

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

NORMAN GUNDEL,  
WILLIAM MANN, and  
BRENDA N. TAYLOR,  
individually and on behalf  
of all similarly situated persons,

Plaintiffs,

vs.

CLASS REPRESENTATION  
Case No. 17-CA-001446  
Division: 11

AV HOMES, INC. and  
AVATAR PROPERTIES, INC.,

Defendants.

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AVATAR PROPERTIES INC.,

Counter-Plaintiff,

vs.

NORMAN GUNDEL,  
WILLIAM MANN, and  
BRENDA N. TAYLOR,  
individually and on behalf  
of all similarly situated persons,

Counter-Defendants.

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**DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES TO  
SECOND AMENDED CLASS ACTION COMPLAINT AND  
DEMAND FOR JURY TRIAL AND API'S COUNTERCLAIM**

Defendants, AV Homes, Inc. ("AV Homes") and Avatar Properties Inc., ("API") (collectively, the "Defendants"), hereby file their Answer and Affirmative Defenses to the Second Amended Class Action Complaint (the "Second Amended Complaint") filed by

Plaintiffs, Norman Gundel (“Gundel”), William Mann (“Mann”), and Brenda Taylor (“Taylor”) (collectively, the “Plaintiffs”) and API’s Counterclaim as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. Admitted that Plaintiffs seek to bring this action individually and on behalf of all similarly situated persons. It is further admitted that this lawsuit purports to state violations of the Florida’s Homeowner’s Association Act (the “HOA Act”) pursuant to Chapter 720, Florida Statutes, and Florida’s Deceptive and Unfair Trade Practices Act (“FDUTPA”), pursuant to §§ 501.201 *et seq.* It is also admitted that Plaintiffs purport to raise claims for declaratory relief, injunctive relief, equitable relief, and damages exceeding \$15,000.00. It is denied, however, that: (i) this case is appropriate for class treatment; (ii) Defendants have violated either the HOA Act or FDUTPA; (iii) the HOA Act is applicable to the facts of this case; (iv) Plaintiffs have stated any valid cause of action; or (v) Plaintiffs are entitled to an award of the damages or relief they seek.

2. Defendants are without knowledge or information sufficient to either admit or deny Plaintiffs’ current legal residence and, therefore, this allegation is denied. However, it is admitted that Plaintiffs each own residential parcel(s) within the *Solivita* community.

3. Admitted.

4. Admitted.

5. Admitted for venue purposes only that the property that is the subject of this litigation is located in Polk County, Florida. Otherwise, this allegation is denied.

6. Defendants are without knowledge or information sufficient to either admit or deny this allegation and, therefore, this allegation is denied.

## GENERAL ALLEGATIONS

7. Admitted that Plaintiffs each own residential parcel(s) in *Solivita*, a life-style community for individuals ages 55 and older, located in Poinciana, Florida. It is denied that *Solivita* contains only residential parcels.

8. Admitted only that API is the developer of *Solivita* and that API is a subsidiary of AV Homes. It is denied, however, that AV Homes was a developer of *Solivita* or that Plaintiffs have asserted any allegations sufficient to pierce the corporate veil so as to impose any liability upon AV Homes for the alleged actions of API.

9. This allegation is admitted only to the extent it is asserted against API. This allegation is denied to the extent it is asserted against AV Homes.

10. This allegation is admitted only to the extent it is asserted against API. This allegation is denied to the extent it is asserted against AV Homes.

11. Admitted only that the original Club Plan was attached as an exhibit and incorporated by reference in the original Master Declaration for *Solivita*. However, it is specifically denied that the original Club Plan established or governed a homeowner's association. Rather, both the original Club Plan and Amended and Restated Club Plan<sup>1</sup> provide that API, a for-profit corporation, is the Club Owner. In contrast, the homeowner's association for the community is a non-profit Florida Corporation named *Solivita* Community Association, Inc. Further, the Master Declaration expressly states that it is subordinate in all respects to the Club Plan.

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<sup>1</sup> In this Answer, the term "Club Plan" refers to the Amended and Restated Club Plan, which is currently in effect and replaced entirely the original Club Plan. Where the original Club Plan is being referred to, it will be so specifically stated. Similarly, the Amended and Restated Master Declaration will be referred to as the "Master Declaration."

12. It is denied that either the original Club Plan or subsequent Club Plan associated all of the homeowners or requires the homeowner's association to pay all of the expenses of owning, operating, and maintaining the Club Facilities. Rather, API paid for the construction of the Club Facilities. In turn, the Club Plan is an enforceable covenant running with the land that requires individual homeowners to pay a Membership Fee and certain expenses in exchange for receiving the benefit of access to the Club Facilities and amenities therein. It is further denied that a so-called "Club Association" exists. Rather, the only applicable association is the *Solivita* Community Association, Inc., which is the homeowner's association. In turn, the *Solivita* Community Association, Inc. does not have any rights with respect to the ownership or maintenance of the Club Facilities. The Club Plan also allows API, as the Club Owner, to make the Club Facilities available to individuals, persons, firms or corporations other than residents.

13. Admitted that the Master Declaration incorporated the Club Plan by reference and the Club Plan was attached as an exhibit. The Club Plan and Master Declaration specifically provide that the Master Declaration is subordinate in all respects to the Club Plan.

14. Admitted that API, as the Club Owner, collects Club Dues, which includes the Club Membership Fees, in exchange for operating the Club Facilities and providing *Solivita* homeowners with access to the Club Facilities, which API paid for at its sole cost and expense. It is further admitted that Exhibit A speaks for itself. It is denied, however, that API, a for-profit corporation, is somehow prohibited from collecting such fees in exchange for the significant benefits it provides to *Solivita* homeowners. It is further denied that Judge McDonald made any ruling as to the enforceability of the Club Plan or indicated that it was inappropriate in any respect. Rather, Judge McDonald specifically found that such claims were collateral to the bond validation before him.

15. Admitted that the Club Plan makes membership in the Club a mandatory condition of home ownership in *Solivita* and requires the payment of Club Membership Fees and Club Expenses by members that, if unpaid by the *Solivita* homeowners, become a lien on their homes, upon which API may foreclose. It is denied that a so-called “Club Association” exists.

16. This allegation is admitted only to the extent it is asserted against API. This allegation is denied to the extent it is asserted against AV Homes.

17. Admitted that the individual homeowners do not have voting rights with respect to the operation of the Club Facilities. It is further admitted that the Club Plan identifies API as the owner of the Club Facilities. It is denied, however, that this violates any applicable law as the Club is owned and run by a private for-profit corporation for a commercial purpose and therefore exempt from the purview of the HOA Act. Moreover, the Club Plan is an enforceable covenant running with the land that was recorded and subsequently agreed to by each individual homeowner. All remaining allegations are likewise denied.

18. Admitted only that API has the right to retain title to the Club Facilities. Otherwise, this allegation is denied in its entirety. It is also specifically denied that API is under any obligation to turn over ownership of the Club Facilities.

19. Admitted only that § 5.4 of the recorded Club Plan provides API with the legal right to alter or modify the Club Facilities. Otherwise, this allegation is denied in its entirety.

