless Association and the holder of any such easement, including without limitation, all applicable utility companies and governmental agencies, their agents, servants, employees and elected officials, from and against any and all actions or claims whatsoever arising out of the use of the Common Areas and any easement or the construction and/or maintenance of any driveway or sidewalk in that portion of the Common Areas, easement area, or in a public right-of-way between the boundary of such Owner's Home and the edge of the adjacent paved roadway. Further, each Owner agrees to reimburse Association any expense incurred in repairing any damage to such driveway or sidewalk in the event that such Owner fails to make the required repairs, together with interest at the highest rate allowed by law. Each Owner shall be responsible for maintenance of vegetation in any portions of the road right-of-way, drainage swales and drainage easements between the boundary of such Owner's Home and the edge of the adjacent paved roadway. Owners shall retain the design of any portions of the road right-of-way, drainage swales and drainage easements between the boundary of such Owner's Home and the edge of the adjacent paved roadway unchanged.

10.15 Private Roads. All roads which are privately owned shall be maintained by Association or an entity other than County or City.

10.16 Dam Maintenance. On the southern and eastern boundaries of TerraLargo, there is a dam at the northern end of a lake adjacent to TerraLargo. The lake and dam are visual amenities for owners in TerraLargo. Association will own, maintain, inspect and supervise the dam and its operation including, without limitation, annual geotechnical inspections, building and maintaining a spillway around the dam to prevent damage from any flooding and repair and maintenance of the dam structure. The cost of maintenance shall be Operating Cost. Activities in and around the lake and dam are restricted pursuant to Section 11.46 hereof.

11. Use Restrictions. Each Owner must comply with the following:

11.1 Applicability. Developer shall have the right to exempt some or all of TerraLargo from the provisions of this Section 11. Subject to the foregoing right of Developer, the provisions of this Section 11 shall apply to all of the properties within TerraLargo and the use thereof, but shall not apply to Developer, Club Owner or portions of properties within TerraLargo owned or leased by Developer.

11.2 Alterations and Additions. No material alteration, addition or modification to a Parcel, Lot or Home or other improvement or structure, or material change in the appearance thereof, shall be made without the prior written approval thereof being first had and obtained from the ARC as required by this Declaration.

11.3 Animals. No animals of any kind shall be raised, bred or kept within TerraLargo for commercial purposes. Association may prohibit breeds of dogs that the Board considers dangerous in its sole discretion. Otherwise, Owners may keep domestic pets as permitted by County ordinances up to a limit of two (2) such pets per Home (unless such animal is of a breed prohibited by the County, the City or other governmental entity) and otherwise in accordance with the Rules and Regulations established by the Board from time to time. Notwithstanding the foregoing, pets may be kept or harbored in a Home only so long as such pets or animals do not constitute a nuisance. A determination by the Board that an animal or pet kept or harbored in a Home is a nuisance shall be conclusive and binding on all parties. All pets shall be walked on a leash. No pet shall be permitted outside a Home unless such pet is kept on a leash or within an enclosed portion of the yard of a Home, as approved by the ARC. No pet or animal shall be "tied out" on the exterior of the Home or in the Common Areas, or left unattended in a yard or on a balcony, porch, or patio. No dog runs or enclosures shall be permitted on any Home. When notice of removal of any pet is given by the Board, the pet shall be removed within forty-eight (48) hours of the giving of the notice. All pets shall urinate and defecate only in the "pet walking" areas within TerraLargo designated for such purpose, if any, or on that Owner's Lot. The person walking the pet or the Owner shall clean up all matter created by the pet. Each Owner shall be responsible for the activities of its pet. Notwithstanding anything to the contrary, seeing eye dogs shall not be governed by the restrictions contained in this Section.

11.4 Artificial Vegetation. No artificial grass, plants or other artificial vegetation, or rocks or other landscape devices, shall be placed or maintained upon the exterior portion of any Home or Lot, unless approved by the ARC.

11.5 Cars and Trucks.

11.5.1 Parking. Owners' automobiles shall be parked in the garage or driveway of the Owner's Home, if provided, and shall not block the sidewalk. No vehicles of any nature shall be parked on any portion of TerraLargo or a Lot except on the surfaced parking area thereof. All lawn maintenance vehicles shall park on the driveway of the Home and not in the roadway or swale. Notwithstanding the foregoing, lawn maintenance vehicles may not be parked in the driveway of the Home overnight. To the extent TerraLargo has any guest parking, Owners are prohibited from parking in such guest parking spaces. No vehicles used in business for the purpose of transporting goods, equipment and the like, or any trucks or vans which are larger than three-quarter (3/4) ton shall be parked in TerraLargo except during the period of a delivery. Recreational vehicles, personal street vans, personal trucks of three-quarter (3/4) ton capacity or smaller, and personal vehicles that can be appropriately parked within the driveway of a Home (not blocking the sidewalk) may be parked in TerraLargo. No vehicles with expired registration, expired license plates or flat tires may be kept within public view anywhere within TerraLargo.

11.5.2 Repairs and Maintenance of Vehicles. No vehicle which cannot operate on its own power shall remain within TerraLargo for more than twelve (12) hours, except in the garage of a Home. No repair or maintenance, except emergency repair, of vehicles shall be made within TerraLargo, except in the garage of a Home. No vehicles shall be stored on blocks. No tarpaulin covers on vehicles shall be permitted anywhere within the public view.

11.5.3 Prohibited Vehicles. No commercial vehicle, limousines, boat, trailer including, but not limited to, boat trailers, house trailers, and trailers of every other type, kind or description, or camper, may be kept within TerraLargo except in the garage of a Home. Notwithstanding the foregoing, a boat and/or boat trailer may be kept within the fenced yard of a Home so long as the boat and/or boat trailer, when located within a fenced yard, are fully screened from view by such fence. The term commercial vehicle shall not be deemed to include law enforcement vehicles or recreational or utility vehicles (*e.g.*, Broncos™, Hummers™, Explorers™, Navigators™, etc.) or clean "non-working" vehicles such as pick-up trucks, vans, or cars if they are used by the Owner on a daily basis for normal transportation. Notwithstanding any other provision in this Declaration to the contrary, the foregoing provisions shall not apply to construction vehicles in connection with the construction, improvement, installation, or repair by Developer or a Builder of Homes, Club Owner, Common Areas, or any other TerraLargo facility. No vehicles displaying commercial advertising shall be parked within the public view. No vehicles bearing a "for sale" sign shall be parked within the public view anywhere on TerraLargo. For any Owner who drives an automobile issued by the City, County or other governmental entity (*e.g.*, police cars), such automobile shall not be deemed to be a commercial vehicle and may be parked in the garage or driveway of the Home. No vehicle shall be used as a domicile or residence either temporarily or permanently. Notwithstanding the foregoing, each Owner acknowledges that such Owner and its family, guests, tenants and invitees shall abide by all parking regulations issued by the local governing authority having jurisdiction.

11.6 Casualty Destruction to Improvements. In the event that a Home or other improvement is damaged or destroyed by casualty loss or other loss, then within a reasonable period of time after such incident, the Owner thereof shall either commence to rebuild or repair the damaged Home or improvement and diligently continue such rebuilding or repairing until completion, or properly clear the damaged Home or improvement and restore or repair the Home as set forth in Section 12.2.2 herein and as approved by the ARC. As to any such reconstruction of a destroyed Home or improvements, the same shall only be replaced as approved by the ARC.

11.7 Commercial Activity. Except for normal construction activity, sale, and re-sale of a Home, sale or re-sale of other property owned by Developer, and administrative offices of Developer, no commercial or business activity shall be conducted in any Home within TerraLargo. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a home business office within a Home for such Owner's personal use; provided, however, business invitees customers, and clients shall not be permitted to meet with Owners in Homes unless the Board provides otherwise in the Rules and Regulations. Notwithstanding the foregoing, no Owner shall be permitted to operate a real estate brokerage business or title insurance agency within his or her Home. No Owner may actively engage in any solicitations for commercial purposes within TerraLargo.

No solicitors of a commercial nature shall be allowed within TerraLargo, without the prior written consent of Association. No day care center or facility may be operated out of a Home. No garage or yard sales are permitted, except as permitted by Association. Prior to the Community Completion Date, Association shall not permit any garage or yard sales without the prior written consent of Developer.

