

shall be used at the discretion of Developer for any purpose, including but not limited to, future and existing capital improvements, operating expenses, support costs and start-up costs. Developer may waive this requirement for some Lots and Homes, if the first purchaser is a Builder, and the Builder becomes unconditionally obligated to collect and pay the Initial Contribution upon the subsequent sale of each Lot and Home to an end purchaser.

15.13 Re-Sale Contribution. Association may establish a resale contribution ("Re-Sale Contribution"). If established, there shall be collected upon every conveyance of an ownership interest in a Home by an Owner other than Developer or Builders an amount payable to Association. The Resale Contribution shall not be applicable to conveyances from Developer or a Builder. After the Home has been conveyed by Developer or a Builder there shall be a recurring assessment payable to Association upon all succeeding conveyances of a Home. The amount of the Resale Contribution and the manner of payment shall be determined by resolution of the Board from time to time; provided, however, all Homes shall be assessed a uniform amount.

15.14 Assessment Estoppel Certificates. No Owner shall sell or convey its interest in a Home unless all sums due Association have been paid in full and an estoppel certificate shall have been received by such Owner. Association shall prepare and maintain a ledger noting Assessments due from each Owner. The ledger shall be kept in the office of Association, or its designees, and shall be open to inspection by any Owner and Club Owner. Within ten (10) days of a written request therefor, there shall be furnished to an Owner an estoppel certificate in writing setting forth whether the Assessments have been paid and/or the amount which is due as of any date. As to parties other than Owners who, without knowledge of error, rely on the certificate, the certificate shall be conclusive evidence of the amount of any Assessment therein stated. The Owner requesting the estoppel certificate shall be required to pay Association a reasonable sum to cover the costs of examining records and preparing such estoppel certificate. Each Owner waives its rights (if any) to an accounting related to Operating Costs or Assessments.

15.15 Payment of Home Real Estate Taxes. Each Owner shall pay all taxes and obligations relating to its Home which, if not paid, could become a lien against the Home which is superior to the lien for Assessments created by this Declaration.

15.16 Creation of the Lien and Personal Obligation. Each Owner, by acceptance of a deed or instrument of conveyance for the acquisition of title to a Home, shall be deemed to have covenanted and agreed that the Assessments, and/or other charges and fees set forth herein, together with interest, late fees, costs and reasonable attorneys' fees, paraprofessional fees and costs, pre-trial and at all levels of proceedings including appeals, shall be a charge and continuing lien in favor of Association encumbering the Home and all personal property located thereon owned by the Owner against whom each such Assessment is made. The lien is effective from and after recording a claim of lien in the Public Records stating the legal description of the Home, name of the Owner, and the amounts due as of that date, but shall relate back to the date that this Declaration is recorded. Notwithstanding the foregoing, Association may not file a claim of lien against a Home for unpaid Assessments unless written notice of demand for past due Assessments has been made by Association, which notice must comply with Section 720.3085 of the Florida Statutes, as such section may be renumbered from time to time. The claim of lien shall also cover any additional amounts which accrue thereafter until satisfied. Each Assessment, together with interest, late fees, costs and reasonable attorneys' fees and paraprofessional fees, at pre-trial and at all levels of proceedings including appeals, and other costs and expenses provided for herein, shall be the personal obligation of the person who was the Owner of the Home at the time when the Assessment became due, as well as the Owner's heirs, devisees, personal representatives, successors or assigns. An Owner is jointly and severally liable with the previous Owner for all unpaid Assessments that came due up to the time of transfer of title to the Home, provided, however, such liability is without prejudice to any right the present Owner may have to recover any amounts paid by the present Owner from the previous Owner.

15.17 Subordination of the Lien to Mortgages and Club Dues. The lien for Assessments shall be subordinate to (i) a bona fide first mortgage held by a Lender on any Home, if the mortgage is recorded in the Public Records prior to the claim of lien, and (ii) to Club Dues, as further provided in this Section 15.17. The lien shall not be affected by any sale or transfer of a Home, except in the event of a sale or transfer of a Home pursuant to (i) a foreclosure (or by deed in lieu of foreclosure or otherwise) of a bona fide first mortgage held by a Lender, or (ii) a lien for Club Dues, in which event, the acquirer of title, its successors and assigns, shall not be liable for such sums secured by a lien for Assessments encumbering the Home or chargeable to the former Owner of the Home which became due prior to such sale or transfer except as otherwise expressly provided by law. However, any such unpaid Assessments for which such acquirer of title is not liable may be reallocated and assessed to all Owners (including such acquirer of title) as a part of Operating Costs included within Installment Assessments. Any sale or transfer pursuant to a foreclosure (or by deed in lieu of foreclosure or otherwise) shall not relieve the Owner from liability for, nor the Home from the lien of, any Assessments made thereafter. Nothing herein contained shall be construed as releasing the party liable for any delinquent Assessments from the payment thereof, or the enforcement of collection by means other than foreclosure. A Lender shall give written notice to Association if the mortgage held by such Lender is in default. Association shall have the right, but not the obligation, to cure such default within the time periods applicable to Owner. In the event Association makes such payment on behalf of an Owner, Association shall, in addition to all other rights reserved herein, be subrogated to all of the rights of the Lender. All amounts advanced on behalf of an Owner pursuant to this Section shall be added to Assessments payable by such Owner with appropriate interest.

15.18 Acceleration. In the event of a default in the payment of any Assessment, Association may accelerate the Assessments then due for up to the next ensuing twelve (12) month period.

15.19 Non-Payment of Assessments. If any Assessment is not paid within fifteen (15) days (or such other period of time established by the Board) after the due date, a late fee of \$25.00 per month (or such greater amount established by the Board) may be levied. In addition, any Assessments that are not paid when due shall bear



interest in an amount equal to the maximum rate allowable by law (or such lesser rate established by the Board), per annum, beginning from the due date until paid in full. The late fee shall compensate Association for administrative costs, loss of use of money, and accounting expenses. Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Home, or both forty-five (45) days after the Owner has been provided with notice of the Association's intent to foreclose the lien against the Home and collect the unpaid amounts. Association shall not be required to bring such an action if it believes that the best interests of Association would not be served by doing so. There shall be added to the Assessment all costs expended in preserving the priority of the lien and all costs and expenses of collection, including attorneys' fees and paraprofessional fees, at pre-trial and at all levels of proceedings, including appeals. Any payment of past due Assessments received and accepted by Association shall be applied first to any interest accrued, then to any late fee(s) due, then to any costs and reasonable attorneys' fees incurred in collecting the Assessment(s). No Owner may waive or otherwise escape liability for Assessments provided for herein by non-use of, or the waiver of the right to use the Common Areas or the Club or by abandonment of a Home.

15.20 Exemption. Notwithstanding anything to the contrary herein, Developer and Club Owner (except as otherwise provided in Section 15.1) shall not be responsible for any Assessments of any nature or any portion of the Operating Costs. Except as may otherwise be provided by applicable law, Developer, at Developer's sole option, may pay Assessments on Homes owned by it, or fund the deficit, if any, as set forth in Section 15.9 herein. In addition, Developer, prior to the Community Completion Date, and thereafter the Board shall have the right to exempt any portion of TerraLargo subject to this Declaration from the Assessments, provided that such portion of TerraLargo exempted is used (and as long as it is used) for any of the following purposes:

15.20.1 Any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;

15.20.2 Any real property interest held by a Telecommunications Provider;

15.20.3 Any of TerraLargo exempted from ad valorem taxation by the laws of the State of Florida or exempted from Assessments by other provisions of this Declaration; or

15.20.4 Any Common Areas.

15.21 Collection by Developer. If for any reason Association shall fail or be unable to levy or collect Assessments, then in that event, Developer shall at all times have the right, but not the obligation: (i) to advance such sums as a loan to Association to bear interest and to be repaid as hereinafter set forth; and/or (ii) to levy and collect such Assessments by using the remedies available as set forth above, which remedies, including, but not limited to, recovery of attorneys' fees, paraprofessional fees and costs, pre-trial and at all levels of proceedings including appeals, shall be deemed assigned to Developer for such purposes. If Developer advances sums, it shall be entitled to immediate reimbursement, on demand, from Association for such amounts so paid, plus interest thereon at the Wall Street Journal Prime Rate plus two percent (2%), plus any costs of collection including, but not limited to, reasonable attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings including appeals.

15.22 Rights to Pay Assessments and Receive Reimbursement. Association, Developer and any Lender of a Home shall have the right, but not the obligation, jointly and severally, and at their sole option, to pay any Assessments or other charges which are in default and which may or have become a lien or charge against any Home. If so paid, the party paying the same shall be subrogated to the enforcement rights of Association with regard to the amounts due.

15.23 Collection of Assessments. Assessments shall be paid by each Owner to Association. Collection proceedings for an Owner's failure to pay Monthly Assessments may be brought by Association.

15.24 Mortgagee Right. Each Lender may request in writing that Association notify such Lender of any default of the Owner of the Home subject to the Lender's mortgage under the Association Documents which default is not cured within thirty (30) days after Association learns of such default. A failure by Association to furnish notice to any Lender shall not result in liability of Association because such notice is only given as a courtesy to a Lender and the furnishing of such notice is not an obligation of Association to Lender.

#### 16. Information to Lenders and Owners.

16.1 Availability. Current copies of Association Documents shall be available for inspection by Owners and Lenders upon written request and during normal business hours or under other reasonable circumstances.

16.2 Copying. Any Owner and/or Lender shall be entitled, upon written request, and at its cost, to a copy of the documents referred to above.

16.3 Notice. Upon written request by a Lender (identifying the name and address of the Lender and the name and address of the applicable Owner), the Lender will be entitled to timely written notice of:

16.3.1 Any condemnation loss or casualty loss which affects a material portion of a Home to the extent Association is notified of the same;



16.3.2 Any delinquency in the payment of Assessments owed by an Owner of a Home or Lot subject to a first mortgage held by the Lender, which remains uncured for a period of sixty (60) days;

16.3.3 Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained under this Declaration; or

16.3.4 Any proposed action (if any) which would require the consent of a specific mortgage holder.

17. Architectural Control. The following provisions govern TerraLargo:

17.1 Architectural Review Committee. The ARC shall be a permanent committee of Association and shall administer and perform the architectural and landscape review and control functions relating to TerraLargo. The ARC shall consist of a minimum of three (3) members who shall initially be named by Developer and who shall hold office at the pleasure of Developer. The ARC shall have the right to form subcommittees consisting of representatives from Association to review ARC applications. The ARC shall oversee such subcommittees and shall take precedence over any decision made by such subcommittees. Until the Community Completion Date, Developer shall have the right to change the number of members on the ARC, and to appoint, remove, and replace all members of the ARC. Developer shall determine which members of the ARC shall serve as its chairman and co-chairman. In the event of the failure, refusal, or inability to act of any of the members appointed by Developer, Developer shall have the right to replace any member within thirty (30) days of such occurrence. If Developer fails to replace that member, the remaining members of the ARC shall fill the vacancy by appointment. From and after the Community Completion Date, the Board shall have the same rights as Developer with respect to the ARC. The ARC shall enforce the Master Community Standards as set forth herein.

17.2 Membership. There is no requirement that any member of the ARC be an Owner or a member of Association.

17.3 General Plan. It is the intent of this Declaration to create a general plan and scheme of development of TerraLargo. Accordingly, the ARC shall have the right and authority to approve or disapprove all architectural, landscaping, and improvements within TerraLargo by Owners other than Developer or Club Owner. The ARC shall have the right to evaluate and approve or disapprove all plans and specifications as to harmony of exterior design, landscaping, location, size, type and appearance of any proposed structures or improvements, relationship to surrounding structures or improvements, topography and conformity with the Community Standards and such other published guidelines and standards as may be adopted by the ARC from time to time. The ARC may impose standards for construction and development which may be greater or more stringent than standards prescribed in applicable building, zoning, or other local governmental codes. Prior to the Community Completion Date, any additional guidelines or standards or modification of existing guidelines or standards, including, without limitation, the Community Standards, shall require the consent of Developer, which may be granted or denied in its sole discretion.

17.4 Master Plan. Developer has established an overall Master Plan. However, notwithstanding the above, or any other document, brochures or plans, Developer reserves the right to modify the Master Plan or any site plan at any time as it deems desirable in its sole discretion and in accordance with applicable laws and ordinances. WITHOUT LIMITING THE FOREGOING, DEVELOPER AND/OR BUILDERS MAY PRESENT TO THE PUBLIC OR TO OWNERS RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS RESPECTING TERRALARGO. SUCH RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS ARE NOT A GUARANTEE OF HOW TERRALARGO WILL APPEAR UPON COMPLETION AND DEVELOPER RESERVES THE RIGHT TO CHANGE ANY AND ALL OF THE FOREGOING AT ANY TIME AS DEVELOPER DEEMS NECESSARY IN ITS SOLE AND ABSOLUTE DISCRETION.

17.5 Community Standards. Each Owner and its contractors and employees shall observe, and comply with, the Community Standards which now or may hereafter be promulgated by the ARC and approved by the Board of Association from time to time. The Community Standards shall be effective from the date of adoption; shall be specifically enforceable by injunction or otherwise; and shall have the effect of covenants as set forth herein verbatim. The Community Standards shall not require any Owner to alter the improvements previously approved and constructed. Until the Community Completion Date, Developer shall have the right to approve the Community Standards, which approval, may be granted in its sole discretion.

17.6 Quorum. A majority of the ARC shall constitute a quorum to transact business at any meeting. The action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARC. Meetings of the ARC shall be open to all Members.

17.7 Power and Duties of the ARC. The ARC shall have the right and authority to review and approve and disapprove plans and specifications for the exterior design, landscaping, location, size, type or appearance of any proposed structures or improvements, Home, structure or other improvement on a Lot or Parcel. No structures or improvements shall be constructed on any portion of TerraLargo, no exterior of a Home shall be repainted, no landscaping, sign, or improvements erected, removed, planted, or maintained on any portion of TerraLargo, nor shall any material addition to or any change, replacement, or alteration of the improvements as originally constructed by Developer (visible from the exterior of the Home) be made until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme, and the location of same shall have been submitted to and approved in writing by the ARC.



17.8 Procedure. In order to obtain the approval of the ARC, each Owner shall observe the following:

17.8.1 Each applicant shall submit an application to the ARC with respect to any proposed improvement or material change in an improvement, together with the required application(s) and other fee(s) as established by the ARC. The applications shall include such information as may be required by the application form adopted by the ARC. The ARC may also require submission of samples of building materials and colors proposed to be used. At the time of such submissions, the applicant shall, if requested, submit to the ARC, such site plans, plans and specifications for the proposed improvement, prepared and stamped by a registered Florida architect or residential designer, and landscaping and irrigation plans, prepared by a registered landscape architect or designer showing all existing trees and major vegetation stands and surface water drainage plan showing existing and proposed design grades, contours relating to the predetermined ground floor finish elevation, pool plans and specifications and the times scheduled for completion, all as reasonably specified by the ARC.

17.8.2 In the event the information submitted to the ARC is, in the ARC's opinion, incomplete or insufficient in any manner, the ARC may request and require the submission of additional or supplemental information. The Owner shall, within fifteen (15) days thereafter, comply with the request.

17.8.3 No later than thirty (30) days after receipt of all information required by the ARC for final review, the ARC shall approve or deny the application in writing. The ARC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in the ARC's sole discretion, for aesthetic or any other reasons or to impose qualifications and conditions thereon. In approving or disapproving such plans and specifications, the ARC shall consider the suitability of the proposed improvements, the materials of which the improvements are to be built, the site upon which the improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property. In the event the ARC fails to respond within such thirty (30) day period, the plans and specifications shall be deemed disapproved by the ARC.

17.8.4 Construction of all improvements shall be completed within the time period set forth in the application and approved by the ARC.

17.8.5 In the event that the ARC disapproves any plans and specifications, the applicant may request a rehearing by the ARC for additional review of the disapproved plans and specifications. The meeting shall take place no later than thirty (30) days after written request for such meeting is received by the ARC, unless applicant waives this time requirement in writing. The ARC shall make a final written decision no later than thirty (30) days after such meeting. In the event the ARC fails to provide such written decision within such thirty (30) days, the plans and specifications shall be deemed disapproved.

17.8.6 Upon final disapproval (even if the members of the Board and ARC are the same), the applicant may appeal the decision of the ARC to the Board within thirty (30) days of the ARC's written review and disapproval. Review by the Board shall take place no later than thirty (30) days subsequent to the receipt by the Board of the Owner's request therefore. If the Board fails to hold such a meeting within thirty (30) days after receipt of request for such meeting, then the plans and specifications shall be deemed disapproved. The Board shall make a final decision no later than sixty (60) days after such meeting. In the event the Board fails to provide such written decision within such sixty (60) days after such meeting, such plans and specifications shall be deemed disapproved. The decision of the ARC, or if appealed, the Board, shall be final and binding upon the applicant, its heirs, legal representatives, successors and assigns.

17.9 Alterations. Any and all alterations, deletions, additions and changes of any type or nature whatsoever to then existing improvements or the plans or specifications previously approved by the ARC, including, but not limited to, changes relating to exterior design, landscaping, location, size, type and appearance, shall be subject to the approval of the ARC, in the same manner as required for approval of original plans and specifications. Notwithstanding the foregoing, the ARC shall have no right to approve any changes to a Home not visible from the exterior of a Home.