20. Admitted that each individual homeowner has agreed to pay Membership Fees, expenses, and other amounts in exchange for the benefits they receive from the Club Facilities. It is further admitted that, pursuant to § 11.1 of the Club Plan, such amounts can be secured by a lien on individual homeowner’s property in favor of API which can be foreclosed. Plaintiffs agreed that such amounts could be secured by a lien when they purchased their respective

parcel(s). Specifically, by accepting their respective deeds with actual or constructive notice of the lien provisions of the original Club Plan (and, where applicable, subsequent Club Plan) Plaintiffs manifested an intent to let their parcel(s) stand as security for their obligation to pay the applicable Club Fees and Club Dues. The creation of any lien by acceptance of the deed relates back to the filing of the original Club Plan. As such, Plaintiffs took title to their parcels subject to a valid pre-existing lien. All other allegations are specifically denied.

21. Admitted only that API has the legal and contractual right to collect the fees and charges due and owing under the Club Plan from the individual homeowners in exchange for the benefits the homeowners receive from the Club Facilities. It is denied that API has the duty to deduct the expenses or charges from the Membership Fee. Any remaining allegations are denied.

22. Admitted only that Exhibit A speaks for itself. It is denied, however, that API, a for-profit corporation, is somehow prohibited from collecting such fees in exchange for the significant benefits it provides to *Solivita* Homeowners. It is further denied that Judge McDonald made any ruling as to the enforceability of the Club Plan or indicated that it was inappropriate in any respect. Rather, Judge McDonald specifically found that such claims were collateral to the bond validation before him. The remaining allegations are denied.

23. Denied.

24. Denied.

25. Denied.

26. Admitted that API is under contract to sell the Club Property to the Poinciana Community Development District. Admitted that the agreed upon purchase price for the Club

Facilities is \$73.7 million, which is subject to adjustments, prorations and credits. The remaining allegations are denied.

27. Admitted that Exhibit B speaks for itself. It is denied, however, that Exhibit B is an accurate valuation of the Club Facilities or that the Club Facilities' actual value is \$19.25 million.

28. Admitted that API (or any successor thereto) is entitled to collect Club Membership Fees in perpetuity. The remaining allegations are denied.

29. Denied.

30. Admitted only that API and the Poinciana Community Development District have entered into a valid arm's length contractual agreement as to the purchase price of the Club Facilities and that API is not willing or obligated to re-negotiate the fair value purchase price. This allegation is specifically denied to the extent it is asserting that API is somehow required to agree to a lower purchase price or to sell the Club Facilities to the Poinciana Community Development District on terms other than those set forth in the contractual agreement relating to the sale. In fact, Judge McDonald has already rejected the argument that API somehow controlled the purchase price or that the purchase price was unreasonable, stating that there was no finding that API "improperly controlled, unduly influenced, or coerced the Districts' Boards and other involved parties, such as consultants, during negotiations." *See* Order entered in case number 2017-CA-004023 (the "Order"), p. 16. Significantly, Judge McDonald further held that using an income valuation methodology to determine the value of the Club Facilities was not arbitrary or capricious, noting that "a developer is entitled to seek payment for its income stream stemming from membership-type fees when negotiating a real property purchase by a local

governing body.” See Order, p. 18 (citing *Palm Beach County v. Cove Club Investor, LTD*, 734 So. 2d 379 (Fla. 1999)).

31. Admitted only that API and the Poinciana Community Development District have entered into a valid arm’s length contractual agreement as to the purchase price of the Club Facilities and that API is not willing or obligated to re-negotiate the purchase price. This allegation is specifically denied to the extent it is asserting that API is required to agree to a lower purchase price or to sell the Club Property to the Poinciana Community Development District on terms other than those set forth in the contractual agreement relating to the sale. This allegation is further denied to the extent it asserts that API or any successor thereto is not entitled to collect Club Membership Fees.

32. Denied.

33. Denied.

34. This allegation states a legal conclusion and, therefore, Defendants can neither admit nor deny the same. It is denied, however, that Plaintiffs are entitled to an award of attorney’s fees.

#### ***Marketing of Solivita Amenities***

35. Admitted only that API advertised and marketed *Solivita* as a lifestyle community, consisting of residential and commercial parcels, for individuals ages 55 and over. Otherwise, denied.

36. This allegation is admitted only to the extent it is asserted against API. This allegation is denied to the extent it is asserted against AV Homes.



37. Admitted only that the referenced advertising speaks for itself and is accurate. To the extent this allegation asserts that the advertising is inaccurate or inappropriate in any respect, this allegation is denied in its entirety.

38. Admitted only that the referenced advertising speaks for itself and is accurate, but is incomplete in that it fails to reference the two championship golf courses, three dining venues, and multitude of shops which are also advertised as part of the “*Amenities at Solivita.*” To the extent this allegation asserts that the advertising is inaccurate or inappropriate in any respect, this allegation is denied in its entirety.

39. Admitted only that API has the legal right to retain title to the Club Facilities and to collect monthly Membership Fees. API further states that the original Club Plan and, later, the subsequent Club Plan, were recorded and provided to all original purchasers of homes in *Solivita*. Consequently, all homeowners were made aware of the obligations arising under the Club Plan and that API was the owner of the Club Facilities. This allegation is denied to the extent it is asserting that API does not possess the legal right to retain title to the Club Facilities or collect monthly membership fees. This allegation is further denied to the extent it asserts that the referenced advertising is inaccurate or inappropriate in any respect.

***Recording of Declarations for Solivita***

40. This allegation is admitted only to the extent it is asserted against API. This allegation is denied to the extent it is asserted against AV Homes.

41. This allegation is admitted only to the extent it is asserted against API. This allegation is denied to the extent it is asserted against AV Homes.

42. Denied only to the extent that there was also a Master Declaration for *Solivita* West recorded in Official Records Book 6774 at page 294 of the Public Records of Polk County,

Florida. Admitted that all homes in *Solivita* are encumbered by and subject to the covenants of the Club Plan and the declarations in the Master Declaration.

43. Admitted that the original Master Declaration incorporated the original Club Plan by reference and was attached as an exhibit. The original Master Declaration for *Solivita* West also incorporated the Club Plan by reference and the Club Plan was attached as an exhibit. It is further admitted that the *Solivita* Community Association, Inc. recorded a joinder to the original Club Plan and agreed that the terms of the original Club Plan were binding upon the *Solivita* Community Association, Inc. Admitted that the original Club Plan and original Master Declaration specifically provided that the original Master Declaration was subordinate in all respects to the Club Plan and that “in the event of any conflict between the Club Plan and the Association Documents, the Club Plan shall control.”

44. Admitted that API recorded various supplements and amendments and that the documents referenced in subparagraphs (a)-(b) are the current operative documents. This allegation is denied to the extent that it pertains to AV Homes.

45. Admitted that the Master Declaration is a declaration governing *Solivita*, but that it is subordinate in all respects to the Club Plan. In turn, the Club Plan is a valid covenant running with the land.

46. Admitted that the Master Declaration incorporates the Club Plan by reference and attaches it as an exhibit. It is further admitted that the *Solivita* Community Association, Inc. recorded a joinder to the Club Plan and agreed that the terms of the Club Plan were binding upon the *Solivita* Community Association, Inc. It is further admitted that the Club Plan and Master Declaration specifically provide that the Master Declaration is subordinate in all respects to the

Club Plan and that “in the event of any conflict between the Club Plan and the Association Documents, the Club Plan shall control.”