11.8 Completion and Sale of Homes. No person or entity shall interfere with the completion and sale of Homes within TerraLargo. WITHOUT LIMITING THE FOREGOING, EACH OWNER, BY ACCEPTANCE OF A DEED TO A HOME, AGREES THAT ACTIONS OF OWNERS MAY IMPACT THE VALUE OF HOMES; THEREFORE, EACH OWNER IS BENEFITED BY THE FOLLOWING RESTRICTION: PICKETING AND POSTING OF NEGATIVE SIGNS OR POSTING OF NEGATIVE WEBSITES ON THE INTERNET, NEGATIVE ADVERTISING AND NEGATIVE INFORMATION PROVIDED OR POSTED AT PUBLIC GATHERINGS ARE STRICTLY PROHIBITED IN ORDER TO PRESERVE THE VALUE OF THE HOMES IN TERRALARGO AND THE RESIDENTIAL ATMOSPHERE THEREOF. Without limiting the foregoing, each Owner, by acceptance of a deed to a Home, agrees that picketing and posting negative signs is strictly prohibited.

11.9 Control of Contractors. Except for direct services which may be offered to Owners (and then only according to the Rules and Regulations relating thereto as adopted from time to time), no person other than an Association officer or representative of the management company retained by Association shall direct, supervise, or in any manner attempt to assert any control over any contractor of Association.

11.10 Cooking. No cooking shall be permitted nor shall any goods or beverages be consumed on the Common Areas except in areas designated for those purposes by Association. The ARC shall have the right to prohibit or restrict the use of grills or barbecue facilities throughout TerraLargo.

11.11 Decorations. No decorative objects including, but not limited to, birdbaths, light fixtures, sculptures, statues, weather vanes, or flagpoles shall be installed or placed within or upon any portion of TerraLargo without the prior written approval of the ARC. Notwithstanding the foregoing, holiday lighting and decorations shall be permitted to be placed upon the exterior portions of the Home and upon the Lot in the manner permitted hereunder commencing on Thanksgiving and shall be removed no later than January 15th of the following year. The ARC may establish standards for holiday lights. The ARC may require the removal of any lighting that creates a nuisance (*e.g.*, unacceptable spillover to adjacent Home).

11.12 Disputes as to Use. If there is any dispute as to whether the use of any portion of TerraLargo complies with this Declaration, such dispute shall, prior to the Community Completion Date, be decided by Developer, and thereafter by Association. A determination rendered by such party with respect to such dispute shall be final and binding on all persons concerned.

11.13 Drainage System. Drainage systems and drainage facilities may be part of the Common Areas and/or Homes. The maintenance of such systems and/or facilities within the Common Areas shall be the responsibility of the Association. Once drainage systems or drainage facilities are installed by Developer, the maintenance of such systems and/or facilities thereafter within the boundary of a Home shall be the responsibility of the Owner of the Home which includes such system and/or facilities. In the event that such system or facilities (whether comprised of swales, pipes, pumps, waterbody slopes, or other improvements) is adversely affected by landscaping, fences, structures (including, without limitation, pavers) or additions, the cost to correct, repair, or maintain such drainage system and/or facilities shall be the responsibility of the Owner of each Home containing all or a part of such drainage system and/or facilities. By way of example, and not of limitation, if the Owner of one Home plants a tree (pursuant to the ARC approval) and the roots of such tree subsequently affect pipes or other drainage facilities within another Home, the Owner that plants the tree shall be solely responsible for the removal of the roots that adversely affect the adjacent Home. Likewise, if the roots of a tree located within the Common Areas adversely affect an adjacent Home, Association shall be responsible for the removal of the roots and the costs thereof shall be Operating Costs. Notwithstanding the foregoing, Association, Club Owner and Developer shall have no responsibility or liability for drainage problems of any type whatsoever.

11.14 Easement for Unintentional and Non-Negligent Encroachments. If any other building or improvement on a Home shall encroach upon another Home by reason of original construction by Developer, then an easement for such encroachment shall exist so long as the encroachment exists. It is contemplated that each Home shall contain an improvement with exterior walls, footings, and other protrusions which may pass over or underneath an adjacent Home. A perpetual nonexclusive easement is herein granted to allow the footers for such walls and other protrusions and to permit any natural water run off from roof overhangs, eaves and other protrusions onto an adjacent Home.

11.15 Extended Vacation and Absences. In the event a Home will be unoccupied for an extended period, the Home must be prepared prior to departure by: (i) notifying Association in writing; (ii) removing all removable furniture, plants and other objects from outside the Home; and (iii) designating a responsible firm or individual to care for the Home, should the Home suffer damage or require attention, and providing a key to that firm or individual. The name of the designee shall be furnished to Association. Neither Association nor Developer shall have responsibility of any nature relating to any unoccupied Home including, without limitation, installing or closing hurricane shutters prior to the arrival of a hurricane or tropical storm or other severe weather condition .

11.16 Fences and Walls. No walls or fences shall be erected or installed without prior written consent of the ARC. No chain link fencing of any kind shall be allowed except for perimeter areas screened by landscaping. All screening and screened enclosures shall require the prior written approval of the ARC. All enclosures of balconies or patios, including, without limitation, addition of vinyl windows and decks shall require the prior written approval of the ARC. Fences on the sides of a Home shall be six (6) feet or less, made of wood (natural wood,

white or other color approved by the ARC) or shadowbox. No walls shall be erected or installed on the side of Lot lines over utility mains.

11.17 Fuel Storage. No fuel storage shall be permitted within TerraLargo, except as may be necessary or reasonably used for swimming pools, spas, barbecues, fireplaces, emergency generators or similar devices.

11.18 Garages. Each Home may have its own garage. No garage shall be converted into a general living area or used as living quarters by any person unless specifically approved by the ARC, nor shall any commercial or business venture be operated out of any garage. Garage doors shall remain closed at all times except when vehicular or pedestrian access is required.

11.19 Garbage Cans. Trash collection and disposal procedures established by Association shall be observed. It is possible Association may provide for garbage pick-up, the cost of which shall be part of Operating Costs. No outside burning of trash or garbage is permitted. No garbage cans, supplies or other similar articles shall be maintained on any Home so as to be visible from outside the Home, Lot or Parcel. Each Owner shall be responsible for properly depositing his or her garbage and trash in garbage cans and trash containers sufficient for pick-up by the appropriate collection agencies in accordance with the requirements of any such agency. All such trash receptacles shall be maintained in a sanitary condition and shall be shielded from the view of adjacent properties and streets. Garbage cans and trash containers shall not be placed outside the Home for pick-up earlier than 6:00 p.m. on the day preceding the pick-up, and must be returned to the Home so that they are not visible from outside the Home on the day of pick-up.

11.20 General Use Restrictions. Each Home, the Common Areas and any portion of TerraLargo shall not be used in any manner contrary to the Association Documents.

11.21 Hurricane Shutters. Any hurricane shutters or other protective devices visible from outside a Home shall be of a type as approved in writing by the ARC. Panel, accordion and roll-up style hurricane shutters may not be left closed during hurricane season (nor at any other time). Any such approved hurricane shutters may be installed or closed up to seventy-two (72) hours prior to the expected arrival of a hurricane and must be removed or opened within seventy-two (72) hours after the end of a hurricane watch or warning or as the Board may determine otherwise. Except as the Board may otherwise decide, shutters may not be closed at any time other than a storm event. Any approval by the ARC shall not be deemed an endorsement of the effectiveness of hurricane shutters.

11.22 Irrigation. Children and pets should not play in the water used in the irrigation system. Due to water quality, irrigation systems may cause staining on Homes, other structures or paved areas, or vehicles . It is each Owner's responsibility to treat and remove any such staining on such Owner's Home, Lot, or personal property located within such Home or Lot. Association may require from time to time that Owners adopt systems to prevent staining (e.g. automatic deionization systems). No Owner whose Home is adjacent to a waterway or lake may utilize the waterway or lake to irrigate unless so provided by Developer as part of original construction. BY ACCEPTANCE OF A DEED TO A HOME OR LOT, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL LAKES AND WATERBODIES MAY VARY. THERE IS NO GUARANTEE BY DEVELOPER OR ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME; AT TIMES, WATER LEVELS MAY BE NON-EXISTENT. Developer, SWFWMD, Club Owner and/or Association shall have the right to use one or more pumps to remove water from lakes and waterbodies for irrigation purposes at all times, subject to applicable permitting. No Owner shall be permitted to install an individual water well on his or her Lot.