17.10 Variances. Association or ARC shall have the power to grant variances from any requirements set forth in this Declaration or from the Community Standards, on a case by case basis, provided that the variance sought is reasonable and results from a hardship upon the applicant; provided, however, neither Association nor the ARC shall enforce any policy or restriction that is inconsistent with the rights and privileges of an Owner set forth in this Declaration or the Community Standards. The granting of a variance shall not nullify or otherwise affect the right to require strict compliance with the requirements set forth in this Declaration or in the Community Standards on any other occasion.

17.11 Permits. The Owner is solely responsible to obtain all required building and other permits from all governmental authorities having jurisdiction.

17.12 Construction by Owners. The following provisions govern construction activities by Owners after consent of the ARC has been obtained:

17.12.1 Each Owner shall deliver to the ARC, if requested, copies of all construction and building permits as and when received by the Owner. Each construction site in TerraLargo shall be maintained in a neat and orderly condition throughout construction. Construction activities shall be performed on a diligent, workmanlike and continuous basis. Roadways, easements, swales, Common Areas and other such areas in TerraLargo shall be kept clear of construction vehicles, construction materials and debris at all times. No construction office or trailer shall be kept in TerraLargo and no construction materials shall be stored in TerraLargo subject, however, to such conditions and requirements as may be promulgated by the ARC. All refuse and debris shall be removed or



deposited in a dumpster on a daily basis. No materials shall be deposited or permitted to be deposited in any canal or waterway or Common Areas or other Homes in TerraLargo or be placed anywhere outside of the Home upon which the construction is taking place. No hazardous waste or toxic materials shall be stored, handled and used, including, without limitation, gasoline and petroleum products, except in compliance with all applicable federal, state and local statutes, regulations and ordinances, and shall not be deposited in any manner on, in or within the construction or adjacent property or waterways. All construction activities shall comply with the Community Standards. If a contractor or Owner shall fail to comply in any regard with the requirements of this Section, the ARC may require that such Owner or contractor post security with Association in such form and such amount deemed appropriate by the ARC in its sole discretion.

17.12.2 There shall be provided to the ARC, if requested, a list (name, address, telephone number and identity of contact person), of all contractors, subcontractors, materialmen and suppliers (collectively, "Contractors") and changes to the list as they occur relating to construction. Each Builder and all of its employees and Contractors and their employees shall utilize those roadways and entrances into TerraLargo as are designated by the ARC for construction activities. The ARC shall have the right to require that each Builder's and Contractor's employees check in at the designated construction entrances and to refuse entrance to persons and parties whose names are not registered with the ARC.

17.12.3 Each Owner is responsible for ensuring compliance with all terms and conditions of these provisions and of the Community Standards by all of its employees and Contractors. In the event of any violation of any such terms or conditions by any employee or Contractor, or, in the opinion of the ARC, the continued refusal of any employee or Contractor to comply with such terms and conditions, after five (5) days' notice and right to cure, the ARC shall have, in addition to the other rights hereunder, the right to prohibit the violating employee or Contractor from performing any further services in TerraLargo.

17.12.4 The ARC may, from time to time, adopt standards governing the performance or conduct of Owners, Contractors and their respective employees within TerraLargo. Each Owner and Contractor shall comply with such standards and cause its respective employees to also comply with same. The ARC may also promulgate requirements to be inserted in all contracts relating to construction within TerraLargo and each Owner shall include the same therein.

17.13 Inspection. There is specifically reserved to Association and ARC and to any agent or member of either of them, the right of entry and inspection upon any portion of TerraLargo at any time within reasonable daytime hours, for the purpose of determination whether there exists any violation of the terms of any approval or the terms of this Declaration or the Community Standards.

17.14 Violation. Without limiting any other provision herein, if any improvement shall be constructed or altered without prior written approval, or in a manner which fails to conform with the approval granted, the Owner shall, upon demand of Association or the ARC, cause such improvement to be removed, or restored until approval is obtained or in order to comply with the plans and specifications originally approved. The Owner shall be liable for the payment of all costs of removal or restoration, including all costs and attorneys' fees, paraprofessional fees and costs, pre-trial and at all levels of proceedings including appeals incurred by Association or ARC. The costs shall be deemed an Individual Assessment and enforceable pursuant to the provisions of this Declaration. The ARC and/or Association are specifically empowered to enforce the architectural and landscaping provisions of this Declaration and the Community Standards, by any legal or equitable remedy.

17.15 Court Costs. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed improvement or to cause the removal of any unapproved improvement, Association and/or ARC shall be entitled to recover court costs, expenses and attorneys' fees and paraprofessional fees, at pre-trial and at all levels of proceedings, including appeals, in connection therewith.

17.16 Certificate. In the event that any Owner fails to comply with the provisions contained herein, the Community Standards, or other rules and regulations promulgated by the ARC, Association and/or ARC may, in addition to all other remedies contained herein, record a certificate of non-compliance against the Home stating that the improvements on the Home fail to meet the requirements of this Declaration and that the Home is subject to further enforcement remedies.

17.17 Certificate of Compliance. If requested by an Owner, prior to the occupancy of any improvement constructed or erected on any Home by other than Developer, or its designees, the Owner thereof shall obtain a certificate of compliance from the ARC, certifying that the Owner has complied with the requirements set forth herein. The ARC may, from time to time, delegate to a member or members of the ARC, the responsibility for issuing the certificate of compliance. The issuance of a certificate of compliance does not abrogate the ARC's rights set forth in Section 17.13 herein.

17.18 Exemption. Notwithstanding anything to the contrary contained herein, or in the Community Standards, any improvements of any nature made or to be made by Developer, Builder, Club Owner, or their nominees, including, without limitation, improvements made or to be made to the Common Areas, Club or any Home, shall not be subject to the review of the ARC, Association, or the provisions of the Community Standards.

17.19 Exculpation. The ARC's rights of review and approval or disapproval of plans and other submissions under this Declaration are intended solely for the benefit of the ARC and Association. Neither the ARC, the Association, the Developer, nor any of their respective officers, directors, shareholders, members, partners, managers, employees, agents, contractors, consultants or attorneys shall be liable to any Owner or any other party by reason of mistakes in judgment, failure to point out or correct deficiencies in any plans or other

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submissions, negligence, or any other misfeasance, malfeasance or non-feasance arising out of or in connection with the approval or disapproval of any plans or submissions except as otherwise expressly provided by Section 720.3035 of the Florida Statutes. Anyone submitting plans or other submissions, by the submission of the same, and any Owner, by acquiring title to a Home, agrees not to seek damages from the Developer, the ARC and/or the Association or any of their respective officers, directors, shareholders, members, managers, employees, agents, contractors, consultants or attorneys arising out of the ARC's review of any plans or other submissions under this Declaration except as otherwise expressly provided by Section 720.3035. Without limiting the generality of the foregoing, the ARC shall not be responsible for reviewing, nor shall its review of any plans be deemed approval of, any plans or other submissions from the standpoint of structural safety, soundness, workmanship, materials, usefulness, conformity with building or other codes or industry standards, or compliance with governmental requirements. Each party submitting plans, specifications and other submissions for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto. Further, each Owner agrees to indemnify and hold Developer, Association and the ARC harmless from and against any and all costs, claims (whether rightfully or wrongfully asserted), damages, expenses or liabilities whatsoever (including, without limitation, reasonable attorneys' fees and costs, pre-trial and at all levels of proceedings, including appeals), arising out of any review of plans by the ARC under this Declaration except as otherwise expressly prohibited by law.

18. Surface Water Management System

18.1 Maintenance. Association shall maintain the Surface Water Management System. Any lakes within TerraLargo shall be the maintenance responsibility of the Association.

18.2 Association Easements. The Association and its agents, employees, and managers, shall be deemed to have easements of ingress and egress in, over, and across the Common Areas for all reasonable purposes including, without limitation, such easements required for maintenance of the lake and canal banks and slopes for TerraLargo, if any, and the entry and boundary signs.

19. Owner's Liability

19.1 Loop System Irrigation. Some or all of the Common Areas may receive irrigation pursuant to a loop system. Owners shall not make any alterations or improvements to a Home that in any way adversely affects the loop system irrigation. Any damages to the Home resulting from an Owner's failure to comply with the terms set forth herein shall be the sole responsibility of such Owner and Developer shall not be liable for the same. Furthermore, each Owner understands that as provided in this Declaration, an Owner may be permitted to install, without limitation, a patio, and/or screened enclosure ("Improvement") on the Home upon the prior written approval of the ARC as set forth in this Declaration and/or the Community Standards. If an Improvement is approved to be installed, then a five (5) foot wide gate must also be installed. Before the ARC approves the installation of an Improvement, the irrigation system that will be within the Improvement portion of that Home must be re-routed, if necessary, by a professional irrigation company. In order for the ARC to approve the Improvement installation, a letter or other evidence by a professional irrigation company must be given to the ARC at least ten (10) days before the Improvement installation stating that the effectiveness of TerraLargo drainage system will not be affected by the re-routing of the irrigation system. Should an Owner install the Improvement without providing the necessary letter or other evidence from a professional irrigation company in advance as required herein, then Association may conduct the necessary inspection, repair any necessary drainage facilities and charge the work as an Individual Assessment to such Owner, all as further provided in this Declaration and/or Community Standards.

19.2 Violations. Should any Owner do any of the following:

19.2.1 Fail to perform its responsibilities as set forth herein or otherwise breach the provisions of the Declaration including, without limitation, any provision herein benefiting SWFWMD; or

19.2.2 Cause any damage to any improvement or Common Areas or Club; or

19.2.3 Impede Developer, Club Owner or Association from exercising its rights or performing its responsibilities hereunder or under the Club Plan; or

19.2.4 Undertake unauthorized improvements or modifications to a Home or the Common Areas or the Club; or

19.2.5 Impede Developer or Club Owner from proceeding with or completing the development of TerraLargo or Club, as the case may be;

then, Developer, Association and/or Club Owner, where applicable, after reasonable prior written notice, shall have the right, through its agents and employees, to cure the breach, including, but not limited to, entering upon the Home and causing the default to be remedied and/or the required repairs or maintenance to be performed, or as the case may be, removing unauthorized improvements or modifications. The cost thereof, plus reasonable overhead costs and attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, incurred shall be assessed against the Owner as an Individual Assessment.

19.3 Non-Monetary Defaults. In the event of a violation by any Owner, other than the nonpayment of any Assessment or other monies, of any of the provisions of this Declaration, Developer or Association shall notify the Owner of the violation, by written notice. If such violation is not cured as soon as practicable and in any event within seven (7) days after such written notice, the party entitled to enforce same may, at its option:



19.3.1 Commence an action to enforce the performance on the part of the Owner or to enjoin the violation or breach or for equitable relief as may be necessary under the circumstances, including injunctive relief; and/or

19.3.2 Commence an action to recover damages; and/or

19.3.3 Take any and all action reasonably necessary to correct the violation or breach.

19.4 Expenses. All expenses incurred in connection with the violation or breach, or the commencement of any action against any Owner, including reasonable attorneys' fees and paraprofessional fees, at pre-trial and at all levels of proceedings including appeals, shall be assessed against the Owner, as an Individual Assessment, and shall be immediately due and payable without further notice.

19.5 No Waiver. The failure of the Developer, Association and/or the ARC to enforce any right, provision, covenant or condition in this Declaration, shall not constitute a waiver of the right to enforce such right, provision, covenant or condition in the future.

19.6 Rights Cumulative. All rights, remedies, and privileges granted to SWFWMD, Developer, Club Owner, Association and/or the ARC pursuant to any terms, provisions, covenants or conditions of this Declaration, or Community Standards, shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude any of them from pursuing such additional remedies, rights or privileges as may be granted or as it might have by law.

19.7 Enforcement By or Against Other Persons. In addition to the foregoing, this Declaration or Community Standards may be enforced by Developer and/or, where applicable, Owners, Club Owner and/or Association, by any procedure at law or in equity against any person violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this Declaration or Community Standards shall be borne by the person against whom enforcement is sought, provided such proceeding results in a finding that such person was in violation of this Declaration or the Community Standards.

19.8 Fines. Association may suspend, for reasonable periods of time, the rights of an Owner or an Owner's tenants, guests and invitees, or both, to use the Common Areas and may levy reasonable fines, not to exceed the maximum amounts permitted by Section 720.305(2) of the Florida Statutes, against an Owner, tenant, guest or invitee, for failure to comply with any provision of this Declaration including, without limitation, those provisions benefiting the SWFWMD.

19.8.1 A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing. Fines in the aggregate are not capped to any amount.

19.8.2 A fine or suspension may not be imposed without notice of at least fourteen (14) days to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) persons (the "Violations Committee") appointed by the Board who are not officers, directors or employees of Association, or the spouse, parent, child, brother, sister of an officer, director or employee. If the Violations Committee does not by a majority vote approve a fine or suspension the same may not be imposed. The written notice of violation shall be in writing to the Owner, tenant, guest or invitee and detail the infraction or infractions. Included in the notice shall be the date and time of the hearing of the Violations Committee.

19.8.3 The non-compliance shall be presented to the Violations Committee acting as a tribunal, after which the Violations Committee shall hear reasons why a fine should not be imposed. The hearing shall be conducted in accordance with the procedures adopted by the Violations Committee from time to time. A written decision of the Violations Committee shall be submitted to the Owner, tenant, guest or invitee, as applicable, by not later than twenty-one (21) days after the meeting of the Violations Committee. The Owner, tenant, guest or invitee shall have a right to be represented by counsel and to cross-examine witnesses.

19.8.4 The Violations Committee may impose Individual Assessments against the Owner in the amount of \$100 (or any greater amount permitted by law from time to time) for each violation. Each day of non-compliance shall be treated as a separate violation and there is no cap on the aggregate amount the Violations Committee may fine an Owner, tenant, guest or invitee. Individual Assessment fines shall be paid not later than five (5) days after notice of the imposition of the Individual Assessment. All monies received from fines shall be allocated as directed by the Board.

## 20. Additional Rights of Developer

20.1 Sales Office and Administrative Offices. For so long as Developer and its assigns owns any property in TerraLargo, is affected by this Declaration, or maintains a sales office or administrative office within TerraLargo, Developer shall have the perpetual right to take such action reasonably necessary to transact any business necessary to consummate the development of TerraLargo and sales and re-sales of Homes and/or other properties owned by Developer or others outside of TerraLargo. This right shall include, but not be limited to, the right to maintain models, sales offices and parking associated therewith, have signs on any portion of TerraLargo, including Common Areas and the Club, employees in the models and offices, without the payment of rent or any other fee, maintain offices in models, and use of the Common Areas and the Club to show Homes. The sales office, models, signs and all items pertaining to development and sales remain the property of Developer. Developer shall have all of the foregoing rights without charge or expense. Without limiting the foregoing, Developer shall have the



right but not the obligation to maintain an office within TerraLargo for administrative purposes including, without limitation, covering warranty work, for up to one (1) year after the Community Completion Date. Without limiting any other provision of this Declaration, Developer may assign its rights hereunder to each Builder. The rights reserved hereunder shall extend beyond the Community Completion Date.

20.2 Modification. The development and marketing of TerraLargo will continue as deemed appropriate in Developer's sole discretion, and nothing in this Declaration or Community Standards, or otherwise, shall be construed to limit or restrict such development and marketing. It may be necessary or convenient for the development of TerraLargo to, as an example and not a limitation, amend a Plat and/or the Master Plan, modify the boundary lines of the Common Areas, grant easements, dedications, agreements, licenses, restrictions, reservations, covenants, rights-of-way, and to take such other actions which Developer, or its agents, affiliates, or assignees may deem necessary or appropriate. Association and Owners shall, at the request of Developer, execute and deliver any and all documents and instruments which Developer deems necessary or convenient, in its sole discretion, to accomplish the same.

20.3 Promotional Events. Prior to the Community Completion Date, Developer, Builders, and their successors and assigns shall have the right, at any time, to hold marketing and promotional events within TerraLargo and/or on the Common Areas or Club, without any charge for use. Developer, its agents, affiliates, or assignees shall have the right to market TerraLargo and Homes in advertisements and other media by making reference to TerraLargo, including, but not limited to, pictures or drawings of TerraLargo, the Club, Common Areas, and Homes constructed in TerraLargo. All logos, trademarks, and designs used in connection with TerraLargo are the property of Developer, and Association shall have no right to use the same after the Community Completion Date except with the express written permission of Developer. Without limiting any other provision of this Declaration, Developer may assign its rights hereunder to each Builder.

20.4 Use by Prospective Purchasers. Developer and each Builder shall have the right, without charge, to use the Common Areas for the purpose of entertaining prospective purchasers of Homes, or other properties owned by Developer outside of TerraLargo.

20.5 Franchises. Developer may grant franchises or concessions to commercial concerns on all or part of the Common Areas and shall be entitled to all income derived therefrom.

20.6 Management. Developer may manage the Common Areas by contract with Association. Developer may also contract with a third party ("Manager") for management of Association and the Common Areas. Each Owner acknowledges that Developer may receive lump sum or monthly compensation from any Manager in connection with the costs of services provided by such Manager. Such compensation may be paid on or per Home or other basis. All such compensation shall be the sole property of Developer, who shall have no duty to account for or disclose the amount of such compensation.