47. This allegation is a statement of Plaintiffs’ assigned definitions and, therefore, Defendants can neither admit nor deny this allegation.

48. This allegation is a statement of Plaintiffs’ assigned definitions and, therefore, Defendants can neither admit nor deny this allegations.

***The Club Association***

49. This allegation is admitted only to the extent it is asserted against API. This allegation is denied to the extent it is asserted against AV Homes.

50. Denied.

51. Denied.

52. Denied.

53. Admitted that the members of the *Solivita* Community Association, Inc. are subject to the provisions of the Club Plan. It is further admitted that the *Solivita* Community Association, Inc. recorded a joinder to the Club Plan and agreed that the terms of the Club Plan were binding upon the *Solivita* Community Association, Inc. In fact, the Club Plan and Master Declaration specifically provide that the Master Declaration is subordinate in all respects to the Club Plan and that “in the event of any conflict between the Club Plan and the Association Documents, the Club Plan shall control.” It is denied, however, that that the Club Plan establishes an association or is subject to the provisions of the HOA Act.

54. Denied.

55. Admitted that the individual members of the *Solivita* Community Association, Inc. are subject to the provisions of the Club Plan and the Master Declaration is subordinate to

the Club Plan. It is further admitted that the *Solivita* Community Association, Inc. recorded a joinder to the Club Plan and agreed that the terms of the Club Plan were binding upon the *Solivita* Community Association, Inc. Otherwise, denied.

56. Denied.

57. Admitted that API is considered a “Developer” under the HOA Act to the extent it developed *Solivita*. However, it is denied that the HOA Act applies or extends to API in its capacity as the owner of the Club Facilities, the Club Plan, the commercial Club Facilities, or that a so-called “Club Association” exists. This allegation is denied in its entirety to the extent it applies to AV Homes.

58. Denied.

#### ***The Solivita Association***

59. Denied. API also states that the current Club Plan does not provide for the *Solivita* Community Association, Inc. to enforce API’s lien to collect Club Dues.

60. Admitted that the homeowners in *Solivita* are required to pay membership dues to API in exchange for receiving the benefit of the Club Facilities. Any remaining allegations are denied.

#### **CLASS REPRESENTATION ALLEGATIONS**

61. This allegation states a legal conclusion and, therefore, Defendants can neither admit nor deny the same. It is denied, however, that class treatment is appropriate in this case.

62. This allegation states a legal conclusion and, therefore, Defendants can neither admit nor deny the same. It is denied, however, that Plaintiffs have proposed an adequate class definition in this case.

63. Admitted only that various individual homeowners in *Solivita* have paid a club Membership Fee. The remaining allegations are denied.

64. Denied.

65. Denied.

66. Denied.

67. Denied.

68. Admitted that Plaintiffs purport to bring this action under Rule 1.220(b)(2) of the Florida Rules of Civil Procedure. It is denied, however, that class treatment is appropriate in this case.

69. Admitted that Plaintiffs purport to bring this action under Rule 1.220(b)(3) of the Florida Rules of Civil Procedure. It is denied, however, that class treatment is appropriate in this case.

#### **DECLARATORY RELIEF ALLEGATIONS**

70. Admitted that Plaintiffs purport to state a claim for declaratory relief on behalf all those similarly situated. It is denied, however that Plaintiffs are entitled to the relief sought or that class treatment is appropriate. It is further denied that any previous homeowners included in the proposed class definition can assert a cognizable claim for declaratory relief as they have no present or practical need for a declaration.

71. Denied.

72. Admitted only that § 501.2011 speaks for itself. It is denied, however, that Plaintiffs are entitled to any relief under FDUTPA.

73. Denied.

74. Denied.

75. Denied.

76. Denied.

77. Denied.

78. Admitted that the rights of the parties are governed by the Club Plan and the *Solivita* Master Declaration. All other allegations are denied.

79. Denied.

**COUNT I  
DECLARATORY RELIEF - APPLICABILITY OF HOA ACT**

80. Defendants re-allege their responses to paragraphs 1-79 and paragraph 132 as if fully restated herein.

81. Denied.

82. Denied.

83. It is denied that the HOA Act applies to the Club Facilities and/or the Club Plan or that Defendants violated the HOA Act.

84. It is denied that the HOA Act applies to the Club Facilities and/or the Club Plan or that Defendants violated the HOA Act.

85. Admitted that the Club Plan creates a valid covenant running with the land and that the Plaintiffs agreed that their failure to pay any Club Dues or Fees could result in a lien on their parcels.

86. Denied.

87. Denied.

88. Admitted that it is Defendants' position that the HOA Act does not apply to the Club Facilities or the Club Plan. The remaining allegations are denied.

89. Denied.

90. Admitted that Plaintiffs are seeking an award of attorneys' fees. It is denied, however, that Plaintiffs are entitled to the relief sought.

**COUNT II  
DECLARATORY RELIEF – VOTING RIGHTS**

91. Defendants re-allege their responses to paragraphs 1-79 and paragraph 132 as if fully restated herein.

92. Denied.

93. Admitted.

94. Denied.

95. Admitted that Plaintiffs are seeking an award of attorneys' fees. It is denied, however, that Plaintiffs are entitled to the relief sought.

**COUNT III  
DECLARATORY RELIEF – CLUB PROPERTY**

96. Defendants re-allege their responses to paragraphs 1-79 and paragraph 132 as if fully restated herein.

97. Denied.

98. Admitted.

99. Denied.

100. Admitted that Plaintiffs are seeking an award of attorneys' fees. It is denied, however, that Plaintiffs are entitled to the relief sought.

**COUNT IV  
DECLARATORY RELIEF – FIDUCIARY DUTY**

101. Defendants re-allege their responses to paragraphs 1-79 and paragraph 132 as if fully restated herein.

102. Denied.

103. Admitted that the provisions of the HOA Act speak for themselves. It is specifically denied, however, that the HOA Act applies to the Club Facilities or the Club Plan, or that a “Club Association” exists at all. It is further denied that AV Homes owes any duty to the Plaintiffs whatsoever.

104. Denied.

105. Admitted that Defendants disagree with Plaintiffs’ position. It is denied, however, that that Defendants betrayed any confidence reposed by the *Solivita* homeowners or that Defendants failed to act in good faith and with due regard to the interests of *Solivita* homeowners.

106. Denied.

107. Admitted that Plaintiffs are seeking an award of attorneys’ fees. It is denied, however, that Plaintiffs are entitled to the relief sought.

**COUNT V  
DECLARATORY RELIEF – INVALIDITY OF PERPETUAL COVENANT**

108. Defendants re-allege their responses to paragraphs 1-79 and paragraph 132 as if fully restated herein.

109. Denied.

110. Admitted.

111. Admitted only that the Club Plan speaks for itself. In all other respects, this allegation is denied. Defendants further state that the Club Plan provides that it will be terminated if the Club Facilities are destroyed and not rebuilt.

112. Denied.

113. Admitted.

114. Denied.



115. Admitted that Plaintiffs are seeking an award of attorneys' fees. It is denied, however, that Plaintiffs are entitled to the relief sought.