11.23 Lake and Canal Slopes and Retention Areas. The rear or side yard of some Homes may border lakes and canals and retention areas forming part of the Common Areas. To the extent that such lake slopes comprise part of the Common Areas, they will be regulated by the Association. Association may maintain portions of the Common Areas contiguous to the rear lot line of such Home which comprise part of the lake slopes and banks and/or canal slopes and banks and/or retention areas to prevent or restore erosion of slopes and banks due to drainage or roof culvert outfalls. Association may establish from time to time maintenance standards for the lake slopes and canal slopes and retention areas maintained by Owners who own Homes adjacent to Common Area waterbodies ("**Lake Slope Maintenance Standards**") such standards may include requirements respecting compaction and strengthening of lake banks. Association shall have the right to inspect such lake and canal slopes and banks to ensure that each Owner has complied with its obligation hereunder and the Lake Slope Maintenance Standards. The Owner of each Home bordering on the lake, canals, or retention area shall ensure that lake and canal banks and slopes and/or retention area remain free of any structural or landscape encroachments so as to permit vehicular access for maintenance when needed. Each Owner hereby grants the Association an easement of ingress and egress across his or her Home to all adjacent lake, canal, and retention areas for the purpose of ensuring compliance with the requirements of this Section. All lakes within TerraLargo shall be maintained by Association.

11.24 Landscape Lighting. No landscape lighting shall be installed by an Owner without the prior written approval of the ARC.

11.25 Laundry. Subject to the provisions of Section 163.04 of the Florida Statutes, to the extent applicable, no rugs, mops, or laundry of any kind, or any other similar type article, shall be shaken, hung or exposed so as to be visible outside the Home, Lot, or Parcel. No clothes drying area may be placed on any Lot until its location and material for the clothesline have been submitted to and approved by the ARC.

11.26 Lawful Use. No immoral, improper, offensive, unlawful or obnoxious use shall be made in any portion of TerraLargo. All laws, zoning ordinances and regulations of all governmental entities having jurisdiction

thereof shall be observed. The responsibility of meeting the requirements of governmental entities for maintenance, modification or repair of a portion of TerraLargo shall be the same as the responsibility for maintenance and repair of the property concerned.

11.27 Landscaping and Irrigation of Lots, Removal of Sod and Shrubbery; Additional Planting.

11.27.1 Every Owner shall be required to irrigate the grass and landscaping located on the Lots in a routine and ordinary manner, and shall ensure that sufficient irrigation occurs during all periods when the Owner is absent from the Lot.

11.27.2 No gardens, jacuzzis, fountains, playground equipment, pools, screened rooms, or other permitted improvements shall be constructed within the rear yard of a Lot without the prior written approval of the ARC. Each Owner understands that Lots within this Community may not be large enough to accommodate any of the foregoing items in any event.

11.27.3 Without the prior consent of the ARC, no sod, topsoil, tree or shrubbery shall be removed from TerraLargo, and there shall be no change in the plant landscaping or elevation of such areas, and no change in the condition of the soil or the level of the land of such areas shall be made which results in any change in the flow and drainage of surface water which the ARC, in its sole discretion, considers detrimental or potentially detrimental to person or property. Notwithstanding the foregoing, Owners who install improvements to the Home (including, without limitation, concrete or brick pavers) which result in any change in the flow and/or drainage of surface water shall be responsible for all costs of drainage problems resulting from such improvement. Further, in the event that such Owner fails to pay for such required repairs, Association may make any such necessary repairs and each Owner agrees to reimburse Association for all expenses incurred in fixing such drainage problems including, without limitation, removing excess water and/or repairing the Surface Water Management System.

11.27.4 No landscape lighting shall be installed by an Owner without the prior written approval of the ARC.

11.28 Leases. Homes may be leased, licensed or occupied only in their entirety and no fraction or portion may be rented. No bed and breakfast facility may be operated out of a Home. Individual rooms of a Home may not be leased or licensed for occupancy on any basis. No transient tenants may be accommodated in a Home. All leases, licenses or occupancy agreements shall be in writing and a copy of all such leases, licenses or occupancy agreements shall be provided to Association if so requested by Association. All leases, licenses and occupancy agreements shall be on forms approved by Association and shall provide (and if not so provided shall be deemed to provide) that Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of the Association Documents or other applicable provisions of any agreement, document or instrument governing TerraLargo or administered by Association. Owners are responsible for providing their tenants with copies of all such documents or instruments at such Owner's sole cost and expense. No Home may be subject to more than one (1) lease, license or occupancy agreement in any twelve (12) month period, regardless of the lease, license or occupancy agreement term. No time-share or other similar arrangement is permitted. No subleasing or assignment of lease rights by the tenant is permitted. In no event shall occupancy of a lease Home (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom. Each Owner shall be jointly and severally liable with the tenant to Association for all costs incurred by Association for the repair of any damage to the Common Areas or to pay any claim for injury or damage to property caused by tenants. Association shall repair any such damage and the cost of such repairs shall be invoiced as an Individual Assessment to the Owner. Additionally, as a condition to the approval by Association of a proposed lease of a Home, Association has the authority to require that a security deposit in an amount not to exceed the equivalent of one (1) month's rent be deposited into an account maintained by Association. The security deposit shall protect against damage to the Common Areas or Association property. A security deposit held by Association under this Section shall be governed by Chapter 83 of the Florida Statutes, as it may be renumbered from time to time. Association may also charge a reasonable fee of no more than One Hundred Dollars ($100.00) to offset the costs of a background check on tenant. The Owner must make available to the lessee or occupants copies of the Association Documents. No lease, license or occupancy agreement term shall be less than thirty (30) days. Leasing of Homes shall also be subject to the prior written approval of Association, as more particularly explained in Section 25 hereof. Notwithstanding the foregoing, this Section shall not apply to a situation where an Owner or resident of a Home receives in-home care by a professional caregiver residing within the Home.

11.29 Maintenance by Owners.

11.29.1 Standard of Maintenance. All lawns, landscaping and sprinkler systems and any property, structures, improvements, shadow box fences, and appurtenances within a Lot shall be well maintained and kept in first class, good, safe, clean, neat and attractive condition consistent with the general appearance of TerraLargo by the Owner of such Lot. In addition, if an Owner has installed a fence or wall with prior ARC approval around a Home, or any portion thereof, that encloses a portion of Common Areas, then such Owner must maintain any portion of the Common Areas that is no longer readily accessible to Association. Each Owner shall be responsible for root pruning trees within any portion of his or her Home. Each Owner shall maintain any sprinkler systems within such Owner's Lot.

11.29.2 Lawn Maintenance Standards. The following maintenance standards (the "**Lawn Maintenance Standards**") apply to landscaping maintained by Owners:

11.29.2.1 Trees. Trees are to be pruned as needed. No trees shall be planted within eight (8) feet of any water or sewer main located within a utility easement. No large trees are permitted on side of Lot lines over utility mains.

11.29.2.2 Shrubs. All shrubs are to be trimmed as needed.

11.29.2.3 Grass.

11.29.2.3.1 Cutting Schedule. Grass shall be maintained in a neat and appropriate manner. In no event shall an Owner's lawn get in excess of five inches (5") in height.

11.29.2.3.2 Edging. Edging of all streets, curbs, beds and borders shall be performed as needed. Chemical edging shall not be permitted.

11.29.2.3.3 Dead Grass. Owner shall be responsible to replace dead grass. Neither Developer nor Association shall be responsible to replace dead grass.

11.29.2.4 Mulch. Mulch is to be turned four (4) times per year and shall be replenished as needed on a yearly basis.

11.29.2.5 Insect Control and Disease. Disease and insect control shall be performed on an as needed basis.

11.29.2.6 Fertilization. Fertilization of all turf, trees, shrubs, and palms shall be performed at a minimum of three (3) times a year during the following months: February, June and October.