20.7 Easements. Until the Community Completion Date, Developer reserves the exclusive right to grant, in its sole discretion, easements, permits and/or licenses for ingress and egress, drainage, utilities service, maintenance, Telecommunications Services; and other purposes over, under, upon and across TerraLargo so long as any such easements do not materially and adversely interfere with the intended use of Homes previously conveyed to Owners. By way of example, and not of limitation, Developer may be required to take certain action, or make additions or modifications to the Common Areas in connection with an environmental program. All easements necessary for such purposes are reserved in favor of Developer, in perpetuity, for such purposes. Without limiting the foregoing, Developer may relocate any easement affecting a Home, or grant new easements over a Home, after conveyance to an Owner, without the joinder or consent of such Owner, so long as the grant of easement or relocation of easement does not materially and adversely affect the Owner's use of the Home as a residence. As an illustration, Developer may grant an easement for Telecommunications Systems, irrigation, drainage lines or electrical lines over any portion of TerraLargo so long as such easement is outside the footprint of the foundation of any residential improvement constructed on such portion of TerraLargo. Developer shall have the sole right to any fees of any nature associated therewith, including, but not limited to, license or similar fees on account thereof. Association and Owners will, without charge, if requested by Developer: (a) join in the creation of such easements, etc. and cooperate in the operation thereof; and (b) collect and remit fees associated therewith, if any, to the appropriate party. Association will not grant any easements, permits or licenses to any other entity providing the same services as those granted by Developer, nor will it grant any such easement, permit or license prior to the Community Completion Date without the prior written consent of Developer which may be granted or denied in its sole discretion.

20.8 Right to Enforce. Developer has the right, but not the obligation, to enforce the provisions of this Declaration and the Community Standards and to recover all costs relating thereto, including, without limitation, attorneys' fees, paraprofessional fees and costs, pre-trial and at all levels of proceedings, including appeals. Such right shall include the right to perform the obligations of Association and to recover all costs incurred in doing so. The Club Owner shall also have such rights relating to the Club and/or Club Dues.

20.9 Additional Development. If Developer withdraws portions of TerraLargo from the operation of this Declaration, Developer may, but is not required to, subject to governmental approvals, create other forms of residential property ownership or other improvements of any nature on the property not subjected to or withdrawn from the operation of this Declaration. Developer shall not be liable or responsible to any person or entity on account of its decision to do so or to provide, or fail to provide, the amenities and/or facilities which were originally planned to be included in such areas. If so designated by Developer, owners or tenants of such other forms of housing or improvements upon their creation may share in the use of all or some of the Common Areas, the Club



and other facilities and/or roadways which remain subject to this Declaration. The expense of the operation of such facilities shall be allocated to the various users thereof, if at all, as determined by Developer.

20.10 Representations. Developer makes no representations concerning development both within and outside the boundaries of TerraLargo including, but not limited to, the number, design, boundaries, configuration and arrangements, prices of all Homes or Club and buildings in all other proposed forms of ownership and/or other improvements on TerraLargo or in TerraLargo or adjacent to or near TerraLargo, including, but not limited to, the size, location, configuration, elevations, design, building materials, height, view, airspace, number of homes, number of buildings, location of easements, parking and landscaped areas, services and amenities offered.

20.11 Non-Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE ASSOCIATION DOCUMENTS, NEITHER ASSOCIATION, DEVELOPER, NOR ANY BUILDERS SHALL BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF TERRALARGO INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, LESSEES, LICENSEES, INVITEES, AGENTS, SERVANTS, CONTRACTORS, AND/OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

20.11.1 IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF TERRALARGO HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF TERRALARGO AND THE VALUE THEREOF; AND

20.11.2 ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN AGENCY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE STATE OF FLORIDA AND/OR COUNTY OR PREVENTS TORTIOUS ACTIVITIES; AND

20.11.3 THE PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY, AND WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY, OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON. EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO A HOME) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING A USE OF, ANY PORTION OF TERRALARGO (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USE) SHALL BE BOUND BY THIS SECTION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF ASSOCIATION HAS BEEN DISCLAIMED IN THIS SECTION OR OTHERWISE. AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS).

20.12 Resolution of Disputes. BY ACCEPTANCE OF A DEED, EACH OWNER AGREES THAT THE ASSOCIATION DOCUMENTS ARE VERY COMPLEX; THEREFORE, ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION, WITH RESPECT TO ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM, OR CROSS CLAIM, WHETHER IN CONTRACT AND/OR IN TORT (REGARDLESS IF THE TORT ACTION IS PRESENTLY RECOGNIZED OR NOT), BASED ON, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATED TO THE ASSOCIATION DOCUMENTS, INCLUDING ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT, VALIDATION, PROTECTION, ENFORCEMENT ACTION OR OMISSION OF ANY PARTY SHOULD BE HEARD IN A COURT PROCEEDING BY A JUDGE AND NOT A JURY IN ORDER TO BEST SERVE JUSTICE. DEVELOPER HEREBY SUGGESTS THAT EACH OWNER UNDERSTAND THE LEGAL CONSEQUENCES OF ACCEPTING A DEED TO A HOME.

20.13 Venue. EACH OWNER ACKNOWLEDGES REGARDLESS OF WHERE SUCH OWNER (i) EXECUTED A PURCHASE AND SALE AGREEMENT, (ii) RESIDES, (iii) OBTAINS FINANCING OR (iv) CLOSED ON A HOME, THIS DECLARATION LEGALLY AND FACTUALLY WAS EXECUTED IN COUNTY. DEVELOPER HAS AN OFFICE IN COUNTY AND EACH HOME IS LOCATED IN COUNTY. ACCORDINGLY, AN IRREBUTTABLE PRESUMPTION EXISTS THAT THE ONLY APPROPRIATE VENUE FOR THE RESOLUTION OF ANY DISPUTE LIES IN COUNTY. IN ADDITION TO THE FOREGOING, EACH OWNER AND DEVELOPER AGREES THAT THE VENUE FOR RESOLUTION OF ANY DISPUTE LIES IN COUNTY.

20.14 Reliance. BEFORE ACCEPTING A DEED TO A HOME, EACH OWNER HAS AN OBLIGATION TO RETAIN AN ATTORNEY IN ORDER TO CONFIRM THE VALIDITY OF THIS DECLARATION. BY ACCEPTANCE OF A DEED TO A HOME, EACH OWNER ACKNOWLEDGES THAT HE HAS SOUGHT AND RECEIVED SUCH AN OPINION OR HAS MADE AN AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. DEVELOPER IS RELYING ON EACH OWNER CONFIRMING IN ADVANCE OF ACQUIRING A HOME THAT THIS DECLARATION IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO DEVELOPER. ACCORDINGLY, AN ESTOPPEL AND WAIVER



EXISTS PROHIBITING EACH OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THIS DECLARATION IS INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR DEVELOPER TO SUBJECT TERRALARGO TO THIS DECLARATION, EACH OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS AND ITS AFFILIATES AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, COUNTERCLAIMS, DEFENSES, ACTIONS, CAUSES OF ACTION, SUITS, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR IN EQUITY WHICH AN OWNER MAY HAVE IN THE FUTURE, OR WHICH ANY PERSONAL REPRESENTATIVE, SUCCESSOR, HEIR OR ASSIGN OF OWNER HEREAFTER CAN, SHALL OR MAY HAVE AGAINST DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, AND ITS AFFILIATES AND ASSIGNS, FOR, UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RESPECTING THIS DECLARATION, OR THE EXHIBITS HERETO. THIS RELEASE AND WAIVER IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY THE LAWS OF THE STATE OF FLORIDA.

**20.15 Access Control System: Right to Install.** Developer or its nominees, successors, assigns, affiliates, and licensees may, but are not obligated to, install or contract for an Access Control System. Association shall have the right, but not the obligation, to install or contract for the installation or provision of Access Control Systems for TerraLargo. Prior to the Community Completion Date, all contracts for Access Control Systems shall be subject to the prior written approval of Developer. If installed or provided, Developer reserves the right, at any time and in its sole discretion, to discontinue or terminate any Access Control System prior to the Community Completion Date. In addition, all Owners specifically acknowledge that TerraLargo may have a perimeter access control system, such as fences, walls, hedges, or the like on certain perimeter areas. ASSOCIATION AND DEVELOPER SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE ACCESS CONTROL OR INEFFECTIVENESS OF ACCESS CONTROL MEASURES UNDERTAKEN.

**20.15.1 Components.** The Access Control System, if installed, may include one or more manned gatehouses, one or more electronic gates, and roving attendants using vehicles. Association and Developer do not warrant or guaranty in any manner that the system will include these items, but reserve the right to install or provide the foregoing items, or any other items they deem appropriate in their sole and absolute discretion. After the Community Completion Date, Association may expand the Access Control System by a vote of the majority of the Board, without the joinder or consent of the Owners or any third parties. Without limiting the foregoing, Developer and Association reserve the right to, at any time, increase, decrease, eliminate, or add manned or unmanned gate houses, information booths, sensors, gates and other access monitoring measures as they deem appropriate in their sole and absolute discretion; provided, however, no changes shall be made prior to the Community Completion Date without the prior written consent of Developer.

**20.15.2 Part of Operating Costs.** If furnished and installed within any Unit, the cost of operating and monitoring any Access Control System may be included in Operating Costs of Association and may be payable as a portion of the Assessments against Owners. The purpose of the Access Control System will be to control access to TerraLargo.

**20.15.3 Owners' Responsibility.** All Owners and occupants of any Unit, and the tenants, guests and invitees of any Owner, as applicable, acknowledge that Association, its Board and officers, Developer, their nominees or assigns, or any successor Developer, and the ACC and its members, do not represent or warrant that (a) any Access Control System, designated by or installed according to guidelines established, will not be compromised or circumvented, (b) any Access Control System will prevent loss by fire, smoke, burglary, theft, hold-up, or otherwise, and/or (c) the Access Control System will in all cases provide the detection for which the system is designed or intended. In the event that Developer elects to provide a Access Control System, Developer shall not be liable to the Owners or Association with respect to such Access Control System, and the Owners and Association shall not make any claim against Developer for any loss that an Owner or Association may incur by reason of break-ins, burglaries, acts of vandalism, personal injury or death, which are not detected or prevented by the Access Control System. Each Owner and Association is responsible for protecting and insuring themselves in connection with such acts or incidents. The provision of an Access Control System (including any type of gatehouse) shall in no manner constitute a warranty or representation as to the provision of or level of security within TerraLargo or any residential subdivision contained therein. Developer and Association do not guaranty or warrant, expressly or by implication, the merchantability of fitness for use of any Community Access Control System, or that any such system (or any of its components or related services) will prevent intrusions, fires, 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 Unit acknowledges that Developer and Association, their employees, agents, managers, directors, and officers, are not insurers of Owners or Units, or the personal property located within Units. Developer and Association will not be responsible or liable for losses, injuries, or deaths resulting from any such events.

Developer may, but is not obligated to, install a tele-entry system at the entrance to TerraLargo. Association shall have the right, but not the obligation, to contract for the installation of additional Access Control System facilities for TerraLargo. Prior to the Community Completion Date, all contracts for Access Control Systems shall be subject to the prior written approval of Developer. ASSOCIATION AND DEVELOPER SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE ACCESS CONTROL OR INEFFECTIVENESS OF ACCESS CONTROL MEASURES UNDERTAKEN. Each and every owner and the occupant of each Home acknowledges that Developer, Association, and 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 casualty or intrusion into a Home.



21. Rights of County and City. In the event the Developer and/or Association fails or refuses to perform its obligations hereunder and/or to enforce the Declaration, the County or City shall have the right but not the obligation to enforce the terms and provisions of this Declaration by any procedure at law or in equity against the Developer, Association and/or Owners, including the right to levy and enforce Assessments in connection with any such enforcement action. The expense of any litigation arising out of this Section shall be borne by the party against whom enforcement is sought provided such proceeding results in a finding that such person failed to perform its obligations hereunder and/or was in violation of the Declaration.

22. Telecommunications Services.

22.1 Right to Contract for Telecommunications Services. Association shall have the right, but not the obligation, to enter into one or more contracts for the provision of one or more Telecommunications Services for all or any portion of TerraLargo. Prior to the Community Completion Date, all contracts between a Telecommunications Provider and Association shall be subject to the prior written approval of Developer. Developer and/or its nominees, successors, assigns, affiliates, and licensees may contract with Association and act as a Telecommunications Provider for one or more Telecommunications Services, subject only to the requirements of all applicable laws, statutes, and regulations. If Developer is not the Telecommunications Provider for any particular Telecommunications Service, Developer shall have the right to receive, on a perpetual basis, all or a portion of access fees and/or the revenues derived from such Telecommunications Service within TerraLargo as agreed, from time to time, between the Telecommunications Provider and Developer.

22.2 Easements. Developer (i) reserves unto itself and its nominees, successors, assigns, affiliates, and licensees, and (ii) grants to each Telecommunications Provider providing Telecommunications Services to all or a portion of TerraLargo pursuant to an agreement between Association and such Telecommunications Provider, a perpetual right, privilege, easement and right-of-way across, over, under and upon TerraLargo for the installation, construction and maintenance of Telecommunications Systems together with a perpetual right, privilege and easement of ingress and egress, access, over and upon TerraLargo for installing, constructing, inspecting, maintaining, altering, moving, improving and replacing facilities and equipment constituting such systems. If, and to the extent, Telecommunications Services provided by such Telecommunications Systems are to serve all of TerraLargo, then the cost of the Telecommunications Services may be Operating Costs of Association and shall be assessed as a part of the Assessments.

22.3 Restoration. Upon the completion of any installation, upgrade, maintenance, repair, or removal of the Telecommunications Systems or any part thereof, each Telecommunications Provider shall restore the relevant portion of the Common Areas and/or any Home to as good a condition as that which existed prior to such installation, maintenance, repair or removal. Failure by Telecommunications Provider to complete such restoration within ten (10) days after receiving written notice from Association of such failure shall vest in Association the right (but not the obligation) to restore or cause to be restored such portion of the Common Areas and/or Home disturbed by such work, all at such Telecommunications Provider's sole cost and expense, except for in emergency situations whereby Association may restore or cause to be restored such disturbed portion of the Common Areas and/or Home immediately. In the event that Association exercises the right of self-help, each Telecommunications Provider agrees in advance that Association shall have the sole right to (i) select the Contractors to perform such work and (ii) determine the extent of required restoration. This remedy of self-help is in addition to all other remedies of Association hereunder. All reasonable expenses incurred by Association in connection with such restoration shall be paid by Telecommunications Provider within ten (10) days of delivery to Telecommunications Provider of Association's invoice therefor. Any expenses not so paid when due shall bear interest from the due date at the lesser of (i) the publicly announced prime rate (or similar successor reference rate) of Wachovia National Bank or its successor on the date of such invoice, or (ii) the maximum rate of interest allowed by the law of the State of Florida for such obligations, or as may be provided in a contract between Association and a Telecommunications Provider.

22.4 Operating Costs. Each Owner understands that the expense of any Telecommunications Service may not be charged on a bulk basis, but may be charged at the rate equal to any rate paid by individual home owners that are not subject to a homeowners association. Each Owner acknowledges that Developer may receive lump sum or monthly compensation from any Telecommunications Provider in connection with the supply of Telecommunications Services. Such compensation may be paid on a per Home or other basis. All such compensation shall be the sole property of Developer, who shall have no duty to account for or disclose the amount of such compensation.

23. Refund of Taxes and Other Charges. Unless otherwise provided herein, Association agrees that any taxes, fees or other charges paid by Developer to any governmental authority, utility company or any other entity which at a later date are refunded in whole or in part, shall be returned to Developer in the event such refund is received by Association.

24. Assignment of Powers. All or any part of the rights, exemptions and powers and reservations of Developer herein contained may be conveyed or assigned in whole or part to other persons or entities by an instrument in writing duly executed, acknowledged, and at Developer's option, recorded in the Public Records.

25. Selling, Leasing and Mortgaging of Homes. In order to maintain complementary uses, congenial neighbors and to protect the value of Homes, the transfer of title to or possession of Homes by any Owner shall be subject to the following provisions so long as Association exists, which provisions each Owner covenants to observe:

25.1 Transfers Subject to Approval.



25.1.1 Sale. No Owner may dispose of a Home or any interest therein by sale without approval of Association.

25.1.2 Lease. No Owner may transfer possession of a Home or any interest therein by lease for any period without approval of Association. The renewal of any lease, including any lease previously approved by Association under this Section 25, shall be re-submitted for approval by Association. No Owner may transfer possession of a Home or any interest therein by lease for any period until such Owner is current in payment of all assessments due to Association under the terms of this Declaration, and Association shall have the right to withhold approval of any lease until such time as the Owner is current in payment of such Assessments.

25.1.3 Gift. If any Owner proposes to transfer a Home by gift, the proposed transfer shall be subject to the approval of Association.

25.2 Approval by Association. To obtain approval of Association which is required for the transfer of Homes, each Owner shall comply with the following requirements:

25.2.1 Notice to Association.

25.2.1.1 Sale. An Owner intending to make a bona fide sale of his or her Home, or any interest therein, shall give to Association a transfer fee (in an amount determined by the Board and permitted by Florida Statutes) and notice pursuant to a form approved by Association of such intentions, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as Association may reasonably require. Such notice, at the Owner's option, may include a demand by the Owner that Association furnish a new purchaser if the proposed purchaser is not approved, and if such demand is made, the notice shall be accompanied by an executed copy of the proposed contract for sale.