**COUNT VI  
INJUNCTION RELIEF - PROHIBITING FUTURE PROFIT  
FROM CLUB MEMBERSHIP FEE**

116. Defendants re-allege their responses to paragraphs 1-79 and paragraph 132 as if fully restated herein.

117. Admitted that Plaintiffs purport to bring this action on behalf of a class pursuant to Rule 1.220(b)(2) and that Plaintiffs seek permanent injunctive relief under FDUTPA. It is denied, however, that this action is appropriate for class treatment or that Plaintiffs are entitled to the relief sought.

118. Denied.

119. Denied.

120. Admitted that the HOA Act speaks for itself. It is denied, however, that the HOA Act is applicable to the Club Facilities or Club Plan.

121. Denied.

122. Defendants re-allege their responses to Count IV herein and deny that a fiduciary duty exists with respect to the Club Facilities or the Club Plan. It is further denied that AV Homes owes any duty to Plaintiffs at all.

123. Denied.

124. Denied.

125. Denied.

126. Denied.

127. Admitted that Plaintiffs are seeking an award of attorneys' fees. It is denied, however, that Plaintiffs are entitled to the relief sought.

**COUNT VII**  
**VIOLATION OF FDUTPA – INJUNCTIVE RELIEF**

128. Defendants re-allege its responses to paragraphs 1-79 and paragraph 132 as if fully restated herein.

129. Admitted that Plaintiffs purport to bring this action on behalf of a class pursuant to Rule 1.220(b)(2) and that Plaintiffs seek injunctive relief under FDUTPA. It is denied, however, that this action is appropriate for class treatment or that Plaintiffs are entitled to the relief sought.

130. Admitted only that the provisions of FDUTPA speak for themselves. It is denied, however, that Defendants violated FDUTPA.

131. Admitted only that the provisions of FDUTPA speak for themselves. It is denied, however, that Defendants violated FDUTPA.

132. Denied.

a. Denied.

b. Denied.

c. Denied.

d. Denied.

e. Denied.

f. Denied.

g. Denied.

h. Denied.

i. Denied.

- j. Denied.
- k. Denied.
- l. Denied.
- m. Denied.
- n. Denied.
- o. Denied.
- p. Denied.
- q. Denied.
- r. Denied.
- s. Denied.
- t. Denied.
- u. Denied.
- v. Denied.

133. Denied.

134. This allegation states a conclusion of law and, therefore, Defendants can neither admit nor deny the same. This allegation is denied, however, to the extent it asserts that the HOA Act applies to the facts at issue in this case or that Defendants violated either the HOA Act or FDUTPA.

135. Admitted only that the HOA Act speaks for itself. It is denied, however, that the HOA Act applies to API as the owner of the Club Facilities, to the Club Facilities, or the Club Plan. It is further denied that any purported violations of the HOA Act are a *per se* violation of FDUTPA.

a. It is denied that this provision applies to API as the owner of the Club Facilities, to the Club Facilities, or the Club Plan.

b. It is denied that this provision applies to API as the owner of the Club Facilities, to the Club Facilities, or the Club Plan.

c. It is denied that this provision applies to API as the owner of the Club Facilities, to the Club Facilities, or the Club Plan.

i. It is denied that this provision applies to API as the owner of the Club Facilities, to the Club Facilities, or the Club Plan.

ii. It is denied that this provision applies to API as the owner of the Club Facilities, to the Club Facilities, or the Club Plan.

d. It is denied that this provision applies to API as the owner of the Club Facilities, to the Club Facilities, or the Club Plan.

136. Denied.

a. Denied.

b. Denied.

c. Denied.

d. Denied.

e. Denied.

137. Denied.

138. Admitted that Plaintiffs are seeking an award of attorneys' fees. It is denied, however, that Plaintiffs are entitled to the relief sought.

**COUNT VIII**  
**VIOLATION OF § 720.308, FLA. STAT.**

139. Defendants re-allege their responses to paragraphs 1-7 and paragraphs 130-137 as if fully set forth herein.

140. Admitted that Plaintiffs purport to bring this action on behalf of a class pursuant to Rule 1.220(b)(3) and that Plaintiffs seek equitable relief and damages for alleged violations of § 720.308. It is denied, however, that this action is appropriate for class treatment, that Plaintiffs are entitled to the relief sought, or that § 720.308 applies to the facts at issue in this matter.

141. Denied.

142. Denied.

143. Admitted only that the HOA Act speaks for itself. It is denied, however, that the HOA Act applies to the Club Facilities or the Club Plan.

144. Denied.

145. Denied.

146. Denied.

147. Admitted that Plaintiffs are seeking an award of attorneys' fees. It is denied, however, that Plaintiffs are entitled to the relief sought.

**COUNT IX**  
**BREACH OF FIDUCIARY DUTY**

148. Defendants re-allege their responses to paragraphs 1-79 and paragraphs 130-137 as if fully set forth herein.

149. Admitted that Plaintiffs purport to bring this action on behalf of a class pursuant to Rule 1.220(b)(3) and that Plaintiffs seek equitable relief and damages for alleged breach of fiduciary duty. It is denied, however, that this action is appropriate for class treatment, that

Plaintiffs are entitled to the relief sought, that API owe Plaintiffs a fiduciary duty with respect to the Club Facilities, or that API has breached any such duty. It is further denied that AV Homes owes any duty to Plaintiffs at all.

150. Defendants re-allege their responses to Count IV herein and deny that a fiduciary duty exists with respect to the Club Facilities or the Club Plan. It is further denied that AV Homes owes a duty to Plaintiffs at all.

151. Denied.

152. Denied.

153. Denied.

154. Denied.

155. Denied.

156. Denied.

157. Denied.

158. Denied.

159. Denied.

160. Denied.

161. Denied.

162. Admitted that Plaintiffs are seeking an award of attorneys' fees. It is denied, however, that Plaintiffs are entitled to the relief sought.

**COUNT X  
AIDING AND ABETTING A BREACH OF FIDUCIARY DUTY**

163. Defendants re-allege their responses to paragraphs 1-79 as if fully restated herein.

164. Admitted that Plaintiffs purport to bring this action on behalf of a class pursuant to Rule 1.220(b)(3) and that Plaintiffs seek equitable relief and damages for alleged aiding and

abetting a breach of fiduciary duty. It is denied, however, that this action is appropriate for class treatment, that Plaintiffs are entitled to the relief sought, that API owe Plaintiffs a fiduciary duty with respect to the Club Facilities, or that API breached any such duty. It is further denied that AV Homes owes any duty to Plaintiffs at all.

165. Admitted that the Board of Directors of the *Solivita* Community Association, Inc. owe a fiduciary duty to the parcel owners only in their capacity as officers of the HOA. It is denied that any members owe such a duty in their capacity as officers of API and/or AV Homes. Chapter 720 contemplates that a developer will control the association until it is turned over, and it is customary and routine for developer to appoint the board until turnover occurs.

166. Denied.

167. Denied.

168. Denied.

169. Denied.

170. Denied.

171. Denied.

172. Denied.

173. Denied.

174. Admitted that Plaintiffs are seeking an award of attorneys' fees. It is denied, however, that Plaintiffs are entitled to the relief sought.