11.29.2.7 Irrigation. Owners shall be responsible to irrigate grass. Sprinkler heads shall be maintained on a monthly basis. Pump stations and valves shall be checked as needed by an independent contractor to assure proper automatic operation.

11.29.2.8 Weeding. All beds are to be weeded upon every cut. Weeds growing in joints in curbs, driveways, and expansion joints shall be removed as needed. Chemical treatment is permitted.

11.29.2.9 Trash Removal. Dirt, trash, plant and tree cuttings and debris resulting from all operations shall be removed and all areas left in clean condition before the end of the day.

11.29.2.10 Right of Association to Enforce. Each Owner grants Association an easement over his or her Home for the purpose of insuring compliance with the requirements of this provision and the Lawn Maintenance Standards. In the event an Owner does not comply with this Section, Association may perform the necessary maintenance to the lawn and charge the costs thereof to the non-complying Owner as an Individual Assessment. Association shall have the right to enforce the foregoing Lawn Maintenance Standards by all necessary legal action. In the event that Association is the prevailing party with respect to any litigation respecting the Lawn Maintenance Standards, it shall be entitled to recover all of its attorneys' fees and paraprofessional fees, and costs, at pre-trial and at all levels of proceedings, including appeals.

11.29.3 Enclosed Common Area. If an Owner has enclosed any portion of the Common Areas with prior ARC approval, then such Owner must maintain such portion of the Common Areas that is no longer readily accessible to Association.

11.29.4 Weeds and Refuse. No weeds, underbrush, or other unsightly growth shall be permitted to be grown or remain upon any Home. No refuse or unsightly objects shall be allowed to be placed or suffered to remain upon any Home.

11.29.5 Landscape Replacement. Each Owner shall be responsible to replace any dead, dying, diseased or removed landscaping with such owner's Lot, at such owners sole cost and expense.

11.30 Minor's Use of Facilities. Each Owner shall be responsible for all actions of minor children dwelling in and/or visiting his or her Home. Developer, Club Owner and Association shall not be responsible for any use of the facilities or Common Areas by anyone, including minors. Children under the age of twelve (12) shall be accompanied by an adult at all times.

11.31 Nuisances. No nuisance or any use or practice that is the source of unreasonable annoyance to others or which interferes with the peaceful possession and proper use of TerraLargo is permitted. No firearms shall be discharged within TerraLargo. Nuisances shall include, without limitation, the playing of loud music or the gathering in front of Homes or Common Areas by any Owner or permitted occupant, his or her immediate family, guests, tenants and invitees. Nothing shall be done or kept within the Common Areas, or any other portion of TerraLargo, including a Home or Lot which will increase the rate of insurance to be paid by Association.

11.32 Paint. Each Owner shall be responsible to paint the Home and pressure clean between paintings at his or her sole cost and expense. If ARC determines in its sole discretion that a Home needs to be repainted, Owner shall repaint his or her Home within forty-five (45) days' written notice by the ARC.

11.33 Personal Property. All personal property of Owners or other occupants of Homes shall be stored within the Homes. No personal property, except usual patio furniture, may be stored on, nor any use made of, the

Common Areas, any Parcel, Lot or Home, or any other portion of TerraLargo, which is unsightly or which interferes with the comfort and convenience of others.

11.34 Pools. No above-ground pools shall be permitted. All in-ground pools, hot tubs, spas and appurtenances installed shall require the prior written approval of the ARC as set forth in this Declaration. The design must incorporate, at a minimum, the following: (i) the composition of the material must be thoroughly tested and accepted by the industry for such construction; (ii) any swimming pool constructed on any Lot shall have an elevation at the top of the pool of not over two (2) feet above the natural grade unless approved by the ARC; (iii) pool cages and screens must be of a design, color and material approved by the ARC and shall be no higher than twelve (12) feet unless otherwise approved by the ARC; and (iv) pool screening shall in no event be higher than the roof line of the Home. Pool screening shall not extend beyond the sides of the Home without express approval by the ARC. All pools shall be adequately maintained and chlorinated (or cleaned with similar treatment). Unless installed by Developer, no diving boards, slides, or platforms shall be permitted without ARC approval.

11.35 Removal of Soil and Additional Landscaping. Without the prior consent of the ARC, no Owner shall remove soil from any portion of TerraLargo or change the level of the land within TerraLargo, or plant landscaping which results in any permanent change in the flow and drainage of surface water within TerraLargo. Owners may not place additional plants, shrubs, or trees within any portion of TerraLargo without the prior approval of the ARC.

11.36 Roofs, Driveways and Pressure Treatment. Roofs and/or exterior surfaces and/or pavement, including, but not limited to, walks and drives, shall be pressure treated, painted and/or repaved by Owner within thirty (30) days of notice by the ARC. No surface applications to driveways shall be permitted without the prior written approval of the ARC as to material, color and pattern. Such applications shall not extend beyond the front Lot line or include the sidewalk. Each Owner shall be responsible to pressure clean his or her Home between paintings. The Board may decide to have annual window washing or roof repair and may collect the costs thereof as part of Operating Costs or Reserves.

11.37 Satellite Dishes and Antennas. No exterior visible antennas, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home or Lot or Parcel without the prior written approval thereof being first had and obtained from the ARC as required by this Declaration. The ARC may require, among other things, that all such improvements be screened so that they are not visible from adjacent Homes, or from the Common Areas. Each Owner agrees that the location of satellite dishes, antennas, and other equipment under this Section must be first approved by the ARC in order to address the welfare of the residents of TerraLargo. No Owner shall operate any equipment or device which will interfere with the radio or television reception of others. Notwithstanding the foregoing, Club Owner may install, without ARC approval, Telecommunications Services equipment, a satellite dish or similar equipment within the property comprising the Club so long as such equipment is not visible from the street giving access to the Club. All antennas not covered by the Federal Communications Commission ("**FCC**") rules are prohibited. Installation, maintenance, and use of all antennas shall comply with restrictions adopted by the Board and shall be governed by the then current rules of the FCC.

11.38 Screened Enclosures. No screened enclosures, for pools or otherwise, shall be permitted without the prior written approval of the ARC.

11.39 Septic Tanks and Wells. No Owner shall install a septic tank or well upon any portion of TerraLargo.

11.40 Servants. Servants and domestic help of any Owner may not gather or lounge in or about the Common Areas.

11.41 Signs and Flags. No sign (including brokerage or for sale/lease signs), flag, banner, sculpture, fountain, outdoor play equipment, solar equipment, artificial vegetation, sports equipment, advertisement, notice or other lettering shall be exhibited, displayed, inscribed, painted or affixed in, or upon any portion of TerraLargo that is visible from the outside without the prior written approval thereof being first had and obtained from the ARC as required by this Declaration and without the prior written approval thereof by governmental agencies, if necessary; provided, however, signs required by governmental agencies and approved by the ARC may be displayed (*e.g.*, permit boards). All "For Sale" and "For Rent" signs must be approved by the ARC and shall be no larger than twelve inches (12") by twelve inches (12"). Notwithstanding the foregoing, no broker, "For Sale" or "For Rent" signs shall be exhibited, displayed, inscribed, painted or affixed in or upon any part of TerraLargo while the Developer holds any Homes for sale in the ordinary course of business. No sign may be placed in the window of a Home. Developer and Builders are exempt from this Section. No in-ground flag poles (except as Developer may use) shall be permitted within TerraLargo, unless written approval of the ARC is obtained. Notwithstanding the foregoing, no ARC approval is necessary for the installation of one (1) portable removable United States of America flag or official flag of the State of Florida displayed in a respectful manner, and on Armed Forces Day, Memorial Day, Flag Day, Independence Day and Veterans Day Owners may display, in a respectful manner, portable, removable official flags, not larger than 4 ½ feet by 6 feet, which represent the United States Army, Navy, Air Force, Marine Corps or Coast Guard.

11.42 Sports Equipment. No recreational, playground or sports equipment shall be installed or placed within or about any portion of TerraLargo without prior written consent of the ARC. No basketball backboards, skateboard ramps, or play structures will be permitted without written approval by the ARC. Such approved equipment shall be located at the rear of the Home or on the inside portion of corner Homes within the setback lines. Tree houses or platforms of a similar nature shall not be constructed on any part of a Home. No basketball hoops

shall be attached to a Home and any portable basketball hoops must be stored inside the Home when not in use. No tennis courts are permitted within Lots.