25.2.1.2 Lease. An Owner intending to make a bona fide lease of his or her Home or any interest therein shall give to Association a transfer fee (in an amount determined by the Board and permitted by Florida Statutes) and notice pursuant to a form approved by Association of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as Association may reasonably require, and an executed copy of the proposed lease, which lease shall provide that it is subject to approval by Association.

25.2.1.3 Gift. An Owner who proposes to transfer his or her title by gift shall give to Association a transfer fee (in an amount determined by the Board and permitted by Florida Statutes) and notice pursuant to a form approved by Association of the proposed transfer of his or her title, together with such information concerning the transferee as Association may reasonably require, and a copy of all instruments to be used in transferring title.

25.2.1.4 Failure to Give Notice. If the notice to Association herein required is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a Home, Association at its discretion and without notice may approve or disapprove the lease, sale or transfer. If Association disapproves the transaction or ownership, Association shall proceed as if it had received the required notice on the date of such disapproval.

25.2.1.5 Effect and Manner of Notice. The giving of notice shall constitute a representation and warranty by the offeror to Association and any purchaser produced by the Board that the offering is a bona fide offer in all respects. The notice shall be given by certified mail, return receipt requested, or delivered by professional courier or by hand-delivery to Association which shall give a receipt therefor.

25.2.2 Certificate of Approval.

25.2.2.1 Sale. If the proposed transaction is a sale, then, within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the proper officers of Association in recordable form and shall be delivered to the purchaser and may be recorded in the Public Records.

25.2.2.2 Lease. If the proposed transaction is a lease then, within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the proper officers of Association and shall be delivered to the lessee.

25.2.2.3 Devise or Inheritance. Any person who has obtained a Home by devise or inheritance (except for the spouse, parents or children of the immediately previous Owner of such Home) shall give to Association notice thereof together with such information concerning the person(s) obtaining such Home as may be reasonably required by the Board and a certified copy of the instrument by which such Home was obtained. If such notice is not given to Association, then at any time after receiving knowledge thereof, the Board shall proceed as if it had been given such notice on the date of receipt of such knowledge. Within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove the proposed transfer. If approved, the approval shall be stated in a certificate executed by the proper officers of Association in recordable form and shall be delivered to the person receiving title by devise or inheritance.

25.2.2.4 Gift. If the Owner giving notice proposes to transfer his or her title by gift, then, within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove



the proposed transfer of title to the Home. If approved, the approval shall be upon such terms and conditions as Association may reasonably require, and the approval shall be stated in a certificate executed by the proper officers of Association in recordable form and shall be delivered to the Owner and shall be recorded in the Public Records.

25.2.3 Approval of Owner Other Than an Individual. Inasmuch as the Home may be used only for residential purposes, and a corporation, trust or other entity cannot occupy a Home for such use, if the Owner or purchaser of a Home is a corporation, trust or other entity, the approval of ownership by the corporation, trust or other entity shall be conditioned upon the primary occupant or the beneficial owners of the entity being approved by Association. Any change in such primary occupant or beneficial owners of the Home shall be deemed a change of ownership subject to Association approval pursuant to this Section.

25.3 Disapproval by Association. Although an Owner complies with the foregoing requirements, Association may disapprove of the transfer. If Association disapproves a transfer or ownership of a Home, the matter shall be disposed of in the following manner:

25.3.1 Sale. If the proposed transaction is a sale and if the notice of sale given by the Owner shall so demand, then, within thirty (30) days after receipt of such notice and information by Association, Association shall deliver by professional courier or hand-delivery, or mail by certified mail, to the Owner an agreement to purchase by Association, or a purchaser approved by Association who will purchase and to whom the Owner must sell the Home, upon the following terms:

25.3.1.1 The price to be paid by the purchaser, to be identified in the agreement, shall be that stated in the disapproved contract to sell.

25.3.1.2 The purchase price shall be paid by official check or federal wire.

25.3.1.3 The sale shall be closed within ninety (90) days after the delivery or mailing of the agreement to purchase to the Owner and shall be upon terms no less favorable than the terms of the disapproved contract.

25.3.1.4 If Association fails to provide a purchaser upon the demand of the Owner in the manner provided, or if a purchaser furnished by Association shall default in his or her agreement to purchase, the proposed transaction shall be deemed to have been approved and Association shall furnish a certificate of approval as provided in this Section 25.

25.3.2 Lease. In the event the Board disapproves of a transfer of possession of a Home by lease, then the Owner may not lease the Home to the intended lessee for whom the Owner sought approval.

25.3.3 Transfer by Gift, Devise or Inheritance. In the event the Board disapproves of such transfer of title by gift, devise or inheritance, the Board shall advise in writing within such thirty (30) day period, the person who has obtained such title of a purchaser approved by the Board to purchase the respective Home at its fair market value. The fair market value of the Home will be determined by any one of the following methods determined by the Board: by three (3) M.A.I. appraisers, one of whom shall be selected by the Association's proposed purchaser, one by the person holding title, and one by the two (2) appraisers so selected; or by mutual agreement by the Association's proposed purchaser and the person holding title. All costs for such appraisal shall be paid by the Association's proposed purchaser. The purchase price shall be paid by federal wire or official check and the sale closed within thirty (30) days after the determination of the purchase price. Simultaneously upon notification to the person holding title that the Board has a purchaser for the respective Home, the person holding title and such purchaser shall execute a contract providing for the acquisition of such Home in accordance with the terms of this Declaration. In the event the purchaser furnished by Association shall default in his or her obligation to purchase such Home, then the Board shall be required to approve the passage of title to the person then holding title thereof and shall issue and deliver a certificate of approval therefor.

25.4 Exceptions. The foregoing provisions of this Section shall not apply to a transfer or purchase by a Lender or other approved mortgagee which acquires its title as the result of owning a mortgage upon the Home concerned, and this shall be so whether the title is acquired by deed from the mortgagor or its successor in title or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by a Lender or other approved mortgagee which so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to a Home at a duly advertised public sale with open bidding which is provided by law including, but not limited to, an execution sale, foreclosure sale, judicial sale or tax sale. The provisions of this Section shall not apply to Developer.

25.5 Unauthorized Transactions. Any sale, transfer mortgage or lease which is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by Association.

#### 25.6 Notice of Lien or Suit.

25.6.1 Notice of Lien. An Owner shall give notice to Association of every lien upon his or her Home other than for permitted mortgages, taxes and special assessments within five (5) days after the attaching of such lien.

25.6.2 Notice of Suit. An Owner shall give notice to Association of every suit or other proceeding which may affect the title to his or her Home; such notice is to be given within five (5) days after the Owner receives knowledge thereof.

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25.6.3 Failure to Comply. Failure to comply with this Section will not affect the validity of any judicial sale.

26. General Provisions.

26.1 Authority of Board. Except when a vote of the membership of Association is specifically required, all decisions, duties, and obligations of Association hereunder may be made by the Board. Association and Owners shall be bound thereby.

26.2 Severability. Invalidation of any of the provisions of this Declaration by judgment or court order shall in no way affect any other provision, and the remainder of this Declaration shall remain in full force and effect.

26.3 Affirmative Obligation of Association. In the event that Association believes that Developer has 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 are defective in any respect, Association shall give written notice to Developer detailing the alleged failure or defect. Association agrees that 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.

26.4 Execution of Documents. Developer's plan of development for TerraLargo, including, without limitation the creation of one (1) or more special taxing districts, may necessitate from time to time the execution of certain documents as required by governmental agencies. To the extent that said documents require the joinder of Owners other than Developer, Developer, by its duly authorized officers, may, as the agent or the attorney-in-fact for the Owners, execute, acknowledge and deliver such documents including, without limitation, any consents or other documents required by any governmental agencies in connection with the creation of any taxing district; and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Developer, through its duly authorized officers, as their proper and legal attorneys-in-fact, for such purpose. Said appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Owner agrees, by its acceptance of a deed to a Home or any other portion of TerraLargo, to execute or otherwise join in any petition and/or other documents required in connection with the creation of any special taxing district relating to TerraLargo or any portions thereof.

26.5 Notices. Any notice required to be sent to any person, firm, or entity under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address at the time of such mailing.

26.6 Florida Statutes. Whenever this Declaration refers to the Florida Statutes, it shall be deemed to refer to the Florida Statutes as they exist on the date this Declaration is recorded except to the extent provided otherwise as to any particular provision of the Florida Statutes.

26.7 Construction Activities. ALL OWNERS, OCCUPANTS AND USERS OF TERRALARGO ARE HEREBY PLACED ON NOTICE THAT (1) DEVELOPER AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES AND/OR (2) ANY OTHER PARTIES MAY BE, FROM TIME TO TIME, CONDUCTING BLASTING, EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO TERRALARGO. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF TERRALARGO, EACH SUCH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO TERRALARGO WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) DEVELOPER AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, EXCEPT RESULTING DIRECTLY FROM DEVELOPER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND (iv) ANY PURCHASE OR USE OF ANY PORTION OF TERRALARGO HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING.

26.8 Title Documents. Each Owner by acceptance of a deed to a Home acknowledges that such Home is subject to certain land use and title documents and all amendments thereto, which include, among other items, any title documents recorded in the Public Records, unrecorded land use documents and the following



documents identified in this Declaration and any other documents affecting title to TerraLargo (collectively, the "Title Documents");

26.8.1 Easement Grant granted to Houston Texas Gas and Oil Corporation by instrument recorded in Official Records Book 236 at Page 481.

26.8.2 Drainage Easement in favor of The School Board of Polk County recorded in Official Records Book 3985 at Page 211.

26.8.3 Wastewater Service Agreement recorded in Official Records Book 3856 at Page 542 and as re-recorded in Official Records Book 3871 at Page 47.

26.8.4 Easements and Reservations set forth in that certain Corrective Special Warranty Deed recorded in Official Records Book 2396 at Page 977.

26.8.5 Resolution No. 723 recorded in Official Records Book 1833 at Page 1383.

26.8.6 Plat of TerraLargo, according to the Plat thereof, recorded in Plat Book 139 at Page 7.

26.8.7 Plat of TerraLargo Phase II, according to the Plat thereof, recorded in Plat Book 143 at Page 3.

26.8.8 Easement recorded in Official Records Book 6844 at Page 706.

26.8.9 Easement recorded in Official Records Book 7103 at Page 1366.

26.8.10 Easement recorded in Official Records Book 7140 at Page 1666 which affects Lots 147 and 148 of TerraLargo, according to the Plat thereof, recorded in Plat Book 139 at Page 7.

26.8.11 Public Utility Easement recorded in Official Records Book 7264 at Page 461.

ALL OF THE FOREGOING DOCUMENTS ARE RECORDED IN THE PUBLIC RECORDS OF COUNTY AND ARE HEREBY INCORPORATED HEREIN BY REFERENCE AS IF FULLY SET FORTH HEREIN.

[ADDITIONAL TEXT AND SIGNATURES APPEAR ON THE FOLLOWING PAGE]



Developer's plan of development for TerraLargo may necessitate from time to time the further amendment, modification and/or termination of the Title Documents. DEVELOPER RESERVES THE UNCONDITIONAL RIGHT TO SEEK AMENDMENTS AND MODIFICATIONS OF THE TITLE DOCUMENTS. It is possible that a governmental subdivision or agency may require the execution of one or more documents in connection with an amendment, modification, and/or termination of the Title Documents. To the extent that such documents require the joinder of Owners other than Developer, Developer, by any one of its duly authorized officers, may, as the agent and/or the attorney-in-fact for the Owners, execute, acknowledge and deliver any documents required by applicable governmental subdivision or agency; and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Developer, through any one of its duly authorized officers, as their proper and legal attorney-in-fact for such purpose. This appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Owner agrees, by its acceptance of a deed to a Home: (i) to execute or otherwise join in any documents required in connection with the amendment, modification, or termination of the Title Documents; and (ii) that such Owner has waived its right to object to or comment the form or substance of any amendment, modification, or termination of the Title Documents. Without limiting the foregoing, upon the Community Completion Date Association shall assume all of the obligations of Developer under the Title Documents unless otherwise provided by Developer by amendment to this Declaration recorded by Developer in the Public Records, from time to time, and in the sole and absolute discretion of Developer.

27. Disclaimer of Warranties. To the maximum extent lawful, Developer hereby disclaims any and all and each and every express or implied warranties, whether established by statutory, common, case law or otherwise, as to the design, construction, sound and/or odor transmission, existence and/or development of molds, mildew, toxins or fungi, furnishing and equipping of the Common Areas, including, without limitation, any implied warranties of habitability, fitness for a particular purpose or merchantability, compliance with plans and all other express and implied warranties of any kind or character. As to any implied warranty which cannot be disclaimed entirely, all secondary, incidental and consequential damages are specifically excluded and disclaimed (claims for such secondary, incidental and consequential damages being clearly unavailable in the case of implied warranties which are disclaimed entirely above).

IN WITNESS WHEREOF, the undersigned, being Developer hereunder, has hereunto set its hand and seal this 24<sup>th</sup> day of October, 2007.

WITNESSES:

AVATAR PROPERTIES INC.,  
a Florida corporation

Maribel G. Pila  
Print Name: Maribel G. Pila  
Nora E. Sanchez  
Print Name: NORA E. Sanchez

By: Patricia K Fletcher  
Name: Patricia Kimball Fletcher  
Title: Executive Vice President

(SEAL)

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE ) SS.:

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of October, 2007 by Patricia Kimball Fletcher as Executive Vice President of Avatar Properties Inc., a Florida corporation, who is personally known to me, on behalf of the corporation.

My commission expires:



Maribel G. Pila  
NOTARY PUBLIC, State of Florida at Large  
Print Name: Maribel G. Pila



JOINDER

TERRALARGO COMMUNITY ASSOCIATION, INC.

TERRALARGO COMMUNITY ASSOCIATION, INC. ("Association") does hereby join in the Declaration for TerraLargo ("Declaration"), to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Association acknowledges that this Joinder is for convenience purposes only and does not apply to the effectiveness of the Declaration as Association has no right to approve the Declaration.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 24<sup>th</sup> day of October, 2007.

WITNESSES:

TERRALARGO COMMUNITY ASSOCIATION, INC.,  
a Florida not-for-profit corporation

Maribel G. Pila  
Print Name: Maribel G. Pila  
Nora E. Sanchez  
Print Name: NORA E. SANCHEZ

By: [Signature]  
Name: Hank Yunes  
Title: Vice President

{SEAL}

STATE OF FLORIDA        )  
                                  ) SS.:  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of October, 2007 by Hank Yunes as Vice President of TERRALARGO COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation, who is personally known to me or who has produced N/A as identification, on behalf of the corporation.

My commission expires:

Maribel G. Pila  
NOTARY PUBLIC, State of Florida at Large  
Print Name: Maribel G. Pila





**EXHIBIT I**

**LEGAL DESCRIPTION**

All of TERRALARGO according to the Plat thereof, recorded in Plat Book 139, Pages 7 through 10, of the Public Records of Polk County, Florida.

All of TERRALARGO PHASE II, according to the Plat thereof, recorded in Plat Book 143, Page 3 of the Public Records of Polk County, Florida.



EXHIBIT 2  
ARTICLES OF INCORPORATION



11/1/2007 11:00 PAGE 001/003 Florida Dept of State

# State of Florida



## Department of State

I certify from the records of this office that TERRALARGO COMMUNITY ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on April 3, 2007.

The document number of this corporation is N07000003431.

I further certify that said corporation has paid all fees due this office through December 31, 2007, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

I further certify that this is an electronically transmitted certificate authorized by section 15.16, Florida Statutes, and authenticated by the code, 007A00022861-040407-N07000003431-1/1, noted below.

Authentication Code: 007A00022861-040407-N07000003431-1/1

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Fourth day of April, 2007



Kurt S. Browning  
Secretary of State

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State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of TERRALARGO COMMUNITY ASSOCIATION, INC., a Florida corporation, filed on April 3, 2007, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H07000086942. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below.

The document number of this corporation is N07000003431.

Authentication Code: 007A00022861-040407-N07000003431-1/1

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Fourth day of April, 2007



Kurt S. Browning  
Secretary of State

(52 of 155)



April 4, 2007

FLORIDA DEPARTMENT OF STATE  
Division of Corporations

TERRALARGO COMMUNITY ASSOCIATION, INC.  
201 ALHAMBRA CIRCLE 12TH FLOOR  
CORAL GABLES, FL 33134

The Articles of Incorporation for TERRALARGO COMMUNITY ASSOCIATION, INC. were filed on April 3, 2007, and assigned document number N07000003431. Please refer to this number whenever corresponding with this office.

Enclosed is the certification requested. To be official, the certification for a certified copy must be attached to the original document that was electronically submitted and filed under FAX audit number H07000086942.

corporation annual report/uniform business report will be due this office between January 1 and May 1 of the year following the calendar year of the file/effective date year. A Federal Employer Identification (FEI) number will be required before this report can be filed. Please apply NOW with the Internal Revenue Service by calling 1-800-829-3676 and requesting form SS-4 or by going to their website at [www.irs.ustreas.gov](http://www.irs.ustreas.gov).

Please be aware if the corporate address changes, it is the responsibility of the corporation to notify this office.