**COUNT XI  
VIOLATION OF FDUTPA-DAMAGES**

175. Defendants re-allege their responses to paragraphs 1-79 as if fully restated herein.

176. Defendants further re-alleged their responses to Count VII (Violation of FDUTPA - Injunctive Relief), as if fully restated herein. It is further denied that Defendants violated FDUTPA.

177. Admitted that Plaintiffs purport to bring this action on behalf of a class pursuant to Rule 1.220(b)(3) and that Plaintiffs seek damages under FDUTPA against Defendants. It is denied, however, that this action is appropriate for class treatment or that Plaintiffs are entitled to the relief sought.

178. Admitted only that the provisions of FDUTPA speak for themselves. It is denied, however, that Defendants violated FDUTPA.

179. Admitted only that the provisions of FDUTPA speak for themselves. It is denied, however, that Defendants violated FDUTPA.

180. Denied.

181. Admitted only that § 501.2077(2) speaks for itself. It is denied, however, that Defendants violated FDUTPA or that Defendants ever victimized or attempted to victimize a senior citizen or a person with disabilities.

182. Admitted that Plaintiffs are seeking an award of attorneys' fees. It is denied, however, that Plaintiffs are entitled to the relief sought.

## **COUNT XII UNJUST ENRICHMENT**

183. Defendants re-allege their responses to paragraphs 1-79 and paragraphs 130-137 as if fully restated herein.

184. Admitted that Plaintiffs purport to bring an action on behalf of a class for unjust enrichment. It is denied, however, that this matter is appropriate for class treatment or that Plaintiffs are entitled to the relief sought.



185. Denied.

186. Denied.

187. Denied.

188. Denied.

189. Denied.

190. Denied.

191. Denied.

192. Denied.

193. Admitted that Plaintiffs are seeking an award of attorneys' fees. It is denied, however, that Plaintiffs are entitled to the relief sought.

### **REQUEST FOR RELIEF**

Defendants deny that Plaintiffs are entitled to any of the relief they have requested and Defendants demand a judgment in their favor and awarding them their reasonable attorneys' fees and costs incurred in this action pursuant to §§ 15 and 17.7 of the Club Plan, and granting such other relief as the Court deems just and proper.

### **AFFIRMATIVE DEFENSES<sup>2</sup>**

#### **First Affirmative Defense**

Plaintiffs have not and cannot state any claim against AV Homes, which is a publically traded company and the parent corporation of API. AV Homes was not the developer of *Solivita* and is not a party to the Purchase Agreements, the original or Amended and Restated Master Declaration for *Solivita*, the original or Amended and Restated Club Plan, or any other documents pertinent to this matter. Moreover, in order to pierce the corporate veil so as to

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<sup>2</sup> In the event that a class is certified, these Affirmative Defenses apply equally to any future class plaintiffs.

impose liability upon AV Homes for any actions allegedly taken by API, Plaintiffs must establish: (1) control by the parent to such a degree that the subsidiary has become its mere instrumentality; (2) fraud or wrongdoing by the parent through its subsidiary; and (3) unjust loss or injury to the claimant, such as insolvency of the subsidiary. Plaintiffs have not pled, and cannot prove, any such set of circumstances. As a result, Plaintiffs have not and cannot state any cause of action against AV Homes.

### **Second Affirmative Defense**

Plaintiffs lack standing to bring any claim which properly belongs to the Poinciana Community Development District and/or the Poinciana West Community Development District (the “CDDs”). Specifically, throughout the Second Amended Complaint, Plaintiffs have contested and objected to the agreed upon purchase price of the Club Facilities. *See e.g.*, Cmpl., ¶¶ 24-29. However, API and the Poinciana Community Development District are in contractual privity and engaged in arm’s length negotiations to determine the fair purchase price of the Club Facilities. Plaintiffs therefore lack any standing to raise any claim relative to the agreed upon purchase price of the Club Facilities as agreed to by and between API and the Poinciana Community Development District.

Moreover, it should be noted that, Judge McDonald has already rejected the argument that API somehow controlled the purchase price or that the purchase price was unreasonable, stating that there was no finding that API “improperly controlled, unduly influenced, or coerced the Districts’ Boards and other involved parties, such as consultants, during negotiations.” *See* Order, p. 16. Significantly, Judge McDonald further held that using an income valuation methodology to determine the value of the Club Facilities was not arbitrary or capricious, noting that “a developer is entitled to seek payment for its income stream stemming from membership-

type fees when negotiating a real property purchase by a local governing body.” *See* Order, p. 18 (citing *Palm Beach County v. Cove Club Investor, LTD*, 734 So. 2d 379 (Fla. 1999)).

### **Third Affirmative Defense**

Counts I, II, III, IV, VI, VII, VIII, IX, X, XI, and XII are all premised upon Plaintiffs’ incorrect proposition that the Club Plan is subject to the provisions of the HOA Act. Contrary to Plaintiffs’ claims, § 720.302(3)(b) specifically states that Chapter 720 *does not* apply to the “commercial or industrial parcels in the community that contains both residential parcels and parcels intended for commercial or industrial use.” Further, § 720.302(1) states that the purpose of the HOA Act is “. . . to give statutory recognition to corporations not for profit that operate residential communities in this state, to provide procedures for operating homeowners’ associations, and to protect the rights of association members without unduly impairing the ability of such associations to perform their functions.”

API is a for-profit corporation and operates the Club Facilities as a for-profit commercial enterprise and, at all times, API has paid real estate taxes and charged sales taxes on the Membership Fees. Moreover, the Club Facilities is located on a parcel intended for and used for commercial purposes. By virtue of their Amended Complaint, Plaintiffs are essentially asking to have residents appointed to API’s (a private for-profit corporation) Board of Directors. Such an outcome is clearly not contemplated by the HOA Act. As a result, all counts predicated upon the application of the HOA Act fail to state cause of action as the HOA Act does not apply to API’s commercial use of the parcels comprising the Club in *Solivita*.

### **Fourth Affirmative Defense**

Counts I, II, III, IV, VI, VII, VIII, IX, X, XI, and XII are all premised upon Plaintiffs’ incorrect proposition that API and the Club Plan are subject to the provisions of the HOA Act.

However, API, the owner of the Club Facilities, is not an “association” and similarly, the Club Plan does not form or create an “association” as that term is defined by the HOA Act. Specifically, § 720.301(9) defines a “homeowner’s association” or “association” as a Florida corporation responsible for the *operation of a community* or mobile home subdivision *in which the voting membership is made up of parcel owners . . .*” (emphasis added). Pursuant to the Club Plan, API is not responsible for the operation of the *Solivita* community. Rather, the *Solivita* Community Association, Inc. is responsible for the operation of the community and API owns and operates the Club Facilities. Moreover, under the Club Plan, no member has voting rights and the Club Facilities are not controlled by parcel owners. As a result, all counts predicated upon the application of the HOA Act fail to state cause of action as API is not responsible for the operation of the *Solivita* community and the Club Facility is not subject to a voting membership.