11.43 Storage. No temporary or permanent utility or storage shed, storage building, tent, or other structure or improvement shall be permitted and no other structure or improvement shall be constructed, erected, altered, modified or maintained without the prior approval of the ARC, which approval shall conform to the requirements of this Declaration. Any boat stored on a Lot must be screened by landscaping, fencing or walls approved by the ARC so that such boat is not visible from the street. Water softeners, trash containers, propane tanks, generators and other similar devices shall be properly screened from the street in a manner approved by the ARC.

11.44 Subdivision and Regulation of Land. No portion of any Home, Lot or Parcel shall be divided or subdivided or its boundaries changed without the prior written approval of Association. No Owner shall inaugurate or implement any variation from, modification to, or amendment of governmental regulations, land use plans, land development regulations, zoning, or any other development orders or development permits applicable to TerraLargo, prior to the Turnover Date without the prior written approval of Developer, which may be granted or denied in its sole discretion, or after the Turnover Date, without the prior written approval of (i) sixty-six and two-thirds percent (66 2/3%) of the Board and (ii) seventy-five percent (75%) of the votes present (in person or by proxy) at a duly noticed meeting of the Members at which there is a quorum.

11.45 Substances. No flammable, combustible or explosive fuel, fluid, chemical, hazardous waste, or substance shall be kept on any portion of TerraLargo or within any Home, Lot or Parcel, except those which are required for normal household use. All propane tanks and bottled gas for household and/or pool purposes (excluding barbecue grill tanks) must be installed underground or in a manner to be screened from view by landscaping or other materials approved by the ARC.

11.46 Swimming, Boating, Fishing and Docks. Swimming is prohibited within any of the lakes or waterbodies within or adjacent to TerraLargo, including, without limitation, near the dam or within the spillways. Motorized boating and personal watercrafts (*e.g.*, jet skis) are prohibited. However, non-motorized boats such as canoes are allowed on the lakes within TerraLargo. No private docks may be erected within any lake or waterbody. Animals such as alligators and snakes may live in or around lakes or waterbodies and Owners, their guests, invitees, lessees, family members and licensees use of the lakes and waterbodies is at their own risk. Fishing is permitted in and around the lakes within or adjacent to TerraLargo; provided, however, that all fish caught must be immediately released back into such lake or waterbody.

11.47 Use of Homes. Each Home is restricted to residential use as a residence by the Owner or permitted occupant thereof, his or her immediate family, guests, tenants and invitees.

11.48 Visibility on Corners. Notwithstanding anything to the contrary in these restrictions, no obstruction to visibility at street intersections shall be permitted and such visibility clearances shall be maintained as required by the ARC and governmental agencies. No vehicles, objects, fences, walls, hedges, shrubs or other planting shall be placed or permitted on a corner Lot where such obstruction would create a traffic problem.

11.49 Water Intrusion. Florida experiences heavy rainfall and humidity on a regular basis. Each Owner is responsible for making sure his or her Home remains watertight including, without limitation, checking caulking around windows and seals on doors. Each Owner acknowledges that running air conditioning machinery with windows and/or doors open in humid conditions can result in condensation, mold and/or water intrusion. Developer and Association shall not have liability under such circumstances for any damage or loss that an Owner may incur.

11.50 Wetlands and Mitigation Areas. It is anticipated that the Common Areas may include one or more preserves, wetlands, and/or mitigation areas. No Owner or other person shall take any action or enter onto such areas so as to adversely affect the same. Such areas are to be maintained by Association in their natural state.

11.51 Windows or Wall Units. No window or wall air conditioning unit may be installed in any window or wall of a Home.

11.52 Window Treatments. Window treatments shall consist of drapery, blinds, decorative panels, or other window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) week after an Owner or tenant first moves into a Home or when permanent window treatments are being cleaned or repaired. No security bars shall be placed on the windows of any Home without prior written approval of the ARC. No awnings, canopies or shutters shall be affixed to the exterior of a Home without the prior written approval of the ARC. No reflective tinting or mirror finishes on windows shall be permitted unless approved by the ARC. Window treatments facing the street shall be of a neutral color, such as white, off-white or wood tones.

12. Insurance.

12.1 Association. Association shall maintain the following insurance coverage:

12.1.1 Flood Insurance. If the Common Areas are located within an area which has special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program ("**NFIP**"), coverage in appropriate amounts, available under NFIP for all buildings and other insurable property within any portion of the Common Areas located within a designated flood hazard area.

12.1.2 Liability Insurance. Commercial general liability insurance coverage providing coverage and limits deemed appropriate. Such policies must provide that they may not be canceled or substantially modified by any party, without at least thirty (30) days' prior written notice to Developer (until the Community Completion Date) and Association.

12.1.3 Directors and Officers Liability Insurance. Each member of the Board shall be covered by directors and officers liability insurance in such amounts and with such provisions as approved by the Board.

12.1.4 Other Insurance. Such other insurance coverage as appropriate from time to time. All coverage obtained by Association shall cover all activities of Association and all properties maintained by Association, whether or not Association owns title thereto.

12.1.5 Developer. Prior to and including the Turnover Date, Developer shall have the right, at Association's expense, to provide any such insurance coverage it deems appropriate under its master insurance policy in lieu of any of the foregoing.

12.2 Homes.

12.2.1 Requirement to Maintain Insurance. Each Owner shall be required to obtain and maintain at such Owner's cost and expense adequate insurance on his or her Home. Such insurance shall be sufficient for necessary repair or reconstruction work, and related costs or shall cover the costs to demolish a damaged Home as applicable, remove the debris, and to resod and landscape land comprising the Home. Upon the request of Association, each Owner shall be required to supply the Board with evidence of insurance coverage on his Home which complies with the provisions of this Section. Without limiting any other provision of this Declaration or the powers of Association, Association shall specifically have the right to bring an action to require an Owner to comply with his or her obligations hereunder.

12.2.2 Requirement to Reconstruct or Demolish. In the event that any Home is destroyed by fire or other casualty, the Owner of such Home shall do one of the following: the Owner shall commence reconstruction and/or repair of the Home ("**Required Repair**"), or Owner shall tear the Home down, remove all the debris, and resod and landscape the property comprising the Home as required by the ARC ("**Required Demolition**") to the extent permitted under law. If an Owner elects to perform the Required Repair, such work must be commenced within thirty (30) days of the Owner's receipt of the insurance proceeds respecting such Home. If an Owner elects to perform the Required Demolition, the Required Demolition must be completed within six (6) months from the date of the casualty or such longer period of time established by the Board in its sole discretion subject to extension if required by law. If an Owner elects to perform the Required Repair, such reconstruction and/or repair must be completed in a continuous, diligent, and timely manner. Association shall have the right to inspect the progress of all reconstruction and/or repair work. Without limiting any other provision of this Declaration or the powers of Association, Association shall have a right to bring an action against an Owner who fails to comply with the foregoing requirements. By way of example, Association may bring an action against an Owner who fails to either perform the Required Repair or Required Demolition on his or her Home within the time periods and in the manner provided herein. Each Owner acknowledges that the issuance of a building permit or a demolition permit in no way shall be deemed to satisfy the requirements set forth herein, which are independent of, and in addition to, any requirements for completion of work or progress requirements set forth in applicable statutes, zoning codes, and/or building codes.

12.2.3 Standard of Work. The standard for all demolition, reconstruction, and other work performed as required by this Section 12.2.3 shall be in accordance with the Community Standards and any other standards established by Association with respect to any casualty that affects all or a portion of Terral argo.

12.2.4 Additional Rights of Association. If an Owner refuses or fails, for any reason, to perform the Required Repair or Required Demolition as herein provided, then Association, in its sole discretion, by and through its Board is hereby irrevocably authorized by such Owner to perform the Required Repair or Required Demolition. All Required Repair performed by Association pursuant to this Section shall be in conformance with the original plans and specifications for the Home. Association shall have the absolute right to perform the Required Demolition to a Home pursuant to this Section if any contractor certifies in writing to Association that such Home cannot be rebuilt or repaired. The Board may levy an Individual Assessment against the Owner in whatever amount sufficient to adequately pay for Required Repair or Required Demolition performed by Association.