Should you have questions regarding corporations, please contact this office at the address given below.

Justin M Shivers  
Document Specialist  
New Filings Section  
Division of Corporations

Letter Number: 007A00022861

P.O BOX 6327 - Tallahassee, Florida 32314

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ARTICLES OF INCORPORATION  
OF  
TERRALARGO COMMUNITY ASSOCIATION, INC.  
(A CORPORATION NOT FOR PROFIT)



ARTICLES OF INCORPORATION  
OF  
TERRALARGO COMMUNITY ASSOCIATION, INC.  
(A CORPORATION NOT FOR PROFIT)

In compliance with the requirements of the laws of the State of Florida, and for the purpose of forming a corporation not for profit, the undersigned does hereby acknowledge:

1. Name of Corporation. The name of the corporation is TERRALARGO COMMUNITY ASSOCIATION, INC. ("Association").
2. Principal Office. The principal office of Association is located at 201 Alhambra Circle, 12<sup>th</sup> Floor, Coral Gables, Florida 33134.
3. Registered Office - Registered Agent. The street address of the Registered Office of Association is 201 Alhambra Circle, 12<sup>th</sup> Floor, Coral Gables, Florida 33134. The name of the Registered Agent of Association is:

JUANITA KERRIGAN

4. Definitions. A declaration entitled Declaration for TerraLargo (the "Declaration") will be recorded in the Public Records of Polk County, Florida, and shall govern all of the operations of a community to be known as TerraLargo. All initially capitalized terms not defined herein shall have the meanings set forth in the Declaration.
5. Purpose of Association. Association is formed to: (a) provide for ownership, operation, maintenance and preservation of the Common Areas, and improvements thereon; (b) perform the duties delegated to it in the Declaration; (c) administer the interests of Association and the Owners; (d) promote the health and welfare of the Owners.
6. Not for Profit. Association is a not for profit Florida corporation and does not contemplate pecuniary gain to, or profit for, its members.
7. Powers of Association. Association shall, subject to the limitations and reservations set forth in the Declaration, have all the powers, privileges and duties reasonably necessary to discharge its obligations, including, but not limited to, the following:
  - 7.1 To perform all the duties and obligations of Association set forth in the Declaration and By-Laws, as herein provided.
  - 7.2 To enforce, by legal action or otherwise, the provisions of the Declaration and By-Laws and of all rules, regulations, covenants, restrictions and agreements governing or binding Association and TerraLargo.
  - 7.3 To fix, levy, collect and enforce payment, by any lawful means, of all Assessments pursuant to the terms of the Declaration, these Articles and By-Laws.
  - 7.4 To pay all Operating Costs, including, but not limited to, all licenses, taxes or governmental charges levied or imposed against the property of Association.
  - 7.5 To do all acts and make all payments required by the Club Plan.
  - 7.6 To acquire (by gift, purchase or otherwise), annex, own, hold, improve, build upon, operate, maintain, convey, grant rights and easements, sell, dedicate, lease, transfer or otherwise dispose of real or personal property (including the Common Areas) in connection with the functions of Association except as limited by the Declaration. Without limiting the foregoing, if Club Owner is ever willing to sell the Club, Association may purchase the same without the joinder or consent of the Owners or any other person or entity.
  - 7.7 To borrow money, and to mortgage, pledge or hypothecate any or all of its real or personal property as security for money or debts incurred.
  - 7.8 To dedicate, grant, license, lease, concession, create easements upon, sell or transfer all or any part of TerraLargo to any public agency, entity, authority, utility or other person or entity for such purposes and subject to such conditions as it determines and as provided in the Declaration.

7.9 To participate in mergers and consolidations with other non-profit corporations organized for the same purposes.

7.10 To adopt, publish, promulgate or enforce rules, regulations, covenants, restrictions or agreements governing Association, TerraLargo, the Common Areas, Lots, Parcels and Homes, as provided in the Declaration, and to effectuate all of the purposes for which Association is organized.

7.11 To have and to exercise any and all powers, rights and privileges which a not-for-profit corporation organized under the Laws of the State of Florida may now, or hereafter, have or exercise.

7.12 To employ personnel and retain independent contractors to contract for management of Association, TerraLargo, the Common Areas and the Club (if Association shall ever be designated the Club Manager by the Club Owner in writing pursuant to the Club Plan) as provided in the Declaration and to delegate in such contract all or any part of the powers and duties of Association.

7.13 To contract for services to be provided to, or for the benefit of, Association, Club Owner, Owners, the Common Areas, TerraLargo, and the Club as provided in the Declaration and Club Plan, such as, but not limited to, Telecommunications Services, maintenance, garbage pick-up, and utility services. The foregoing shall not be deemed to impose any obligation on Association to provide such services.

7.14 To establish committees and delegate certain of its functions to those committees.

7.15 The obligation to operate and maintain the Surface Water Management System within TerraLargo (including, without limitation, all lakes, retention areas, culverts and related appurtenances, if any) in a manner consistent with the applicable SWFWMD Permit requirements and applicable SWFWMD rules, and to assist in the enforcement of the Declaration which relate to the Surface Water Management System. The Association shall be responsible for assessing and collecting assessments for the operation, maintenance, and if necessary, repairs of the Surface Water Management System within TerraLargo.

8. Voting Rights. Owners and Developer shall have the voting rights set forth in the By-Laws.

9. Board of Directors. The affairs of Association shall be managed by a Board of odd number with not less than three (3) nor more than five (5) members. The initial number of directors shall be three (3). Board members shall be appointed and/or elected as stated in the By-Laws. The election of Directors shall be held at the annual meeting. Directors shall be elected for a term expiring on the date of the next annual meeting. The names and addresses of the members of the first Board who shall hold office until their successors are appointed or elected, or until removed, are as follows:

NAME	ADDRESS
Anthony S. Iorio	201 Alhambra Circle, 12 Floor Coral Gables, Florida 33134
Hank Yunes	201 Alhambra Circle, 12 Floor Coral Gables, Florida 33134
Juanita Kerrigan	201 Alhambra Circle, 12 Floor Coral Gables, Florida 33134

10. Dissolution. In the event of the dissolution of Association other than incident to a merger or consolidation, any member may petition the circuit court having jurisdiction of the judicial circuit of the State of Florida for the appointment of a receiver to manage its 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 and its properties. In addition, if Association is dissolved, the Surface Water Management System shall be conveyed to an appropriate agency of local government. If a governmental agency will not accept the Surface Water Management System, then it must be dedicated to a similar non-profit corporation.

11. Duration. Association shall have perpetual existence.

12. Amendments.

12.1 General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to these Articles 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 may be



withheld for any reason whatsoever. If the prior written approval or consent of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to these Articles, then the prior written consent of such entity or agency must also be obtained.

12.2 Amendments Prior to and Including the Turnover Date. Prior to and including the Turnover Date, Developer shall have the right to amend these Articles as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Developer's right to amend under this Section is to be construed as broadly as possible. In the event that Association shall desire to amend these Articles 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 after the Turnover Date. Thereafter, Developer shall join in such identical amendment so that its consent to the same will be reflected.

12.3 Amendments After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, these Articles 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 the votes present, in person or by proxy, at a duly noticed meeting of the members of Association at which there is a quorum.

13. Limitations.

13.1 Declaration is Paramount. No amendment may be made to these Articles which shall in any manner reduce, amend, affect or modify the terms, conditions, provisions, rights and obligations set forth in the Declaration.

13.2 Rights of Developer. There shall be no amendment to these Articles which shall abridge, reduce, amend, effect or modify the rights of Developer.

13.3 By-Laws. These Articles shall not be amended in a manner that conflicts with the By-Laws.

14. Incorporator. The name and address of the incorporator of this corporation is:

Jeffrey R. Margolis, P.A.  
Duane Morris LLP  
200 South Biscayne Blvd., Suite 3400  
Miami, Florida 33131

15. Officers. The Board shall elect a President, Secretary, Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall from time to time determine. The names and addresses of the Officers who shall serve until their successors are elected by the Board are as follows:

President	Anthony S. Torio 900 Towne Center Drive Poinciana, Florida 34759
Vice President	Hank Yunes 201 Alhambra Circle, 12 <sup>th</sup> Floor, Coral Gables, Florida 33134
Secretary/Treasurer	Juanita Kerrigan 201 Alhambra Circle, 12 <sup>th</sup> Floor, Coral Gables, Florida 33134

16. Indemnification of Officers and Directors. Association shall and does hereby indemnify and hold harmless every director and every officer, their heirs, executors and administrators, against all loss, cost and expenses reasonably incurred in connection with any action, suit or proceeding to which such director or officer may be made a party by reason of being or having been a director or officer of Association, including reasonable counsel fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals. This indemnification shall not apply to matters wherein the director or officer shall be finally adjudged in such action, suit or proceeding to be liable for or guilty of gross negligence or willful

misconduct. The foregoing rights shall be in addition to, and not exclusive of, all other rights to which such director or officers may be entitled.

17. Transactions in Which Directors or Officers are Interested. No contract or transaction between Association and one (1) or more of its Directors or Officers or Developer, or between Association and any other corporation, partnership, association, or other organization in which one (1) or more of its Officers or Directors are officers, directors or employees or otherwise interested shall be invalid, void or voidable solely for this reason, or solely because the Officer or Director is present at, or participates in, meetings of the Board thereof which authorized the contract or transaction, or solely because said Officers' or Directors' votes are counted for such purpose. No Director or Officer of Association shall incur liability by reason of the fact that such Director or Officer may be interested in any such contract or transaction. Interested Directors shall disclose the general nature of their interest and may be counted in determining the presence of a quorum at a meeting of the Board which authorized the contract or transaction.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, being the Incorporator of this Association, has executed these Articles of Incorporation as of this 5 day of April, 2007.

WITNESSES:

JEFFREY R. MARGOLIS, P.A.

[Signature]  
Print Name: FEDERICO MANDUADO  
Annette Mitchell  
Print Name: Annette Mitchell

[Signature]  
Name: Jeffrey R. Margolis  
Title: President

STATE OF FLORIDA )  
 ) SS.:  
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 3rd day of April, 2007 by Jeffrey R. Margolis, Esq., as President of Jeffrey R. Margolis, P.A., who is personally known to me.

My commission expires:

[Signature]  
NOTARY PUBLIC, State of Florida at Large  
Print name: MAXINE C. PAPY





## ACCEPTANCE BY REGISTERED AGENT

The undersigned, having been named to accept service of process for the above-stated corporation at the place designated in this certificate, hereby agrees to act in this capacity, and is familiar with, and accepts, the obligations of this position and further agrees to comply with the provisions of all statutes relative to the proper and complete performance of its duties.

Dated this 2 day of April, 2007.

Juanita S. Kerrigan  
JUANITA KERRIGAN

EXHIBIT 3

BY-LAWS



**BY-LAWS  
OF  
TERRALARGO COMMUNITY ASSOCIATION, INC.**

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**BY-LAWS  
OF  
TERRALARGO COMMUNITY ASSOCIATION, INC.**

1. Name and Location. The name of the corporation is TERRALARGO COMMUNITY ASSOCIATION, INC. ("Association"). The principal office of the corporation shall be located at 201 Alhambra Circle, 12<sup>th</sup> floor, Coral Gables, FL 33134, or at such other location determined by the Board of Directors (the "Board") from time to time.

2. Definitions. The definitions contained in the Declaration for TerraLargo (the "Declaration") relating to the residential community known as TerraLargo, recorded, or to be recorded, in the Public Records of Polk County, Florida, are incorporated herein by reference and made a part hereof. All initially capitalized terms not defined herein shall have the meanings set forth in the Declaration. In addition to the terms defined in the Declaration, the following terms shall have the meanings set forth below:

"Annual Members Meeting" shall have the meaning assigned to such term in Section 3.2 of these By-Laws.

"Articles" shall mean the Articles of Incorporation for Association, as amended from time to time.

"By-Laws" shall mean these By-Laws, together with all amendments and modifications thereof.

"Member" shall mean a member of Association.

"Minutes" shall mean the minutes of all Member and Board meetings, which shall be in the form required by the Florida Statutes. In the absence of governing Florida Statutes, the Board shall determine the form of the minutes.

"Official Records" shall mean all records required to be maintained by Association pursuant to Section 720.303(4) of the Florida Statutes, as amended from time to time.

"Special Members Meeting" shall have the meaning assigned to such term in Section 3.3 of these By-Laws.

"Turnover Date" shall have the meaning set forth in the Declaration.

"Voting Interests" shall mean the voting rights held by the Members.

3. Members.

3.1 Voting Interests. Each Owner and Developer and Club Owner shall be a Member of Association. No person who holds an interest in a Home only as security for the performance of an obligation shall be a Member of Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Home. The Club Owner shall have one (1) vote. There shall be one (1) vote appurtenant to each Home. For the purposes of determining who may exercise the Voting Interest associated with each Home, the following rules shall govern:

3.1.1 Home Owned By Husband and Wife. Either the husband or wife (but not both) may exercise the Voting Interest with respect to a Home. In the event the husband and wife cannot agree, neither may exercise the Voting Interest.

3.1.2 Trusts. In the event that any trust owns a Home, Association shall have no obligation to review the trust agreement with respect to such trust. Association shall be governed by the following examples with respect to the trusts:

3.1.2.1 If the Home is owned by Robert Smith, as Trustee, Robert Smith shall be deemed the Owner of the Home for all Association purposes.

3.1.2.2 If the Home is owned by Robert Smith as Trustee for the Laura Jones Trust, then Robert Smith shall be deemed the Member with respect to the Home for all Association purposes.

3.1.2.3 If the Home is owned by the Laura Jones Trust, and the deed does not reference a trustee, then Laura Jones shall be deemed the Member with respect to the Home for all Association purposes.

3.1.2.4 If the Home is owned by the Jones Family Trust, the Jones Family Trust may not exercise its Voting Interest unless it presents to Association, in the form of an attorney opinion letter or affidavit reasonably acceptable to Association, the identification of the person who should be treated as the Member with respect to the Home for all Association purposes.

3.1.2.5 If Robert Smith and Laura Jones, as Trustees, hold title to a Home, either trustee may exercise the Voting Interest associated with such Home in the absence of

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a designation signed by both trustees that only one such trustee is authorized to vote. In the event of a conflict between trustees, the Voting Interest for the Home in question cannot be exercised.

In the event that any other form of trust ownership is presented to Association, the decision of the Board as to who may exercise the Voting Interest with respect to any Home shall be final. Association shall have no obligation to obtain an attorney opinion letter in making its decision, which may be made on any reasonable basis whatsoever.

3.1.3 Corporations and Limited Liability Companies. If a Home is owned by a corporation or limited liability company, the corporation or limited liability company shall designate a person, an officer, employee, or agent who shall be treated as the Member who can exercise the Voting Interest associated with such Home.

3.1.4 Partnerships. If a Home is owned by a limited partnership, any one of the general partners may exercise the Voting Interest associated with such Home. By way of example, if the general partner of a limited partnership is a corporation, then the provisions hereof governing corporations shall govern which person can act on behalf of the corporation as general partner of such limited partnership. If a Home is owned by a general partnership, any one of the general partners may exercise the Voting Interest associated with such Home. In the event of a conflict among general partners entitled to exercise a Voting Interest, the Voting Interest for such Home cannot be exercised.

3.1.5 Multiple Individuals. If a Home is owned by more than one individual, any one of such individuals may exercise the Voting Interest with respect to such Home. In the event that there is a conflict among such individuals, the Voting Interest for such Home cannot be exercised.

3.1.6 Liability of Association. Association may act in reliance upon any writing or instrument or signature, whether original or facsimile, which Association, in good faith, believes to be genuine, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized to do so. So long as Association acts in good faith, Association shall have no liability or obligation with respect to the exercise of Voting Interests, and no election shall be invalidated (in the absence of fraud) on the basis that Association permitted or denied any person the right to exercise a Voting Interest. In addition, the Board may impose additional requirements respecting the exercise of Voting Interests (e.g., the execution of a Voting Certificate).

3.2 Annual Meetings. The annual meeting of the Members (the "Annual Members Meeting") shall be held at least once each calendar year on a date, at a time, and at a place to be determined by the Board.

3.3 Special Meetings of the Members. Special meetings of the Members (a "Special Members Meeting") may be called by the President, a majority of the Board, or upon written request of twenty percent (20%) of the Voting Interests of the Members. The business to be conducted at a Special Members Meeting shall be limited to the extent required by Florida Statutes.

3.4 Notice of Members Meetings. Written notice of each Members meeting shall be given by, or at the direction of, any officer of the Board or any management company retained by Association. A copy of the notice shall be mailed to each Member entitled to vote, postage prepaid, not less than ten (10) days before the meeting (provided, however, in the case of an emergency, two (2) days' notice will be deemed sufficient) or posted in a conspicuous place within TerraLargo at least two (2) days before the meeting. The notice shall be addressed to the member's address last appearing on the books of Association. The notice shall specify the place, day, and hour of the meeting and, in the case of a Special Members Meeting, the purpose of the meeting. Alternatively, and to the extent not prohibited by the Florida Statutes, the Board may adopt from time to time, other procedures for giving notice to the Members of the Annual Members Meeting or a Special Members Meeting. By way of example, and not of limitation, such notice may be included in a newsletter sent to each Member by the Club or Association.