### **Fifth Affirmative Defense**

Section 720.31 of the HOA Act provides as follows:

Recreational leaseholds; right to acquire; escalation clauses.—

(2) If a facility owner receives a bona fide offer to purchase the facilities that he or she intends to consider or make a counteroffer to, his or her only obligations shall be to notify the homeowners’ association that he or she has received an offer, to disclose the price and material terms and conditions upon which he or she would consider selling the facilities, and to consider any offer made by the homeowners’ association. The facility owner shall be under no obligation to sell to the homeowners’ association or to interrupt or delay other negotiations, and he or she shall be free at any time to execute a contract for the sale of the facilities to a party or parties other than the homeowners’ association.

This section specifically contemplates the existence of, and the sale of, recreational facilities that are not owned by the homeowner’s association. The only requirement under the HOA Act is that the facilities owner must notify the homeowner’s association of the offer and

contemplated sale. Accordingly, Plaintiffs' claims fail to state a cause of action as there is simply nothing that would prevent API from owning or selling the Club Facility.

#### **Sixth Affirmative Defense**

Counts I, II, III, IV, VI, VII, VIII, IX, X, XI, and XII are all premised upon Plaintiffs' incorrect proposition that the Club Plan is subject to the provisions of the HOA Act. However, Florida Statutes § 720.402(1)(d) evidences that a developer may construct recreational facilities that are separate and distinct from "common areas" as that term is defined by the HOA Act.<sup>3</sup> Because the HOA Act specifically contemplates such distinct recreational facilities, Plaintiffs have failed to state a cause of action.

#### **Seventh Affirmative Defense**

The original Club Plan and subsequent Club Plan were properly recorded in the public record and provided directly to all original purchasers, including Mann and Gundel, by API. Therefore, at all times, Plaintiffs were on notice and made aware of the requirements of the Club Plan and Plaintiffs knowingly agreed to the same when they purchased their respective parcels in the *Solivita* community. In fact, the Club Plan specifically provides as follows:

4.5 Material Consideration. All persons who shall become owners of any portion of Solivita acknowledge that the provisions and enforceability of this Club Plan were material consideration in the initial conveyance by Developer of such real property to the Owner (or his predecessor in title) and that Developer would not have made such conveyance had this Club Plan not been included and enforceable as provided for herein. Each Owner and Builder acknowledges that the 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 the club

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<sup>3</sup> The term "common area" is defined in the HOA Act at § 720.301 (2) to mean:

all property within a community which is owned or leased by an association or dedicated for use or maintenance by the association or its members, including . . . (a) Real Property the use of which is dedicated to the association or its members by a recorded plat; or (b) Real property committed by a declaration of covenants to be leased or conveyed to the association.

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, effect the enforceability of this Club Plan so long as each Owner and Builder does not pay Club Fees in excess of the amounts provided herein.

Accordingly, Plaintiffs have waived, ratified, and are estopped from bringing any cause of action relative to the Club Plan.

#### **Eighth Affirmative Defense**

Section 29 of the Club Plan provides in relevant part:

EACH OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE CLUB OWNER, 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 CLUB OWNER, 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 CLUB PLAN, OR THE EXHIBITS HERETO . . .

Accordingly, Plaintiffs have waived, ratified, and are estopped from bringing any cause of action relative to the Club Plan.

#### **Ninth Affirmative Defense**

Plaintiffs have all paid the requisite membership fees, expenses, and other charges and fees due and owing pursuant to the Club Plan. Accordingly, Plaintiffs have waived, ratified, and are estopped from bringing any cause of action relative to the Club Plan.

#### **Tenth Affirmative Defense**

Counts I, II, III, IV, and V all purport to assert a cause of action for declaratory relief. In order for a cause of action for declaratory relief to exist, there must be an actual, present, and

practical need for the declaratory relief sought. Here, Plaintiffs are merely seeking legal advice and/or an advisory opinion in their Amended Complaint, rendering such claims inappropriate for declaratory relief. Therefore, Plaintiffs have failed to state a cause of action for declaratory relief.

### **Eleventh Affirmative Defense**

Count V seeks a declaration that the Club Plan creates an invalid perpetual obligation to pay Club Dues. Despite Plaintiffs' claims, the Club Plan creates an enforceable restrictive covenant that runs with the land. Specifically, the covenants contained in the Club Plan are unambiguous, reasonable, and the parties' intent is clear. Florida courts have repeatedly held that such restrictive covenants are valid. *See Bessemer v. Gersten*, 381 So. 2d 1344 (Fla. 1980) (holding a developer in carrying out a uniform plan of development for a residential subdivision may arrange for the provision of services to the subdivision or for the maintenance of facilities devoted to common use, and may bind the purchasers of homes there to pay for them); *Palm Beach County v. Cove Club Investors, LTD*, 734 So. 2d 379 (Fla. 1999) (holding that a private club's right to receive monthly fees paid by lot owners was a property interest running with the land); and *Preserve Grove Isle, LLC v. Grove Isle Yacht & Tennis Club, LLC*, 215 WL 5769084 (Fla. Cir. Ct.) (holding that developer is entitled to set dues at a reasonable amount to ensure a profit); *Citizens Nat. Bank of Orlando v. Shell Oil Co.*, 232 So. 2d 230 (Fla. 4th DCA 1970) (holding that a covenant running with the land that bound the successors and assigns into the future without duration valid); *Winn Dixie Stores, Inc. v. VolgenCorp, Inc.*, 964 So.2d 261 (Fla. 4th DCA 2007) (noting that covenants do not typically have a stated termination point, and holding that absent a specified term or materially changed conditions, a real property covenant running with the land is without duration). Accordingly, Plaintiffs cannot obtain a declaration

that the Club Plan creates an invalid perpetual obligation.

#### **Twelfth Affirmative Defense**

Counts VII and XI both are alleged to arise from FDUTPA. In order to state any violation of FDUTPA, a plaintiff must allege “sufficient facts to show [it] was actually aggrieved by an unfair or deceptive act committed by the seller in the course of trade or commerce” *Merrill Lynch Business Financial Services, Inc. v. Performance Machine Systems U.S.A.*, 2005 WL 975773 (S.D.Fla. Mar. 4, 2005). Here, Plaintiffs cannot establish that they were aggrieved by any conduct on the part of Defendants or the provisions of the Club Plan for the reasons addressed in these affirmative defenses. Namely, the Club Plan is an enforceable restrictive covenant, Plaintiffs were aware of and agreed to the terms of the Club Plan, and the HOA Act does not apply to the facts at issue in this matter. As such, Plaintiffs cannot state any cause of action under FDUTPA.

#### **Thirteenth Affirmative Defense**

To the extent Plaintiffs (or any potential class plaintiffs) are not at least 60 years old and are not disabled, they are unable to seek a civil penalty in the amount of \$15,000.00 for any purported violation of FDUTPA.

#### **Fourteenth Affirmative Defense**

The HOA Act cannot serve as a valid predicate for any alleged violation of FDUTPA as the text of the statute does not, on its face, state that it is to serve as a FDUTPA predicate and there is no authority that the HOA Act operates as an implied FDUTPA predicate. Accordingly, Plaintiffs cannot rely on the HOA Act to establish a FDUTPA predicate.