12.2.5 Association Has No Liability. Notwithstanding anything to the contrary this Section, Association, its directors and officers, shall not be liable to any Owner should an Owner fail for any reason whatsoever to obtain insurance coverage on a Home. Moreover, Association, its directors and officers, shall not be liable to any person if Association does not enforce the rights given to Association in this Section.

12.3 Fidelity Bonds. If available, Association may obtain a blanket fidelity bond for all officers, directors, trustees and employees of Association, and all other persons handling or responsible for funds of, or administered by, Association. In the event Association delegates some or all of the responsibility for the handling of the funds to a professional management company or licensed manager, such bonds shall be required for its officers, employees and agents, handling or responsible for funds of, or administered on behalf of Association. The amount of the fidelity bond shall be based upon reasonable business judgment. The fidelity bonds required herein must meet the following requirements (to the extent available at a reasonable premium):

12.3.1 The bonds shall name Association as an obligee.

12.3.2 The bonds shall contain waivers, by the issuers of the bonds, of all defenses based upon the exclusion of persons serving without compensation from the definition of "employee" or similar terms or expressions.

12.3.3 The premiums on the bonds (except for premiums on fidelity bonds maintained by a professional management company, or its officers, employees and agents), shall be paid by Association.

12.3.4 The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days' prior written notice to Developer (until the Community Completion Date), Club Owner and Association.

12.4 Association as Agent. Association is irrevocably appointed agent for each Owner of any interest relating to the Common Areas to adjust all claims arising under insurance policies purchased by Association and to execute and deliver releases upon the payment of claims.

12.5 Casualty to Common Areas. In the event of damage to the Common Areas, or any portion thereof, Association shall be responsible for reconstruction after casualty. In the event of damage to a Home, or any portion thereof, the Owner shall be responsible for reconstruction after casualty. In the event of damage to the Club, the responsibility for reconstruction shall be as provided in the Club Plan.

12.6 Nature of Reconstruction. Any reconstruction of improvements hereunder shall be substantially in accordance with the plans and specifications of the original improvement, or as the improvement was last constructed, subject to modification to conform with the then current governmental regulation(s).

12.7 Additional Insured. Developer, Club Owner and the respective Lender(s) shall be named as additional insured on all policies obtained by Association, as their interests may appear.

12.8 Cost of Payment of Premiums. The costs of all insurance maintained by Association hereunder, and any other fees or expenses incurred which may be necessary or incidental to carry out the provisions hereof are Operating Costs.

13. Property Rights.

13.1 Owners' Easement of Enjoyment. Every Owner (including Developer), and his or her immediate family, tenants, guests and invitees, and every owner of an interest in TerraLargo shall have a non-exclusive right and easement of enjoyment in and to those portions of the Common Areas which such Owner is entitled to use for their intended purpose, subject to the following provisions:

13.1.1 Easements, restrictions, reservations, conditions, limitations and declarations of record, now or hereafter existing, and the provisions of this Declaration, as amended.

13.1.2 The right of Association to suspend an Owner's rights hereunder or to impose fines in accordance with Section 720.305 of the Florida Statutes, as amended from time to time.

13.1.3 The right to suspend the right to use all (except vehicular and pedestrian ingress and egress and necessary utilities) or a portion of the Common Areas by an Owner, its immediate family, etc. for any period during which any Assessment against that Owner remains unpaid.

13.1.4 The right of Developer and/or Association to dedicate or transfer all or any part of the Common Areas. No such dedication or transfer shall be effective prior to the Community Completion Date without prior written consent of Developer and, at any time, without prior written consent of the Club Owner.

13.1.5 The perpetual right of Developer to access and enter the Common Areas at any time, even after the Community Completion Date, for the purposes of inspection and testing of the Common Areas. Association and each Owner shall give Developer unfettered access, ingress and egress to the Common Areas so that Developer and/or its agents can perform all tests and inspections deemed necessary by Developer. Developer shall have the right to make all repairs and replacements deemed necessary by Developer. At no time shall Association and/or an Owner prevent, prohibit and/or interfere with any testing, repair or replacement deemed necessary by Developer relative to any portion of the Common Areas.

13.1.6 The right of Developer and/or Association to modify the Common Areas as set forth in this Declaration.

13.1.7 The rights of Developer, Association and/or Club Owner regarding TerraLargo as reserved in this Declaration, including, without limitation, the right to utilize the same and to grant use rights, etc. to others.

13.1.8 Rules and Regulations adopted governing use and enjoyment of the Common Areas.

13.1.9 An Owner relinquishes use of the Common Areas at any time that a Home is leased to a tenant.

13.2 Access, Ingress and Egress. In addition to the general easements for use of the Common Areas, there shall be, and Developer reserves, grants, and covenants for itself and all future Owners, and their family

members, lessees, and guests and to the Association, a perpetual, non-exclusive easement for access, ingress and egress; (i) for pedestrian traffic over, and through and across sidewalks paths, walks, driveways, passageways, and lanes as the same, from time to time, may exist upon, or be designed as part of, TerraLargo; (ii) for vehicular traffic over, through and across such portions of TerraLargo as, from time to time, may be paved and intended and designated for such purposes; and (iii) vehicular on any portions of TerraLargo as, from time to time, may be paved and intended and designated for parking.

13.3 Development Easement. In addition to the rights reserved elsewhere herein, Developer reserves an easement for itself or its nominees and creates an easement in favor of the Club Owner over, upon, across, and under TerraLargo as may be required in connection with the development of TerraLargo, the Club, and other lands designated by Developer and to promote or otherwise facilitate the development, construction and sale and/or leasing of Homes, any portion of TerraLargo, the Club, and other lands designated by Developer. Without limiting the foregoing, Developer specifically reserves the right to use all paved roads and rights of way within TerraLargo for vehicular and pedestrian ingress and egress to and from construction sites and for the construction and maintenance of any Telecommunications Systems provided by Developer and/or for the use of the Club. Specifically, each Owner acknowledges that construction vehicles and trucks may use portions of the Common Areas. Developer shall have no liability or obligation to repave, restore, or repair any portion of the Common Areas as a result of the use of the same by construction traffic, and all maintenance and repair of such Common Areas shall be deemed ordinary maintenance of Association payable by all Owners as part of Operating Costs. Without limiting the foregoing, at no time shall Developer be obligated to pay any amount to Association on account of Developer's and Club Owner's use of the Common Areas for construction purposes. Developer intends to use the Common Areas for sales of new and used Homes. Further, Developer may market other residences and commercial properties located outside of TerraLargo from Developer's sales facilities located within TerraLargo. Developer has the right to use all portions of the Common Areas in connection with its marketing activities, including, without limitation, allowing members of the general public to inspect model Homes, installing signs and displays, holding promotional parties and picnics, and using the Common Areas for every other type of promotional or sales activity that may be employed in the marketing of new and used residential Homes or the leasing of residential apartments. The easements created by this Section, and the rights reserved herein in favor of Developer, shall be construed as broadly as possible and supplement the rights of Developer. At no time shall Developer incur any expense whatsoever in connection with its use and enjoyment of such rights and easements. Without limiting any rights of Developer in this Declaration, Developer may non-exclusively assign its rights hereunder to each Builder.

13.4 Signage. There is hereby reserved to Developer, its successors and assigns, a perpetual, non-exclusive easement to access all signage for TerraLargo to identify Avatar directly below, or in close proximity to the name of the TerraLargo Community or install additional signage identifying Avatar in close proximity of the signage containing the TerraLargo name. Further, Developer shall have the right, but not the obligation, to maintain, modify, or remove such signage in its sole and absolute discretion, without consent of the Association or any Owner.

13.5 Public Easements. Fire, police, school transportation, health, sanitation and other public service and utility company personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas. In addition, Telecommunications Providers shall also have the right to use all paved roadways within TerraLargo for ingress and egress to and from Telecommunications Systems within TerraLargo.