3.5 Quorum of Members. Until and including the Turnover Date, a quorum shall be established by Developer's presence, in person or by proxy, at any meeting. After the Turnover Date, a quorum shall be established by the presence, in person or by proxy, of the Members entitled to cast twenty percent (20%) of the Voting Interests, except as otherwise provided in the Articles, the Declaration, or these By-Laws. Notwithstanding any provision herein to the contrary, in the event that technology permits Members to participate in Members Meetings and vote on matters electronically, then the Board shall have authority, without the joinder of any other party, to revise this provision to establish appropriate quorum requirements.

3.6 Adjournment of Members Meetings. If, however, a quorum shall not be present at any Members meeting, the meeting may be adjourned as provided in the Florida Statutes. In the absence of a provision in the Florida Statutes, the Members present shall have power to adjourn the meeting and reschedule it on another date.

3.7 Action of Members. Decisions that require a vote of the Members must be made by a concurrence of a majority of the Voting Interests present in person or by proxy, represented at a meeting at which a quorum has been obtained unless provided otherwise in the Declaration, the Articles, or these By-Laws.

3.8 Proxies. At all meetings, Members may vote their Voting Interests in person or by proxy. All proxies shall comply with the provisions of Section 720.306(8) of the Florida Statutes, as amended from time to time, be in writing, and be filed with the Secretary at, or prior to, the meeting. Every proxy shall be revocable prior to the meeting for which it is given.

4. Board of Directors.

4.1 Number. The affairs of Association shall be managed by a Board consisting of no less than three (3) persons and no more than five (5) persons. Board members appointed by Developer need not be Members of Association. Board members elected by the other Members must be Members of Association.

4.2 Term of Office. The election of directors shall take place after Developer no longer has the authority to appoint the Board and shall take place at the Annual Members meeting or on the Turnover Date. Directors shall be elected for a term ending upon the election of new directors at the following Annual Members Meeting (except that the term of the Board appointed by the Developer shall extend until the date designated by Developer, or until the Turnover Date).

4.3 Removal. Any vacancy created by the resignation or removal of a Board member appointed by Developer may be replaced by Developer. Developer may replace or remove any Board member appointed by Developer in Developer's sole and absolute discretion. In the event of death or resignation of a director elected by the Members other than Developer, the remaining directors may fill such vacancy. Directors elected by Members may be removed with or without cause by the vote or agreement in writing of Members holding a majority of the Voting Interests.

4.4 Compensation. No director shall receive compensation for any service rendered as a director to Association; provided, however, any director may be reimbursed for actual expenses incurred as a director.

4.5 Action Taken Without a Meeting. Except to the extent prohibited by law, the Board shall have the right to take any action without a meeting by obtaining the written approval of the required number of directors. Any action so approved shall have the same effect as though taken at a meeting of directors.

4.6 Appointment and Election of Directors.

4.6.1 Prior to the Turnover Date. Prior to the Turnover Date, the Board shall consist of three (3) members and Developer shall have the unrestricted power to appoint all directors of Association.

4.6.2 After the Turnover Date. From and after the Turnover Date, or such earlier date determined by Developer in its sole discretion, the Members shall elect all directors if Association at or in conjunction with the Annual Members Meeting and the number of directors will be determined by the Board, subject to Section 4.1 above.

4.7 Election. Election to the Board shall be by secret written ballot, unless unanimously waived by all Members present. The person(s) receiving the largest numbers of votes shall be elected. Cumulative voting is not permitted.

4.8 Fiduciary Duty of Directors. Directors shall act in good faith in the performance of all duties.

5. Meeting of Directors.

5.1 Regular Meetings. Regular meetings of the Board shall be held on a schedule adopted by the Board from time to time. Meetings shall be held at such place, hour and date as may be fixed, from time to time, by resolution of the Board.

5.2 Special Meetings. Special meetings of the Board shall be held when called by the President, or by any two (2) directors. Each director shall be given not less than two (2) days' notice except in the event of an emergency. Notice may be waived. Attendance shall be a waiver of notice. Telephone conference meetings are permitted.

5.3 Emergencies. In the event of an emergency involving immediate danger of injury or death to any person or damage to property, if a meeting of the Board cannot be immediately convened to determine a course of action, the President or, in his absence, any other officer or director, shall be authorized to take such action on behalf of Association as shall be reasonably required to appropriately respond to the emergency situation, including the expenditure of Association funds in the minimum amount as may reasonably be required under the circumstances. The authority of officers to act in accordance herewith shall remain in effect until the first to occur of the resolution of the emergency situation or a meeting of the Board convened to act in response thereto.

5.4 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting, at which a quorum is present, or in writing in lieu thereof, shall be action of the Board.

5.5 Open Meetings. Meetings of the Board shall be open to all Members.



5.6 Voting. Board Members shall cast votes in the manner provided in the Florida Statutes. In the absence of a statutory provision, the Board shall establish the manner in which votes shall be cast.

5.7 Notice of Board Meetings. Notices of meetings of the Board shall be posted in a conspicuous place on the Common Areas and/or in the Club at least 48 hours in advance, except in an event of an emergency. Alternatively, notice may be given to Members in any other manner provided by Florida Statute. By way of example, and not of limitation, notice may be given in any Club newsletter distributed to the Members. For the purposes of giving notice, the area for notices to be posted within the Club shall be deemed a conspicuous place. Notices of any meetings of the Board at which Assessments against Homes are to be established shall specifically contain a statement that Assessments shall be considered and a statement of the nature of such Assessments.

6. Powers and Duties of the Board.

6.1 Powers. The Board shall, subject to the limitations and reservations set forth in the Declaration and Articles, have the powers reasonably necessary to manage, operate, maintain and discharge the duties of Association, including, but not limited to, the power to cause Association to do the following:

6.1.1 General. Exercise all powers, duties and authority vested in or delegated to Association by law and in these By-Laws, the Articles, the Declaration and the Club Plan, including, without limitation, adopt budgets, levy Assessments, enter into contracts with Telecommunications Providers for Telecommunications Services, and, by a majority vote of the Board, without the consent of any Owner or any other party, exercise the Association's option to acquire the Club.

6.1.2 Rules and Regulations. Adopt, publish, promulgate and enforce rules and regulations governing the use of TerraLargo by the Members, tenants and their guests and invitees, and to establish penalties and/or fines for the infraction thereof subject only to the requirements of the Florida Statutes, if any.

6.1.3 Enforcement. Suspend the right of use of the Common Areas (other than for vehicular and pedestrian ingress and egress and for utilities) of a Member during any period in which such Member shall be in default in the payment of any Assessment or charge levied, or collected, by Association.

6.1.4 Declare Vacancies. Declare the office of a member of the Board to be vacant in the event such Member shall be absent from three (3) consecutive regular Board meetings.

6.1.5 Hire Employees. Employ, on behalf of Association, managers, independent contractors, or such other employees as it deems necessary, to prescribe their duties and delegate to such manager, contractor, or other person or entity, any or all of the duties and functions of Association and/or its officers.

6.1.6 Common Areas. Dedicate, grant, license, lease, concession, create easements upon, sell or transfer all or any part of, the Common Areas to any public agency, entity, authority, utility or other person or entity for such purposes and subject to such conditions as it determines and as provided in the Declaration acquire, sell, operate, lease, manage and otherwise trade and deal with property, real and personal, including the Common Areas and Club, if required by Club Owner, as provided in the Declaration and Club Plan, and with any other matters involving Association or its Members, on behalf of Association or the discharge of its duties, as may be necessary or convenient for the operation and management of Association and in accomplishing the purposes set forth in the Declaration.

6.1.7 Granting of Interest. Grant licenses, easements, permits, leases, or privileges to any individual or entity, including non-parcel owners, which affect the Common Area, TerraLargo, or the Club and to alter, add to, relocate or improve the Common Areas, TerraLargo and/or the Club (to the extent permitted by the Club Owner) as provided in the Declaration.

6.1.8 Financial Reports. Prepare all financial reports required by the Florida Statutes.

6.2 Vote. The Board shall exercise all powers so granted except where the Declaration, Articles or these By-Laws specifically require a vote of the Members.

6.3 Limitations. Until the Turnover Date, Developer shall have and is hereby granted a right to disapprove or veto any such action, policy, or program proposed or authorized by Association, the Board, the ARC, any committee of Association, or the vote of the Members. This right may be exercised by Developer at any time within ten (10) days following a meeting held pursuant to the terms and provisions hereof. This right to disapprove may be used to veto proposed actions but shall not extend to the requiring of any action or counteraction on behalf of Association, the Board, the ARC or any committee of the Association.

7. Obligations of Association. Association, subject to the provisions of the Declaration, Articles, and these By-Laws and Club Plan, shall discharge such duties as may be necessary in order to operate Association and pursuant to the Declaration, including, but not limited to, the following:

7.1 Official Records. Maintain and make available all Official Records.

7.2 Supervision. Supervise all officers, agents and employees of Association, and to see that their duties are properly performed.

7.3 Assessments and Fines. Fix and collect the amount of the Assessments against, or due from, each Owner including, but not limited to, fines, lien enforcement, and other necessary legal proceedings; and pay, or cause to be paid, all obligations of Association or where Association has agreed to do so, of the Members.

7.4 Enforcement.

7.4.1.1 Issue, or cause an appropriate offer or agent to issue, upon demand by any person, a certificate setting forth whether or not Assessments have been paid and any other amounts due to Association. A reasonable charge may be made by the appropriate officer or agent for the issuance of the certificate. If the certificate states that Assessments have been paid, such certificate shall, as against other than the Owner, be conclusive evidence of such payment;

7.4.1.2 Procure and maintain adequate bonds, liability, hazard, property and/or casualty insurance, as required;

7.4.1.3 Administer the reconstruction after casualty of improvements on the Common Areas, as required;

7.4.1.4 Operate, maintain, repair and replace the Common Areas;

7.4.1.5 Enforce the provisions of the Declaration, Articles, these By-Laws, and Rules and Regulations, and, when required by Club Owner, the Club Plan.

8. Officers and Their Duties.

8.1 Officers. The officers of this Association shall be a President, a Vice President, a Secretary, and a Treasurer.

8.2 Election of Officers. Except as set forth below, the election of officers shall be by the Board and shall take place at the first meeting of the Board following each Annual Members Meeting.

8.3 Term. The officers named in the Articles shall serve until their replacement by the Board. The officers of Association shall hold office until their successors are appointed or elected unless such officer shall sooner resign, be removed, or otherwise become disqualified to serve.

8.4 Special Appointment. The Board may elect such other officers as the affairs of Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

8.5 Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein. Acceptance of such resignation shall not be necessary to make it effective.

8.6 Vacancies. A vacancy in any office shall be filled by appointment by the Board. The officer appointed to fill such vacancy shall serve for the remainder of the term of the replaced officer.

8.7 Multiple Offices. The offices of President and Vice-President shall not be held by the same person. All other offices may be held by the same person.

8.8 Duties. The duties of the officers are as follows:

8.8.1 President. The President shall preside at all meetings of Association and Board, sign all leases, mortgages, deeds and other written instruments and perform such other duties as may be required by the Board. The President shall be a member of the Board.

8.8.2 Vice President. The Vice President shall act in the place and stead of the President in the event of the absence, inability or refusal to act of the President, and perform such other duties as may be required by the Board.

8.8.3 Secretary. The Secretary shall record the votes and keep the Minutes of all meetings and proceedings of Association and the Board; keep the corporate seal of Association and affix it on all papers required to be sealed; serve notice of meetings of the Board and of Association; keep appropriate current records showing the names of the Members of Association together with their addresses; and perform such other duties as required by the Board.

8.8.4 Treasurer. The Treasurer shall cause to be received and deposited in appropriate bank accounts all monies of Association and shall disburse such funds as directed by the Board; sign, or cause to be signed, all checks, and promissory notes of Association; cause to be kept proper books of account and



accounting records required pursuant to the provisions of Section 720.303 of the Florida Statutes cause to be prepared in accordance with generally accepted accounting principles all financial reports required by the Florida Statutes; and perform such other duties as required by the Board.

9. Committees.

9.1 General. The Board may appoint such committees as it deems appropriate. The Board may fill any vacancies on all committees.

9.2 ARC. Developer shall have the sole right to appoint the members of the ARC until the Turnover Date. Upon expiration of the right of Developer to appoint members of the ARC as provided in the Declaration, the Board shall appoint the members of the ARC. As provided in the Declaration, Association shall have the authority and standing to seek, in courts of competent jurisdiction, enforcement of any decisions of the ARC.

10. Records. The official records of Association shall be available for inspection by any Member at the principal office of Association. Copies may be purchased, by a Member, at a reasonable cost.

11. Corporate Seal. Association shall have an impression seal in circular form.

12. Amendments.

12.1 General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to these By-Laws shall affect the rights of Developer or Club Owner unless such amendment receives the prior written consent of Developer or Club Owner which may be withheld for any reason whatsoever. If the prior written approval or consent of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to these By-Laws, then the prior written consent of such entity or agency must also be obtained.

12.2 Amendments Prior to and Including the Turnover Date. Prior to and including the Turnover Date, Developer shall have the right to amend these By-Laws as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Developer's right to amend under this provision is to be construed as broadly as possible. In the event that Association shall desire to amend these By-Laws prior to and including the Turnover Date, Association must first obtain Developer's prior written consent to any proposed amendment, such consent to be at Developer's sole and absolute discretion. Thereafter, an amendment identical to that approved by Developer may be adopted by Association pursuant to the requirements for amendments after the Turnover Date. Thereafter, Developer shall join in such identical amendment so that its consent to the same will be reflected.

12.3 Amendments After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, these By-Laws 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 the votes present (in person or by proxy) at a duly noticed meeting of the Members in which there is a quorum. Notwithstanding the foregoing, these By-Laws may be amended after the Turnover Date by sixty-six and two-thirds percent (66 2/3%) of the Board acting alone to change the number of directors on the Board. Such change shall not require the approval of the Members. Any change in the number of directors shall not take effect until the next Annual Members Meeting.

13. Conflict. In the case of any conflict between the Articles and these By-Laws, the Articles shall control. In the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

14. Fiscal Year. The first fiscal year shall begin on the date of incorporation and end on December 31 of that year. Thereafter, the fiscal year of Association shall begin on the first day of January and end on the 31st day of December of every year.

15. Miscellaneous.

15.1 Florida Statutes. Whenever these By-Laws refer to the Florida Statutes, they shall be deemed to refer to the Florida Statutes as they exist on the date these By-Laws are recorded except to the extent provided otherwise as to any particular provision of the Florida Statutes.

15.2 Severability. Invalidity of any of the provisions of these By-Laws by judgment or court order shall in no way affect any other provision, and the remainder of these By-Laws shall remain in full force and effect.

EXHIBIT 4

CLUB PLAN



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

## CLUB TERRALARGO CLUB PLAN

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Exhibits:

Exhibit A – Legal Description of Initial Club Property  
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Exhibit C – General Release  
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## CLUB TERRALARGO CLUB PLAN

**AVATAR PROPERTIES INC.**, a Florida corporation ("**Avatar**"), is presently the owner of the real property described on **Exhibit A** attached hereto and made a part hereof ("**Club Property**"). The Club Property is located within the real property described on **Exhibit B** attached hereto and made a part hereof ("**TerraLargo**"). Avatar hereby declares that the real property comprising the Club Property shall be subject to the following restrictions, covenants, terms and conditions set forth in this Club Plan so that the residents of TerraLargo shall have access and the use of certain club facilities:

1. **Definitions.** In addition to the terms defined elsewhere herein, the following terms shall have the meanings specified below:

"**Assessments**" shall have the meaning set forth in the Declaration.

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

"**Avatar**" shall mean Avatar Properties Inc., a Florida corporation, and its successors or assigns. Although not obligated to do so, Avatar may identify its successors or assigns by an amendment to this Club Plan.

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

"**Budget**" shall have the meaning set forth in Section 8 hereof.

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

"**Club**" shall mean the Club Property, Club Facilities and all other facilities constructed on the Club Property subject to additions, modifications and deletions made by Club Owner from time to time. The Club may be comprised of one or more parcels of land, which may not be connected or adjacent to one another. Notwithstanding the foregoing, Club Owner will not change the legal description of the Club Property after the Community Completion Date.

"**Club Dues**" shall mean the charges related to the Club to be paid by the Owners and Builders pursuant to the provisions of this Club Plan and the Declaration including, without limitation, the Club Membership Fee and a pro rata share of Club Expenses. Club Dues are subject to applicable sales taxes which shall be payable at the same time and manner as Club Dues are paid.

"**Club Expenses**" shall mean all direct and indirect costs (as such term is used in its broadest sense) of owning (including Club Owner's debt service), operating, managing, maintaining, insuring the Club, including, but not limited to, trash collection, utility charges, cablevision charges, maintenance, legal fees of Club Owner relative to the Club, cost of supervision, management fees, reserves, repairs, replacement, refurbishments, payroll and payroll costs, insurance, working capital, ad valorem or other taxes (excluding income taxes of Club Owner), assessments, costs, expenses, levies and charges of any nature which may be levied, imposed or assessed against, or in connection with, the Club. By way of example, and not as a limitation, the following expenses shall be included within Club Expenses: liability, property (casualty, hazard, flood and windstorm) and business interruption insurance (with such deductibles as Club Owner deems appropriate); real property taxes, personal property taxes and taxing and educational facilities benefit district assessments and fees; capital improvements, maintenance, repairs and replacements; roof repair and replacement; and all other costs associated with changing or enhancing Club Facilities after initial construction. Club Expenses shall not include replacement of the basic building shell (other than roof repair and replacement) and the initial cost of construction of the Club Facilities. Club Owner may allocate a reasonable portion of its overhead (e.g., employee salaries) to Club Expenses to extent the Club benefits from such overhead. Club Expenses shall include all legal expenses of Club Owner with respect to the Club.