#### **Fifteenth Affirmative Defense**

The HOA Act provides a statutory limitations period for alleged false and misleading



statements as follows:

- (1) Any person who, in reasonable reliance upon any material statement or information that is false or misleading and published by or under authority from the developer in advertising and promotional materials, including, but not limited to, a contract of purchase, the declaration of covenants, exhibits to a declaration of covenants, brochures, and newspaper advertising, pays anything of value toward the purchase of a parcel in a community located in this state has a cause of action to rescind the contract or collect damages from the developer for his or her loss before the closing of the transaction. After the closing of the transaction, the purchaser has a cause of action against the developer for damages under this section from the time of closing until 1 year after the date upon which the last of the events described in paragraphs (a) through (d) occurs:
  - (a) The closing of the transaction;
  - (b) The issuance by the applicable governmental authority of a certificate of occupancy or other evidence of sufficient completion of construction of the purchaser's residence to allow lawful occupancy of the residence by the purchaser. In counties or municipalities in which certificates of occupancy or other evidences of completion sufficient to allow lawful occupancy are not customarily issued, for the purpose of this section, evidence of lawful occupancy shall be deemed to be given or issued upon the date that such lawful occupancy of the residence may be allowed under prevailing applicable laws, ordinances, or statutes;
  - (c) The completion by the developer of the common areas and such recreational facilities, whether or not the same are common areas, which the developer is obligated to complete or provide under the terms of the written contract, governing documents, or written agreement for purchase or lease of the parcel  
...

Florida Statutes § 720.402(1).

Thus, to the extent Plaintiff's FDUTPA-based claim (or any claim for that matter) arises from any purportedly misleading statement allegedly published by API, such claims are barred under § 720.401(1) as more than one year has passed since all three of the events listed above occurred.

### **Sixteenth Affirmative Defense**

Counts IV, IX and X are all allegedly premised on Plaintiffs' claims that Defendants

breached a fiduciary duty that it owed to Plaintiffs. In support of Plaintiffs' claims, Plaintiffs have alleged that the purported fiduciary duty owed by API arises: (a) by operation of law under the HOA Act; (b) as a matter of fact based on the special relationship between the Defendants and homeowners; or (c) by operation of law and as a matter of fact.

Addressing each in turn, under § 720.303(1) the "officers and directors of an association have a fiduciary relationship to the members who are served by the association." Here, however, neither Defendants are an officer or director of any association relative to this action. Rather, API is simply the Developer of *Solivita* and the owner of the Club Facilities. Therefore, no fiduciary duty is owed by Defendants to Plaintiffs under the HOA Act relative to the Club Facilities.

Next, no "special relationship" exists as a matter of fact between Defendants and Plaintiffs. In order to establish the existence of a fiduciary relationship, "a party must allege some degree of dependency on one side and some degree of undertaking on the other side to advise, counsel, and protect the weaker party." *Welnia, LLC v. Bodymedia, Inc.*, 6:08-cv-742-Orl-31DAB, 2008 WL 3155148, at \* 2 (M.D. Fla. Aug. 4, 2008); *Watkins v. NCNB Nat. Bank of Florida, N.A.*, 622 So. 2d 1063, 1065 (Fla 3rd DCA 1993); *Taylor Woodrow Homes Fla., Inc. v. 4/46-A-Corp*, 850 So. 2d 536, 541-42 (Fla 5th DCA 2003). Here, the Plaintiffs have simply contractually agreed (after arm's length negotiations) to pay the applicable charges and fees as part of their Club Membership and in exchange for receiving access to the Club Facilities and associated amenities. There are no set of facts which would support the notion that Plaintiffs were somehow "dependent" upon Defendants. As a result, Plaintiffs' cause of action for breach of fiduciary duty fails as there is no fiduciary duty owed under law or fact.

### **Seventeenth Affirmative Defense**

Plaintiffs' purported claim for breach of fiduciary duty also fails as Plaintiffs cannot establish a breach of any duty owed for the reasons addressed in these affirmative defenses. Namely, the Club Plan is an enforceable restrictive covenant, Plaintiffs were aware of and agreed to the terms of the Club Plan, and the HOA Act does not apply to the facts at issue in this matter. Consequently, Plaintiffs have failed to state any cognizable breach of any duty which may be owed.

### **Eighteenth Affirmative Defense**

Count X purports to state a cause of action for aiding and abetting breach of fiduciary duty. To plead any cause of action under a theory of aiding and abetting, there must be "(1) an underlying violation on the part of the primary wrongdoer; (2) knowledge of the underlying violation by alleged aider and abettor [sic]; and (3) the rendering of substantial assistance in committing the wrongdoing by the alleged aider and abettor." *Wiand v. Wells Fargo Bank, N.A.*, 938 F. Supp. 2d 1238, 1244 (M.D. Fla. 2013); *Groom v. Bank of Am.*, 8:08-cv-2567-JDW-EAJ, 2012 WL 50250, at \*2, \*4 (M.D. Fla. Jan 9, 2012) (citing *S & B/BIBB Hines PB 3 Joint Venture v. Progress Energy Fla., Inc.*, 365 F. App'x 202, 207 (11th Cir. 2010)); *Hogan v. Provident Life & Accident Ins. Co.*, 665 F. Supp. 2d 1273, 1287 (M.D. Fla. 2009); *see also ZP No. 54 L.P. v. Fidelity & Deposit Co. of Md.*, 917 So. 2d 368, 372 (Fla. 5th DCA 2005) (applying elements of aiding and abetting to common law fraud). Here, Plaintiff cannot plead the existence of any underlying breach of fiduciary duty on the part of the Board of Directors because the Board of Directors of the Solivita Association never administered the terms and provisions of the Club Plan, which was administered by API as owner of the Club Facilities. Further, Plaintiff cannot plead the existence of any underlying breach of fiduciary duty as the Club Plan is an enforceable

restrictive covenant, the Plaintiffs were aware of and agreed to the terms of the Club Plan and the HOA Act does not apply to the facts at issue in this matter. Accordingly, Plaintiffs have failed to state a cause of action for aiding and abetting breach of fiduciary duty.

#### **Nineteenth Affirmative Defense**

Plaintiffs have not alleged, and cannot allege, that Defendants provided the Board of Directors with any substantial assistance in furtherance of any alleged breach of fiduciary duty. Accordingly, Plaintiffs have failed to state a cause of action for aiding and abetting breach of fiduciary duty.

#### **Twentieth Affirmative Defense**

Count X asserts that the Developer “has always controlled the Board of Directors of the homeowners associations.” Second Amended Complaint, ¶ 166. In short, by virtue of this allegation, Plaintiffs are alleging that Defendants are both the primary wrongdoer and the aider and abettor. As a matter of law, Defendants could not have aided and abetted themselves. Accordingly, Plaintiffs have failed to state a cause of action for aiding and abetting breach of fiduciary duty.

#### **Twenty-First Affirmative Defense**

Count XII purports to state a cause of action for unjust enrichment. To state a cause of action for unjust enrichment, Plaintiffs must prove that they: (1) conferred a benefit upon Defendants who have knowledge of that benefit; (2) Defendants accepted and retained the benefit conferred; and (3) under the circumstances it would be inequitable to retain the benefit without paying for it. *Fito v. Attorneys’ Title Ins. Fund, Inc.*, 83 So. 3d 755 (Fla. 3d DCA 2012); *Rollins, Inc. v. Butland*, 951 So. 2d 860, 876 (Fla. 2d DCA 2006). Moreover, “[w]hen a defendant has given adequate consideration to someone for the benefit conferred, a claim of

unjust enrichment fails.” *Am. Safety Ins. Serv., Inc. v. Griggs*, 959 So. 2d 322, 332-33 (Fla. 5th DCA 2007) (noting that the plaintiffs entered into agreements in which both parties received exactly what they bargained for); *see also Behm v. Cape Lumber Co.*, 834 So. 2d 285, 287 (Fla. 2d DCA 2002).