13.6 Delegation of Use. Every Owner shall be deemed to have delegated its right of enjoyment to the Common Areas and Club to occupants or lessees of that Owner's Home subject to the provisions of this Declaration and the Rules and Regulations, as may be promulgated, from time to time. Any such delegation or lease shall not relieve any Owner from its responsibilities and obligations provided herein.

13.7 Easement for Encroachments. If (a) any improvement upon any portion of the Common Areas encroaches upon any other portion of TerraLargo; (b) any improvements upon any portion of TerraLargo encroaches upon any portion of the Common Areas; or (c) any encroachment shall hereafter occur as a result of (i) construction of any improvements; (ii) settling or shifting of any improvement; (iii) any alteration or repair to the Common Areas (or improvements thereon) after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any improvement of the Common Areas, then, in any event, an easement appurtenant to the encroachment shall exist for such encroachment and for the maintenance of the same so long as the improvements causing such encroachment shall stand. In the event that any structure is partially or totally destroyed, then rebuilt, the Owners and the Association agree that minor encroachments on Common Areas due to construction shall be permitted and that an easement for such encroachments and the maintenance of the structure shall exist. This provision shall not entitle any Owner to intentionally construct improvements which encroach upon any other portion of TerraLargo and no easement for encroachment shall exist if such encroachment occurred due to the willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner, occupant, or the Association. The provisions of this Section 13.7 shall not be in derogation or limitation of any other rights of the Developer.

13.8 Permits, Licenses and Easements. Prior to the Community Completion Date, Developer, and thereafter Association, shall, in addition to the specific rights reserved to Developer herein, have the right to grant, modify, amend and terminate permits, licenses and easements over, upon, across, under and through TerraLargo (including Lots, Parcels and/or Homes but excluding the Club after the Turnover Date) for Telecommunications Systems, utilities, roads and other purposes reasonably necessary or useful as it determines, in its sole discretion. To the extent legally required, each Owner shall be deemed to have granted to Developer and, thereafter, Association an irrevocable power of attorney, coupled with an interest, for the purposes herein expressed.

13.9 Support Easement and Maintenance Easement. An easement is hereby created for the existence and maintenance of supporting structures (and the replacement thereof) in favor of the entity required to maintain the same. An easement is hereby created for maintenance purposes (including access to perform such maintenance) over and across TerraLargo (including Lots, Parcels, Homes and the Club) for the reasonable and necessary maintenance of Common Areas, Club, utilities, cables, wires and other similar facilities.

13.10 Drainage. A perpetual, non-exclusive easement shall exist in favor of Developer, Club Owner, Association and their designees, and any applicable water management district, state agency, county agency and/or federal agency having jurisdiction over, across and upon TerraLargo for drainage, irrigation and water management purposes. A non-exclusive easement for ingress, egress and access shall exist for such parties to enter upon and over any portion of TerraLargo (including Homes) in order to construct, maintain, inspect, record data on, monitor, test, or repair, as necessary, any water management areas, irrigation systems and facilities thereon and appurtenances thereto. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage or irrigation of TerraLargo and/or installation or maintenance of utilities or which may obstruct or retard the flow of water through TerraLargo and/or water management areas and facilities or otherwise interfere with any drainage, irrigation and/or easement provided for in this Section or the use rights set forth elsewhere in this Declaration.

13.11 Reservation to Grant Additional Easements. The Developer reserves the right (but not the obligation) to grant, at any time in its sole and absolute discretion and prior to the Community Completion Date, (without the joinder or consent of Association or any other person or entity), or to cause the Association to grant, additional easements and rights-of-way in, to, over and upon portions of TerraLargo for such purposes as Developer shall reasonably deem necessary or helpful in connection with the development, sale, use or operation of TerraLargo including, without limitation, easements for improvements that may encroach upon any portion of the properties, including, without limitation, roads, driveways, sidewalks, walkways, parking spaces, retaining walls and utility lines and improvements. Each Owner, by acceptance of a deed to a Home or Lot and each mortgagee, by acceptance of a lien on a Home or Lot, hereby authorizes the Developer to execute, on their behalf and without further authorization, such grants of easements or other instruments as may from time to time be necessary to grant easements and/or rights-of-way in, to, over and upon TerraLargo, or any portion thereof, in accordance with the provisions of this Declaration.

13.12 Club Easements. A non-exclusive easement shall exist in favor of the Club Owner and its respective designees, invitees, guests, agents, employees, and members over and upon the Common Areas and portions of TerraLargo necessary for ingress, egress, access to, construction, maintenance and/or repair of the Club. Club Owner, Club employees, agents, invitees, guests, any manager of the Club, and all members of the Club shall be given access to the Club on the same basis as Owners, but without any charge therefor (in the term of Assessments or otherwise).

13.13 Blanket Easement in Favor of Association. Association is hereby granted an easement over all of TerraLargo, including all Homes and Lots, for the purposes of (a) constructing, maintaining, replacing and operating all Common Areas including, without limitation, lakes, dams, perimeter walls and fences, and (b) performing any obligation of an Owner for which Association intends to impose an Individual Assessment.

13.14 Blanket Easement in Favor of Developer. Developer shall also have blanket easements above, across and under TerraLargo. The easement shall permit, without limitation, all construction, maintenance and replacement activities of Developer.

13.15 Duration. All easements created herein or pursuant to the provisions hereof shall be perpetual unless stated to the contrary.

14. Club Plan. Association and each Home Owner, where applicable, shall be bound by and comply with the Club Plan which is incorporated herein by reference. Although the Club Plan is an exhibit to this Declaration, the Association Documents are subordinate and inferior to the Club Plan. In the event of any conflict between the Club Plan and the Association Documents, the Club Plan shall control.

15. Assessments.

15.1 Types of Assessments. Each Owner and Builder, by acceptance of a deed or instrument of conveyance for the acquisition of title in any manner (whether or not so expressed in the deed), including any purchaser at a judicial sale, shall hereafter be deemed to have covenanted and agreed to pay to Association at the time and in the manner required by the Board, assessments or charges and any special assessments as are fixed, established and collected from time to time by Association (collectively, the "**Assessments**"). All Owners and Builders shall pay Assessments. Each Builder shall pay such portion of Operating Costs which benefits any Lot or Parcel owned by such Builder, as determined by Developer, in Developer's sole discretion. For the purposes of Assessments payable by a Builder, each Parcel shall be deemed to contain the number of Homes which can be built on such Parcel, as determined by Developer in its sole and absolute discretion. By way of example, and not of limitation, Developer may require that each Builder pay some portion of Assessments on a Lot or Parcel owned by a Builder which does not contain a Home. As vacant Lots or Parcels owned by Builders may not receive certain services (*e.g.*, Telecommunications Services), Builders shall not be required to pay for the same. Club Owner, as a member of Association, shall be obligated to pay a nominal Assessment of One Dollar ($1) per year to Association.

15.2 Purpose of Assessments. The Assessments levied by Association shall be used for, among other things, the purpose of promoting the recreation, health and welfare of the residents of TerraLargo, and in particular for the improvement and maintenance of the Common Areas and any easement in favor of Association, including

but not limited to the following categories of Assessments as and when levied and deemed payable by the Board and as otherwise provided in this Declaration:

15.2.1 Any monthly or quarterly assessment (as determined by the Board) or charge for the purpose of operating Association and accomplishing any and all of its purposes, as determined in accordance herewith, including, without limitation, payment of Operating Costs and collection of amounts necessary to pay any deficits from prior years' operation (collectively, the "**Installment Assessments**");

15.2.2 Any special assessments for capital improvements, major repairs, emergencies, the repair or replacement of the Common Areas, or nonrecurring expenses (collectively, the "**Special Assessments**");

15.2.3 Any specific fees, dues or charges to be paid by Owners for any special services provided to or for the benefit of an Owner or Home, for any special or personal use of the Common Areas, or to reimburse Association for the expenses incurred in connection with that service or use (collectively, the "**Use Fees**");