"**Club Facilities**" shall mean the actual facilities, improvements and personal property which Club Owner shall actually have constructed and/or made available to Owners pursuant to this Club Plan. The Club Facilities are more specifically set forth in Section 3.2 herein. THE



CLUB FACILITIES ARE SUBJECT TO CHANGE AT ANY TIME AT CLUB OWNER'S SOLE AND ABSOLUTE DISCRETION.

**"Club TerraLargo Rules and Regulations"** shall have the meaning set forth in Section 14.8 hereof.

**"Club Manager"** shall mean the entity operating and managing the Club, at any time. Club Owner may be Club Manager as provided in this Club Plan. Club Owner reserves the right to designate the Club Manager in Club Owner's sole and absolute discretion.

**"Club Membership Fee"** shall mean the fee to be paid to Club Owner by each Owner pursuant to the provisions of Section 6.2 hereof.

**"Club Membership Fee Schedule"** shall have the meaning set forth in Section 6.2 hereof.

**"Club Owner"** shall mean the owner of the real property and improvements located thereon comprising the Club and any of its designees, successors and assigns who receive a written assignment of all or some of the rights of Club Owner 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 Club Owner but may exercise such rights of Club Owner specifically assigned to it. Any such assignment may be made on a non-exclusive basis. At this time, Avatar is Club Owner. Club Owner may change from time to time (e.g., Avatar may sell the Club). Notwithstanding that the Club Owner and the Developer may be the same party, affiliates or related parties from time to time, each Owner and Builder acknowledges that Club Owner and Developer shall not be considered being one and the same party, and neither of them shall be considered the agent, partner or alter ego of the other. At all times, Club Owner and Developer shall be considered separate and viewed in their separate capacities. No act or failure to act by Developer shall at any time be considered an act of Club Owner and shall not serve as the basis for any excuse, justification, waiver or indulgence to the Owners and Builders with regard to their prompt, full, complete and continuous performance of their obligations and covenants hereunder.

**"Club Plan"** shall mean this Club TerraLargo Club Plan, together with all amendments and modifications hereto, and all Club Membership Fee Schedules supplementing the terms hereof.

**"Club Property"** shall initially mean the real property described on **Exhibit A** attached hereto and made a part hereof. Thereafter, Club Property shall include any real property designated by Club Owner as part of the Club Property by amendment to this Club Plan.

**"Club TerraLargo Rules and Regulations"** shall have the meaning set forth in Section 14.8 hereof.

**"Community Completion Date"** shall have the meaning set forth in the Declaration.

**"Declaration"** shall mean that certain Declaration for TerraLargo, as such Declaration shall be amended or modified from time to time, which has or will be recorded in the Public Records.

**"Deed"** shall mean any deed conveying any portion of TerraLargo or any interest therein and any other instrument conveying or transferring or assigning the interest of an Owner to another including, without limitation, a deed to a Home, but excluding a mortgage on a Home.

**"Developer"** shall have the meaning set forth in the Declaration. At this time Developer is Avatar.

**"Home"** shall have the meaning set forth in the Declaration. 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, destruction or remodeling) shall not affect the status of a Home, or the obligation of Owner to pay Club Dues with respect to such Home. The term "Home" includes any interest in land, improvements, or other property appurtenant to the Home.

**"Immediate Family Members"** shall mean the spouse of the Member and all unmarried children twenty-one (21) years and younger of either the Member or the Member's spouse. If a Member is unmarried, the Member may designate one other person who is living with such Member in the Home in addition to children of the Member as an adult Immediate Family Member. No unmarried child or other person shall qualify as an Immediate Family Member unless such person is living with the Member within the Home.

**"Indemnified Parties"** shall have the meaning set forth in Section 14.6 hereof.

**"Initial Contribution"** shall have the meaning set forth in Section 7 hereof.

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

**"Lessee"** shall mean the lessee named in any written lease respecting a Home who is legally entitled to possession of any rental Home within TerraLargo. An Owner and Lessee shall be jointly and severally liable for all Club Dues.

**"Losses"** shall have the meaning set forth in Section 14.6 hereof.

**"Member"** shall mean every Owner (other than an Owner who has leased his or her Home to Lessee) or Lessee; provided, however, for the purposes of membership, there shall be only one (1) Owner or Lessee per Home. A person shall continue to be a Member until he or she ceases to be an Owner, or ceases to be a Lessee legally entitled to possession of a rental Home. Once an Owner leases a Home, only the Lessee shall be entitled to exercise the privileges of a Member with respect to such Home; however, the Owner and Lessee shall be jointly and severally liable for all Club Dues.

**"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, Club Owner, or a Lender. A purchaser of a Parcel who thereafter builds one or more Homes upon such Parcel shall be deemed an Owner with respect to each Home.

**"Parcel"** shall mean a platted or unplatted lot, tract, unit or other subdivision of real property upon which a Home has been, or will be, constructed. Once improved, the term Parcel shall include all improvements thereon and appurtenances thereto. The term Parcel, as used herein, may include more than one Home.

**"Parking Areas"** shall mean all areas designated for parking within the Club Facilities.

**"Public Records"** shall mean the Public Records of Polk County, Florida, as applicable.

**"Purchase Option"** shall have the meaning set forth in Section 5.5 hereof.

**"Special Use Fees"** shall have the meaning set forth in Section 6.9 hereof.

**"TerraLargo"** shall have the meaning set forth in the Declaration. TerraLargo presently includes the real property described on **Exhibit B**; however, Developer has reserved the right to withdraw property from, or add property to, TerraLargo, so TerraLargo may include less or more Homes than originally anticipated.

All other initially capitalized terms not defined herein shall have the meanings set forth in the Declaration.

2. **Benefits of Club.** Association and each Owner, by acceptance of title to a Home, ratify and confirm this Club Plan and agree as follows:

2.1 **Term and Covenant Running with Land.** The terms of this Club Plan shall be covenants running with TerraLargo in perpetuity and be binding on each Owner and his, her or its successors in title and assigns. Every portion of TerraLargo which can be improved with a Home shall be burdened with the payment of Club Dues. Every Owner, by acceptance of a Deed to any Home, shall automatically assume and agree to pay all Club Dues owing in connection with such Home. Every Builder, upon receipt of a certificate of occupancy for a Home located



on a Parcel owned by such Builder, shall automatically assume and agree to pay all Club Dues which shall be due and payable from and after the issuance of such certificate of occupancy unless this requirement is waived in writing by Club Owner in its sole and absolute discretion as to any particular Builder, Home or Parcel.

2.2 Value. By acceptance of a Deed, each Owner acknowledges that the automatic membership in the Club granted to Owners and Lessees renders ownership of TerraLargo and any part thereof more valuable than it would be otherwise. All Owners and Club Owner agree that the provisions and enforceability of this Club Plan are mutually beneficial. Each Owner and Builder acknowledges that Club Owner is initially investing substantial sums of money and time in developing the Club Facilities on the basis that eventually the Club will generate a substantial profit to Club Owner. Each Owner and Builder agrees that Club Owner would not have made such a substantial investment of money without the anticipation of such profit and such profit shall not, if ever generated, affect the enforceability of this Club Plan so long as each Owner and Builder is not required to pay Club Fees in excess of the amounts provided herein.

2.3 Product Purchased. Each Owner, by acceptance of a Deed to a Home, acknowledges and agrees that there were significant other housing opportunities available to each Owner in the general location of TerraLargo. The Home, and rights to utilize the Club, were material in each Owner's decision to purchase a Home in TerraLargo and were, for the purposes of this Club Plan, a "single product." Each Owner understands that the Club is an integral part of the TerraLargo community.

2.4 Disclosure. Full disclosure of the nature of the Club and obligations associated therewith was made to each Owner prior to that Owner executing a contract to purchase a Home and each Owner has, or was afforded the opportunity to, consult with an attorney.

2.5 Non-Exclusive License. The provisions of this Club Plan do not grant any ownership rights in the Club in favor of Association or Members but, rather, grant a non-exclusive license to use the Club subject to full compliance with all obligations imposed by this Club Plan and Club TerraLargo Rules and Regulations promulgated from time to time by the Club Owner.

### 3. Club Facilities.

3.1 Club Property. Club Owner presently owns all of the real property comprising the Club Property. The Club Property may be modified to include additional property in Club Owner's sole and absolute discretion. Likewise, Club Owner may elect to remove portions of real property from the definition of Club Property by amendment to this Club Plan. Such additions and deletions, while not causing an increase or decrease in the Club Membership Fees payable with respect to each Home, may cause an increase or decrease in Club Expenses.

3.2 Club Facilities. Club Owner intends to construct certain club facilities on the Club Property (the "Club Facilities") which will be and shall remain the property of Club Owner, subject only to the provisions hereof. At this time, the Club Facilities are planned to include a fitness building with exercise equipment room, men's and women's locker rooms, tot lot, dock, passive recreation areas, aerobics room, children's room, kitchen, clubhouse meeting room, and one or more outdoor swimming pools and decks (subject to Club Owner's paramount right to unilaterally, and without the joinder of any party whomsoever, add to, alter, remove, modify and amend the Club Facilities at any time subject to the provisions hereof).

3.3 Construction of the Club. Club Owner will construct the Club Facilities at its sole cost and expense. Club Owner shall be the sole and absolute judge as to the plans, size, design, location, completion, schedule, materials, equipment, size, and contents of the Club Facilities. Club Owner shall have the unequivocal right to:

3.3.1 develop, construct and reconstruct, in whole or in part, the Club and related improvements within TerraLargo, and make any additions, deletions, alterations, improvements, or changes thereto;

3.3.2 without the payment of rent and without payment of utilities or any other part of the Club Expenses, maintain leasing and/or sales offices (for sales and resales of Homes), general offices, and construction operations on the Club Property including, without limitation, displays, counters, meeting rooms, and facilities for the sales and re-sales of Homes;

3.3.3 place, erect, and/or construct portable, temporary, or accessory buildings or structures upon the Club Property for sales, construction storage, or other purposes;

3.3.4 temporarily deposit, dump or accumulate materials, trash, refuse and rubbish on the Club Property in connection with the development or construction of any of the Club or any improvements located within TerraLargo;

3.3.5 post, display, inscribe or affix to the exterior of the Club and the Club Property, signs and other materials used in developing, constructing, selling, or promoting the sale, re-sale or leasing of portions of TerraLargo including, without limitation, the sale, re-sale or leasing of Parcels and Homes;

3.3.6 conduct whatever commercial activities within the Club deemed necessary, profitable and/or appropriate by Club Owner;

3.3.7 develop, operate and maintain the Club as deemed necessary, in its sole and absolute discretion;

3.3.8 excavate fill from any lakes or waterways within and/or contiguous to the Club by dredge or dragline, store fill within the Club Property, and remove and/or sell excess fill; and grow or store plants and trees within, or contiguous to, the Club Property and use and/or sell excess plants and trees; and

3.3.9 all activities which, in the sole opinion of Club Owner, are necessary for the development, operation and sale of the Club or any lands or improvements therein.

3.4 Changes. Club Owner reserves the absolute right in Club Owner's discretion to, from time to time, alter or change the Club, including construction of additional Club Facilities and/or the removal or modification of the Club Facilities, at any time. Such alterations, modifications and amendments may cause an increase or decrease in Club Expenses.

3.5 Commercial Space. It is possible that portions of the Club Facilities may include sales offices, retail space and/or other commercial space as Club Owner may deem appropriate from time to time in Club Owner's sole and absolute discretion. Club Owner may permit or restrict Members to access any commercial facilities located within the Club Property at Club Owner's sole and absolute discretion. Club Owner may grant leases, franchises, licenses or concessions to commercial concerns on all or part of the Club. If a lease, franchise, license or concession agreement permits continuing use of the Club Facilities by any one other than Club Owner or Members, then Club Owner shall require such other user(s) to pay a fair and reasonable share of the Club Expenses as determined by Club Owner in its sole and absolute discretion. Club Owner shall have no duty to account for any rents, fees or payments from third parties for the right to occupy and/or lease such commercial space; all of such rents, fees and payments, if any, shall be the sole property of Club Owner and shall not offset or reduce the Club Dues payable by Owners and Builders.

#### 4. Persons Entitled to Use the Club.

4.1 Rights of Members. Each Member and his or her Immediate Family Members shall have such non-exclusive rights and privileges as shall from time to time be granted by Club Owner. In order to exercise the rights of a Member, a person must be a resident of the Home. If a Home is owned by a corporation, trust or other legal entity, or is owned by more than one family, then the Owner(s) collectively shall designate one (1) person residing in the Home who will be the Member of the Club with respect to such Home. Members shall have no right to access the commercial space comprising part of the Club Facilities, or portions of the Club Property leased or licensed to third parties or Members, except as and when permitted by Club Owner.



4.2 Use by Persons Other than Owners and Lessees. Club Owner has the right at any and all times, and from time to time, to make the Club available to individuals, persons, firms, or corporations, trusts, or other legal entities other than Members. Club Owner shall establish the fees to be paid, if any, by any person using the Club who is not a Member. The granting of such rights shall not invalidate this Club Plan, reduce or abate any Owner's obligations to pay Club Dues pursuant to this Club Plan, or give any Owner the right to avoid any of the provisions of this Club Plan.

4.3 Subordination. This Club Plan and the rights of Members to use the Club are and shall be subject and subordinate to: (a) any ground lease, mortgage, deed of trust, or other encumbrance and any renewals, modifications and extensions thereof, now or hereafter placed on the Club by Club Owner; and (b) easements, restrictions, limitations and conditions, covenants and restrictions of record, and other conditions of governmental authorities. This provision shall be self-operative. Association, in its own name and, as agent for all Owners, shall sign any documents confirming the subordination provided herein promptly upon request of Club Owner.

5. Ownership and Control of the Club.

5.1 Control of Club By Club Owner. The Club shall be under the complete supervision and control of Club Owner unless Club Owner appoints a third party as Club Manager.

5.2 Transfer of Club. Club Owner may sell, encumber or convey the Club to any person or entity in its sole and absolute discretion at any time.

5.3 Change In Terms of Offer. Club Owner may provide that some Owners pay Club Membership Fees on a different basis than other Owners by recording a supplement or amendment to this Club Plan with respect to one or more Homes. No Owner shall have the right to object to any other Owner paying greater or lesser Club Membership Fees so long as the Club Membership Fee applicable to any particular Home is in accordance with the Club Plan and the Club Membership Fee Schedule applicable to such Home.

5.4 Option of Club Owner. In Club Owner's sole and absolute discretion, Club Owner shall have the option to transfer the Club at any time (e.g., before or after the Community Completion Date) to Association so that it will be under the complete control of the Owners whereby Club Owner shall have no further liability or responsibility, financial or otherwise, respecting the Club.

5.5 Association's Option to Purchase the Club. On or after two (2) years from the Community Completion Date, Association shall have the option to purchase the Club from Club Owner (the "Purchase Option") for an amount resulting from (the "Purchase Price") the application of the capitalization rate of six percent (6%) applied to the total annual Club Membership Fees that would be payable by all Owners to Club Owner during the calendar year in which the closing occurs (assuming the Purchase Option was not exercised). This Purchase Option may be exercised by a resolution of the majority of the Board of Association, without the joinder of any Owner or any other person. Such Purchase Option shall be exercised by written notice (the "Option Notice") to Club Owner signed by a majority of the Board in the form attached hereto as Exhibit E, which Option Notice shall be delivered by professional overnight courier to Club Owner at the following address (or such other address as may be designated by Club Owner from time to time by amendment to this Club Plan):

To Club Owner: Avatar Properties Inc.  
201 Alhambra Circle, 12<sup>th</sup> Floor  
Coral Gables, Florida 33134  
Attention: Patricia Kimball Fletcher, Esq.

With a copy to: Jeffrey R. Margolis, P.A.  
Duane Morris LLP  
200 South Biscayne Blvd., Suite 3400  
Miami, Florida 33131  
Attention: Jeffrey R. Margolis, Esq.

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The Option Notice shall be irrevocable once signed by a majority of the voting interests of the Board. Club Owner shall convey the Club to Association within sixty (60) days of Club Owner's receipt of the Option Notice. The conveyance of the Club shall occur in accordance with the terms as set forth in the Agreement for Sale and Purchase by and between Club Owner and Association, which shall be in substantially the form attached hereto as Exhibit F.

5.6 Documentation of Transfer of Club.

5.6.1 Documentation from Club Owner. At the time that the Club is transferred to Association, Club Owner shall be obligated to deliver the following: a special warranty deed for the real property comprising the Club, a special bill of sale respecting the personal property comprising the Club, an assignment of any alcoholic beverage license used in connection with the Club (subject to all state requirements for such transfer), if any, an owner's title insurance policy respecting the Club at Association's sole cost and expense, a closing statement and all affidavits and other documents required by the title insurance company to effect the transfer of the Club.

5.6.2 Documentation from Association. At the time that the Club is transferred to Association, Association shall be obligated to deliver the following: the Purchase Price by Federal wire, all costs to effect the transfer including, without limitation, the cost of the owner's title insurance policy, all documentary stamp taxes and surtaxes, and the costs of preparing all closing documentation: a closing statement; a general release in the form attached hereto as Exhibit C and all affidavits and other documents required by the title insurance company to effect the transfer of the Club. Association shall be responsible for arranging for all purchase money financing and paying costs associated therewith.

5.7 Transfer of Control. The conveyance of The Club 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 Club. Association shall, and does hereby, indemnify and hold Club Owner harmless on account thereof. Association shall be obligated to accept such conveyance without setoff, condition, or qualification of any nature. Association shall execute all forms necessary for transfer of the alcoholic beverage license used in connection with the Club (if any). The Club, Club Property, personal property and equipment thereon and appurtenances thereto shall be conveyed in "as is, where is" condition WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION, FITNESS OR MERCHANTABILITY OF SUCH ITEM BEING CONVEYED.

5.8 Ambiguities/Association to Bear Legal Expenses. In the event that there is any ambiguity or question regarding the provisions of this Club Plan, Club Owner's determination of such matter shall be conclusive and binding. Therefore, and in order to ensure that the Owners and Association abide by Club Owner's determination, in the event that there is any dispute respecting the interpretation of this Club Plan, the Purchase Option, or any other aspect of the transfer of the Club to Association, Association shall bear all legal expenses of both Association and Club Owner including, without limitation, all attorney's fees, paraprofessional fees and costs, pre-trial and at all levels of proceedings, including appeals, regardless of the outcome of such proceedings.

5.9 Early Purchase. If prior to the Community Completion Date, at a duly noticed meeting where a quorum is established, the majority of non-Developer Owners present, in person or proxy, vote to make an offer to purchase the Club, then the Board may make an earlier offer to purchase the Club from Club Owner. Club Owner, in its sole and absolute discretion, may consider such offer and negotiate an early sale to Association on terms satisfactory to Club Owner. Alternatively, Club Owner may refuse to consider any early offer to purchase the Club by Association.

6. Club Dues. In consideration of the construction and providing for use of the Club by the Owners, each Owner by acceptance of a deed to a Home shall be deemed to have specifically covenanted and agreed to timely pay all Club Dues plus applicable sales tax which are set forth herein. Club Owner presently intends to collect Club Dues and applicable sales tax on a monthly basis but reserves the right to change the payment period from time to time (e.g., to require



payment on a quarterly basis). Notwithstanding the foregoing, Club Owner may require an Owner or all Owners to pay Club Dues on an annual or other basis, in advance, based on prior payment history or other financial concerns, in Club Owner's sole discretion. Each Owner of a Home shall be jointly and severally liable for all Club Dues associated with such Home.

6.1 Club Expenses. Each Owner agrees to pay and discharge, in a timely fashion when due, its pro rata portion (as hereinafter set forth) of the Club Expenses. The Owners shall collectively bear all expenses associated with the Club so that Club Owner shall receive the Club Membership Fees without deduction of expenses or charges in respect of the Club. Commencing on the first day of the period covered by the annual budget, and until the adoption of the next annual budget, the Club Expenses shall be allocated so that each Owner shall pay his pro rata portion of Club Expenses based upon a fraction, the numerator of which is one (1) and the denominator of which is (i) the total number of Homes in TerraLargo conveyed to Owners or (ii) any greater number determined by Club Owner from time to time. Club Owner, in its sole and absolute discretion, may change the denominator from time to time. Under no circumstances will the denominator be less than the number of Homes owned by Owners other than Developer as of September 30 of the prior fiscal year.

6.2 Club Membership Fee. In consideration of constructing the Club Facilities by Club Owner, each Owner of any Home within TerraLargo shall pay in advance on the first day of each month (or other payment period designated by Club Owner), without setoff or deduction, to Club Owner, or its designee, the club membership fee (the "Club Membership Fee") set forth in the Club Membership Fee Schedule attached hereto as Exhibit D (the "Club Membership Fee Schedule").

6.3 Taxes. In addition to the Club Membership Fee, each Owner shall pay all applicable sales, use or similar taxes now or hereafter imposed on all fees and dues, including, but not limited to, the Club Membership Fee. Currently, sales tax is payable on the entire amount of Club Dues.

6.4 Builders. Although a Builder shall have no membership rights relative to the Club, each Builder shall pay Club Dues on each Home owned by such Builder on the same basis as all other Owners commencing upon the date that such Builder receives a certificate of occupancy for a Home located on a Parcel owned by such Builder.

6.5 Perpetual. Each Owner's and each Builder's obligation to pay Club Dues shall be perpetual regardless of whether such Home is occupied, destroyed, renovated, replaced, rebuilt or leased.

6.6 Individual Homes. Owners of individual Homes shall pay Club Dues for one (1) membership per month per Home (regardless of actual occupancy). If an Owner owns more than one Home, Club Dues are payable for each and every Home owned by such Owner.

6.7 Excuse or Postponement. Club Owner may excuse or postpone Club Dues in its sole and absolute discretion.

6.8 Club Owner's Obligation. Under no circumstances shall Club Owner or Developer be required to pay Club Dues. To the extent that Club Owner elects, in Club Owner's sole and absolute discretion, to base the annual budget on a number of Homes greater than those actually in existence within TerraLargo, Club Owner agrees to pay the difference, if any, between actual Club Expenses and Club Dues paid by Owners and Builders, if any.

6.9 Special Use Fees. Club Owner shall have the right to establish from time to time, by resolution, rule or regulation, or by delegation to the Club Manager, specific charges, ticket, service and/or use fees and charges ("Special Use Fees"), for which one or more Owners (but less than all Owners) are subject, such as, costs of special services or facilities provided to an Owner relating to the special use of the Club or tickets for shows, special events, instructional/educational events, seminars, social events, athletic events, or performances held in the Club Facilities which are paid initially by Club Owner. Special Use Fees shall be payable at such time or time(s) as determined by Club Owner. Without limiting the foregoing, Owners shall be charged Special Use Fees for the use of vending machines, video arcade machines and entertainment devices. Club Owner shall have no duty to account for any Special Use Fees; all of such Special Use Fees shall be the sole property of Club Owner and shall not offset or reduce



the Club Dues payable by Owners and Builders. For those programs or events, if any, for which tickets are sold, Club Owner shall adopt such Club TerraLargo Rules and Regulations as to entitlement of the tickets as Club Owner deems necessary.

6.10 Additional Club Dues. If an Owner, his or her guests, invitees, licensees, agents, servants or employees do anything which increases the cost of maintaining or operating the Club, or cause damage to any part of the Club, Club Owner may levy additional Club Dues against such Owner in the amount necessary to pay such increased cost or repair such damage.

6.11 Commencement of First Charges. The obligation to pay Club Dues, including, without limitation, the Club Membership Fee, shall commence as to each Owner on the day of the conveyance of title of a Home to an Owner and as to each Builder on the date that a Home owned by such Builder receives a certificate of occupancy. Notwithstanding the foregoing, no Owner or Builder shall be obligated to pay Club Dues until the first day of the calendar month upon which any portion of the Club Facilities can be used by Owners (e.g., upon issuance of a temporary certificate of occupancy for any structure forming part of the Club Facilities).

6.12 Time Is of Essence. Faithful payment of the sums due, and performance of the other obligations hereunder, at the times stated, shall be of the essence.

6.13 Obligation to Pay Real Estate Taxes and Other Expenses on Homes. Each Owner shall pay all taxes, assessments and obligations relating to his or her Home which if not paid, could become a lien against the Home which is superior to the lien for Club Dues created by this Club Plan. Although a lien for Assessments payable to Association is inferior to the lien of Club Owner (regardless of when the lien for Assessments is filed in the Public Records), each Owner agrees to pay all Assessments when due. Upon failure of an Owner to pay the taxes, assessments, obligations, and Assessments required under this Section, Club Owner may (but is not obligated to) pay the same and add the amount advanced to the Club Dues payable by such Owner.

6.14 Initial Budget. The initial budget prepared by Club Owner is not based on historical operating figures and is not a contractual statement or guaranty of actual Club Dues. It is not intended that any third party rely on any budget in electing to purchase a Home. The figures shown in the initial budget are based on good faith analysis; therefore, it is likely that the actual budget for the Club may be different once historical figures are known. Projections in budgets are an effort to provide some information regarding future Club Expenses. Budgets may not take inflation into account. Because there is no history of operation, it is impossible to predict actual Club Expenses prior to when the Club begins operation and operating requirements are better established. It is not intended that any third party rely on any budget in electing to purchase a Home. Projections in budgets are an effort to provide some information regarding future Club Expenses.

6.15 Change in Terms of Offer. Club Owner may provide that some Owners pay Club Membership Fees on a different basis than other Owners by recording a supplement or amendment to this Club Plan with respect to one or more Homes or Parcels. No Owner shall have the right to object to any other Owner paying greater or lesser Club Membership Fees so long as the Club Membership Fee applicable to any particular Home is in accordance with this Club Plan and any Club Membership Fee Schedule applicable to such Home.

7. Club Contribution Fund. In addition to Club Dues provided for in this Club Plan, there shall be collected from each Owner purchasing a Home from Developer or a Builder at the time of closing an initial contribution ("Initial Contribution") in the amount of One Hundred Fifty Dollars (\$150.00) per Home. Each Owner's Initial Contribution shall be transferred to Club Owner at that time. Initial Contributions are not to be considered as advance payment of Club Dues. Club Owner shall be entitled to keep such funds, and shall not be required to account for the same. Initial Contributions may be used and applied by Club Owner as it deems necessary in its sole and absolute discretion including, without limitation, to reduce Club Expenses. Notwithstanding anything herein to the contrary, Club Owner shall have the option to waive contributions to the Club Contribution Fund in its sole and absolute discretion.

8. Determination of Club Expenses.

8.1 Fiscal Year. The fiscal year for the Club shall be the calendar year.

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8.2 Adoption of Budget. Club Dues shall be established by the adoption of a projected operating budget (the "**Budget**"). Written notice of the amount and date of commencement thereof shall be given to each Owner in advance of the due date of the first installment thereof.

8.3 Adjustments If Budget Estimates Incorrect. In the event the estimate of Club Expenses for the year is, after the actual Club Expenses for that period is known, more or less than the actual Club Expenses, then the difference shall, at the election of Club Owner: (i) be added or subtracted, as the case may be, to the calculation for the next ensuing year; (ii) be immediately collected from the Owners by virtue of a special bill which shall be payable by each Owner within ten (10) days of mailing, or (iii) the remaining monthly Club Dues shall be adjusted to reflect such deficit or surplus.

8.4 No Right to Withhold Payment. Each Owner agrees that so long as such Owner does not pay more than the required amount of Club Dues, such Owner shall have no grounds upon which to object to either the method of payment or non-payment by other Owners of any sums due.

8.5 Reserves. The Budget may, at the election of Club Owner, include one or more reserve funds for the periodic maintenance, repair and replacement of improvements to the Club Facilities.

8.6 Statement of Account Status. Upon demand, there shall be furnished to an Owner a certificate in writing setting forth whether their Club Dues have been paid and/or the amount which is due as of any date. As to parties (other than Owners) who, without knowledge of error, rely on the certificate, the certificate shall be conclusive evidence of the amount of any charges therein stated.

8.7 Collection. Club Owner shall determine from time to time the method by which Club Dues, Special Use Fees and any other amounts due to Club Owner shall be collected.

9. Creation of the Lien and Personal Obligation.

9.1 Claim of Lien. Each Owner and Builder, by acceptance of a Deed or instrument of conveyance for the acquisition of title to a Home or Parcel, shall be deemed to have covenanted and agreed that all amounts payable by Owner or Builder hereunder including, without limitation, the Club Dues, Special Use Fees, and other amounts Club Owner permits an Owner to put on a charge account, if any, including, without limitation, the Club Membership Fee, together with interest, late fees, costs and reasonable attorneys' and paraprofessional fees pre-trial and at all levels of proceedings including appeals, collection and bankruptcy, shall be a charge and continuing first lien in favor of Club Owner encumbering each Home and all personal property located thereon owned by the Owner or Builder. The lien is effective from and after recording a Claim of Lien in the Public Records stating the description of the Home, name of the Owner or Builder, and the amounts due as of that date, but shall relate back to the date this Club Plan is recorded. The Claim of Lien shall also cover any additional amounts which accrue thereafter until satisfied. All unpaid Club Dues, Special Use Fees, and other amounts Club Owner permits an Owner to put on a charge account, if any, together with interest, late fees, costs and reasonable attorneys' and paraprofessional fees pre-trial and at all levels of proceedings including appeals, collections and bankruptcy, and other costs and expenses provided for herein, shall be the personal obligation of the person who was the owner of the Home at the time when the charge or fee became due, as well as the owner's heirs, devisees, personal representatives, successors or assigns. If a Home is leased, the Owner shall be liable hereunder notwithstanding any provision in his or her lease to the contrary. Further, the lien created by this Section is superior to the lien of Association for Assessments.

9.2 Right to Designate Collection Agent. Club Owner shall have the right to designate who shall collect Club Dues, Special Use Fees, and other amounts due hereunder and such right shall be perpetual.

9.3 Subordination of the Lien to Mortgages. The lien for Club Dues, Special Use Fees, and related fees and expenses shall be subordinate to a bona fide first mortgage held by a Lender on any Home, if the mortgage is recorded in the Public Records prior to the Claim of Lien. The Club Claim of Lien shall not be affected by any sale or transfer of a Home, except in



the event of a sale or transfer of a Home pursuant to a foreclosure (or deed in lieu of foreclosure) of a bona fide first mortgage held by a Lender, in which event, the acquirer of title, its successors and assigns, shall not be liable for such sums secured by a Claim of Lien encumbering the Home or chargeable to the former Owner of the Home which became due prior to such sale or transfer. However, any such unpaid fees or charges for which such acquirer of title is not liable may be reallocated and assessed to all Owners (including such acquirer of title) as a part of the Club Expenses. Any sale or transfer pursuant to a foreclosure shall not relieve the Owner from liability for, nor the Home from the lien of any fees or charges made thereafter. Nothing herein contained shall be construed as releasing the party liable for any delinquent fees or charges from the payment thereof, or the enforcement of collection by means other than foreclosure. A Lender shall give written notice to Club Owner if the mortgage held by such Lender is in default. Club Owner shall have the right, but not the obligation, to cure such default within the time periods applicable to Owner. In the event Club Owner makes such payment on behalf of an Owner, Club Owner shall, in addition to all other rights reserved herein, be subrogated to all of the rights of the Lender. All amounts advanced on behalf of an Owner pursuant to this Section shall be added to Club Dues payable by such Owner with appropriate interest.

9.4 Acceleration. In the event of a default in the payment of any Club Dues and related fees and expenses, Club Owner may in Club Owner's sole and absolute discretion accelerate the Club Dues for the next ensuing twelve (12) month period, and for twelve (12) months from each subsequent delinquency.

9.5 Non-payment. If any Club Dues are not paid within ten (10) days after the due date, a late fee (to compensate Club Owner for administrative expenses due to late payment) of \$25.00 per month, or such greater amount established by Club Owner, together with interest on all amounts payable to Club Owner in an amount equal to the maximum rate allowable by law, per annum, beginning from the due date until paid in full, may be levied. This fee is to compensate Club Owner for administrative expenses and is not a penalty but agreed upon, fixed and fair liquidated damages. Club Owner may, at any time thereafter, bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Home, or both. In the event of foreclosure of the Club's lien, the defaulting Owner shall be required to pay a reasonable rental for the Home to Club Owner, and Club Owner shall be entitled, as a matter of right, to the appointment of a receiver to collect the same. No notice of default shall be required prior to foreclosure or institution of a suit to collect sums due hereunder. Club Owner shall not be required to bring such an action if it believes that the best interests of the Club would not be served by doing so. There shall be added to the Claim of Lien all costs expended in preserving the priority of the lien and all costs and expenses of collection, including attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, collection and bankruptcy. Club Owner shall have all of the remedies provided herein and any others provided by law and such remedies shall be collective. The bringing of action shall not constitute an election or exclude the bringing of any other action. Liens for Club Dues under this Club Plan shall be prior to the liens of Association.

9.6 Non-Use. No Owner may waive or otherwise escape liability for fees and charges provided for herein by non-use of, or the waiver of the right to use, Club or abandonment of a Home.

9.7 Suspension. Should an Owner not pay sums required hereunder, or otherwise default, for a period of thirty (30) days, Club Owner may, without reducing or terminating Owner's obligations hereunder, suspend Owner's (or in the event the Home is leased, the Lessee's) rights to use the Club until all fees and charges are paid current and/or the default is cured.

#### 10. Operations.

10.1 Control. The Club shall be under the complete supervision and control of Club Owner until Club Owner, in its sole and absolute discretion, delegates all or part of the right and duty to operate, manage and maintain the Club to a third party as Club Manager, if ever, as hereinafter provided.

10.2 Club Manager. At any time, Club Owner may appoint a Club Manager to act as its agent. The Club Manager shall have whatever rights hereunder as are assigned in writing to it by Club Owner. Without limiting the foregoing, the Club Manager, if so agreed by Club Owner,