15.2.4 Assessments of any kind for the creation of reasonable reserves for any of the aforesaid purposes for the periodic maintenance, repair, and replacement of improvements comprising a portion of the Common Areas. To the extent permitted by applicable law, at such time as there are improvements in any Common Areas for which Association has responsibility to maintain, repair and replace, the Board may, but shall have no obligation to, include a "Reserve for Replacement" in the Installment Assessments in order to establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements comprising a portion of the Common Areas (hereinafter "**Reserves**"). Assessments pursuant to this Section shall be payable in such manner and at such times as determined by Association, and may be payable in installments extending beyond the fiscal year in which the Reserves are approved. In addition, the Association may establish Reserves as provided in Section 15.11.4 of this Declaration. Once established, Reserves may be waived or reduced as provided in Chapter 720 of the Florida Statutes. Except as otherwise provided by law, until the Community Completion Date, Reserves shall be subject to the prior written approval of Developer, which may be withheld for any reason; and

15.2.5 Assessments for which one or more Owners (but less than all Owners) within TerraLargo is subject ("**Individual Assessments**"), such as costs of special services provided to a Home or Owner or costs relating to enforcement of the provisions of this Declaration or the architectural provisions hereof as it relates to a particular Owner or Home. By way of example, and not of limitation, all of the Owners within a Plat may be subject to Individual Assessments for maintenance, repair and/or replacement of facilities serving only residents of such Plat. Further, in the event an Owner fails to maintain the exterior of his Home (other than those portions of a Home maintained by Association) in a manner satisfactory to Association, Association shall have the right, through its agents and employees, to enter upon the Home and to repair, restore, and maintain the Home as required by this Declaration. The cost thereof, plus the reasonable administrative expenses of Association, shall be an Individual Assessment. The lien for an Individual Assessment may be foreclosed in the same manner as any other Assessment.

15.3 Covenant for Maintenance Assessments for Association. Assessments shall also be used for the maintenance and repair of the surface water or stormwater management system including, but not limited to, work within drainage structures and drainage easements.

15.4 Designation. The designation of Assessment type shall be made by Association. Prior to the Community Completion Date, any such designation must be approved by Developer. Such designation may be made on the budget prepared by Association. The designation shall be binding upon all Owners.

15.5 Allocation of Operating Costs.

15.5.1 For the period until the adoption of the first annual budget, the allocation of Operating Costs shall be as set forth in the initial budget prepared by Developer.

15.5.2 Commencing on the first day of the period covered by the annual budget, and until the adoption of the next annual budget, the Assessments shall be allocated so that each Owner shall pay his pro rata portion of Installment Assessments, Special Assessments, and Reserves based upon a fraction, the numerator of which is one (1) and the denominator of which is the total number of Homes in TerraLargo conveyed to Owners or any greater number determined by Developer from time to time. Developer, in its sole discretion, may change such denominator from time to time. Under no circumstances will the denominator be less than the number of Homes owned by Owners other than Developer.

15.5.3 In the event the Operating Costs as estimated in the budget for a particular fiscal year are, after the actual Operating Costs for that period is known, less than the actual costs, then the difference shall, at the election of Association: (i) be added to the calculation of Installment Assessments, as applicable, for the next ensuing fiscal year; or (ii) be immediately collected from the Owners as a Special Assessment. Association shall have the unequivocal right to specially assess Owners retroactively from January 1st of any year for any shortfall in Installment Assessments, which Special Assessment shall relate back to the date that the Installment Assessments could have been made. No vote of the Owners shall be required for such Special Assessment (or for any other Assessment except to the extent specifically provided herein).

15.5.4 Each Owner agrees that so long as it does not pay more than the required amount it shall have no grounds upon which to object to either the method of payment or non-payment by other Owners of any sums due.

15.6 General Assessments Allocation. Except as hereinafter specified to the contrary, Installment Assessments, Special Assessments and Reserves shall be allocated equally to each Owner.

15.7 Use Fees and Individual Assessment. Except as hereinafter specified to the contrary, Use Fees and Individual Assessments shall be made against the Owners benefiting from, or subject to the special service or cost as specified by Association.

15.8 Commencement of First Assessment. Assessments shall commence as to each Owner on the day of the conveyance of title of a Home to an Owner. The applicable portion of Assessments shall commence as to each Builder on the day of the conveyance of title of a Lot or Parcel to such Builder.

15.9 Deficit Funding, Shortfalls and Surpluses. Each Owner acknowledges that because Installment Assessments, Special Assessments, and Reserves are allocated based on the formula provided herein, or upon the number of Homes conveyed to Owners on or prior to September 30 of the prior fiscal year, it is possible that Association may collect more or less than the amount budgeted for Operating Costs. Except as otherwise may be provided by applicable law, prior to and including the Turnover Date, Developer shall have the option to (i) fund all or any portion of the shortfall in Installment Assessments not raised by virtue of all income received by Association or (ii) to pay Installment Assessments on Homes or Lots owned by Developer. If Developer has cumulatively over funded Operating Costs and/or prepaid expenses of Association which have not been reimbursed to Developer prior to and including the Turnover Date, Association shall refund such amounts to Developer on or prior to and including the Turnover Date or as soon as possible thereafter (*e.g.*, once the amount is finally determined). Except as otherwise may be provided by applicable law, Developer shall never be required to (i) pay Installment Assessments if Developer has elected to fund the deficit instead of paying Installment Assessments on Homes or Lots owned by Developer, or (ii) pay Special Assessments, management fees or Reserves. Any surplus Assessments collected by Association may be (i) allocated towards the next year's Operating Costs, (ii) used to fund Reserves, whether or not budgeted, (iii) retained by Association, and/or (iv) used for any other purpose, in Association's sole discretion, except as prohibited by law. Under no circumstances shall Association be required to pay surplus Assessments to Owners.

15.10 Budget. The initial budget prepared by Developer is adopted as the budget for the period of operation until adoption of the first annual Association budget. Thereafter, annual budgets shall be prepared and adopted by the Board. To the extent Association has commenced or will commence operations prior to the date this Declaration is recorded or the first Home is closed, the Operating Costs may vary in one or more respects from that set forth in the initial budget. A Builder shall pay Assessments for each Lot owned by such Builder commencing from the date the Builder obtained title to such Lot. Assessments shall be payable by each Owner and Builder as provided in this Declaration. THE INITIAL BUDGET OF ASSOCIATION IS PROJECTED (NOT BASED ON HISTORICAL OPERATING FIGURES). THEREFORE, IT IS POSSIBLE THAT ACTUAL ASSESSMENTS MAY BE LESSER OR GREATER THAN PROJECTED.

15.11 Establishment of Assessments. Assessments shall be established in accordance with the following procedures:

15.11.1 Installment Assessments shall be established by the adoption of a twelve (12) month operating budget by the Board. The budget shall be in the form required by Section 720.303(6) of the Florida Statutes, as amended from time to time. Written notice of the amount and date of commencement thereof shall be given to each Owner not less than ten (10) days in advance of the due date of the first installment thereof. Notwithstanding the foregoing, the budget may cover a period of less than twelve (12) months if the first budget is adopted mid-year or in order to change the fiscal year of Association. The Board may, from time to time, determine how the Assessments will be collected by Association (*i.e.*, monthly, quarterly or annually).

15.11.2 Special Assessments and Individual Assessments against the Owners may be established by Association, from time to time, and shall be payable at such time or time(s) as determined. Until the Community Completion Date, no Special Assessment shall be imposed without the consent of Developer.

15.11.3 Association may establish, from time to time, by resolution, rule or regulation, or by delegation to an officer or agent, including, a professional management company, Use Fees. The sums established shall be payable by the Owner utilizing the service or facility as determined by Association.

15.11.4 If the budget of Association does not initially provide for Reserves, Association may establish Reserves upon the affirmative vote of not less than a majority of the total voting interests of Association at a duly noticed meeting of the Members at which a quorum is present or upon written consent executed by not less than a majority of all voting interests of Association. Such approval of Reserves shall state that Reserves shall be provided for in the budget of Association and designate the components for which reserve accounts are to be established. Upon such approval of the Association, approved Reserves shall be included in the budget for the next fiscal year following the approval and in each year thereafter unless waived or reduced as provided in Chapter 720 of the Florida Statutes.

15.12 Initial Contribution. The first purchaser of each Lot, Home or Parcel, at the time of closing of the conveyance from Developer to the purchaser, shall pay to Developer an initial contribution in the amount of One Hundred Fifty Dollars ($150.00) (the "**Initial Contribution**"). The funds derived from the Initial Contributions