Here, Plaintiffs have not conferred any benefit upon Defendants which would be inequitable for Defendants to retain. Specifically, in consideration for the fees and charges paid to API, API provides Plaintiffs with access to the Club Facilities which includes amenities that Plaintiffs enjoy and would not otherwise have a right to access. Accordingly, Plaintiffs have failed to state a cause of action as API has provided adequate consideration for the benefit provided by Plaintiffs.

#### **Twenty-Second Affirmative Defense**

Additionally, no cause of action for unjust enrichment can exist where an express contract exists between the parties. *Zarella v. Pac. Life Ins. Co.*, 755 F. Supp. 2d 1218, 1227 (S.D. Fla. 2010) (dismissing the plaintiff’s unjust enrichment claim with prejudice) *citing Webster v. Royal Caribbean Cruises, Ltd.*, 124 F. Supp. 2d 1317, 1326–27 (S.D. Fla. 2000)). Because an express contract exists between the parties as to the rights and obligations with respect to Club Membership, the Club Plan, and all fees and charges due and owing thereunder, Plaintiffs cannot state a cause of action for unjust enrichment.

#### **Twenty-Third Affirmative Defense**

Any claim for breach of fiduciary duty or unjust enrichment must be brought within 4 years after the cause of action accrues. Similarly, any claim arising under the HOA Act or FDUTPA must also be brought within 4 years. *See Fla. Stat. § 95.11(3)*. Plaintiff Mann executed his Purchase Agreement—which specifically details the obligations of the mandatory

Club Membership, the Club Plan, and all fees and charges due thereunder—on June 10, 2006. Accordingly, Mann’s claims are barred by the applicable statute of limitations. To the extent that any other potential class member’s claims accrued more than 4 years prior to the institution of this case, such claims are likewise barred.

#### **Twenty-Fourth Affirmative Defense**

Count V is based upon the notion that the Club Plan constitutes an invalid perpetual covenant. Any claim arising from a written contract must be brought within 5 years. *See Fla. Stat. § 95.11(2)(b)*. Plaintiff Mann executed his purchase Agreement—which specifically details the obligations of the mandatory Club Membership, the Club Plan, and all fees and charges due thereunder—on June 10, 2006. Accordingly, Mann’s claim asserting the invalidity of the covenant is barred by the applicable statute of limitations. To the extent that any other potential class member’s claims accrued more than 5 years prior to the institution of this case, such claims are likewise barred.

#### **Twenty-Fifth Affirmative Defense**

Plaintiffs’ claims are barred by the doctrine of laches. The affirmative defense of laches applies where there is a delay in bringing an action which results in “injury, embarrassment, or disadvantage to any person and particularly to the person against whom relief is sought.” *Fort Pierce Bank & Trust Co. v. Sewall*, 152 So. 617, 618 (1934); *Cone v. Benjamin*, 157 Fla. 800 (1946); *Trevett v. Walker*, 89 So. 3d 998, 1000 (Fla. 3d DCA 2012). Here, Plaintiffs have at all times been aware of the Club Plan and the obligations and benefits arising thereunder and have not asserted any claim arising therefrom until the filing of this action. In turn, API has been prejudiced as it spent considerable financial resources and efforts developing and maintaining the Club Facilities in exchange for Plaintiffs’ agreement to pay the subject Club Dues. Plaintiffs

paid the subject dues and only now, after API entered into an agreement with the CDD, have Plaintiffs contested the fees. API has also entered into an agreement with the CDDs to sell the Club Facilities to the CDDs which is being frustrated. Accordingly, Plaintiffs' claims are barred by the doctrine of laches as Plaintiffs' delay in bringing this action has resulted in significant prejudice to API.

#### **Twenty-Sixth Affirmative Defense**

API caused the Club Facilities to be constructed at its sole cost and expense. To the extent it is forced to turn over the Club Facilities, the Homeowners will be unjustly enriched at the expense of API as the costs of the Club Facilities were not contemplated in the purchase price of the respective parcels when they were originally sold by API.

#### **Twenty-Seventh Affirmative Defense**

The continuing right to collect applicable Membership Fees and Membership Dues relative to the Club Facilities constitutes a vested property right in favor of API. *Cove Club Investors*, 734 So. 2d at 390. To hold otherwise would deprive API "of an inherent property interest without full and fair compensation as guaranteed under the Florida Constitution." *Id.*

#### **Twenty-Eighth Affirmative Defense**

"A developer, in carrying out a uniform plan of development for a residential subdivision, may arrange for the . . . maintenance of facilities devoted to common use, and may bind the purchasers of the homes there to pay for them." *Bessemer*, 381 So. 2d at 1347-1348. In accepting a deed with actual or constructive notice of such a covenant, the Plaintiffs manifested an intent to let their parcels stand as security for their obligations and a valid contractual lien was created at this time. *Id.* at 1348. Thus, the creation of the lien by acceptance of the deed relates back to the time of filing the original Club Plan. *Id.* The

acquisition of homestead status does not defeat prior liens and, thus, cannot be used to defeat any liens arising from the failure to pay any applicable Club Dues or Membership Fees. *Id.* Accordingly, to the extent Plaintiffs' claims are based on API's ability to create and enforce a lien on homestead property, Plaintiffs' claims fail to state a cause of action.

#### **Twenty-Ninth Affirmative Defense**

Because Taylor did not purchase her parcels directly from API, Taylor's claim are different from and subject to different defenses than those putative class members that purchased their parcel(s) directly from API. Accordingly, Taylor cannot adequately represent the proposed class. Therefore, Taylor has failed to state a claim on behalf of a class.

#### **Thirtieth Affirmative Defense**

The named Plaintiffs have never had a lien filed against their respective parcels pursuant to the Club Plan. Accordingly, the named Plaintiffs lack standing to bring any claim predicated upon any lien imposed by virtue of any failure to pay the applicable Club Due and Fees.

#### **Thirty-First Affirmative Defense**

The named Plaintiffs have never had a lien filed against their respective parcels pursuant to the Club Plan. Accordingly, Plaintiffs cannot adequately represent the proposed class. Therefore, Plaintiffs have failed to state a claim on behalf of a class.

#### **Thirty-Second Affirmative Defense**

Plaintiff Mann's claims are all barred by the statute of limitations. Therefore, he cannot adequately represent the proposed class.

#### **Thirty-Third Affirmative Defense**

Highly individualized issues exists with respect to the proposed class including, but not limited to: (1) the application of the statute of limitations; (2) whether the individual putative



plaintiffs purchased their respective parcel(s) directly from API or from a intervening owner and the resulting varying purchase agreements; (3) each putative class member's respective age and any potential disability so as to calculate any potential application of the damages provided for in § 501.277(2); (4) the amounts paid by each individual putative class member under the Club Plan; (5) whether each individual is a current or prior parcel owner; (6) whether and to what extent the individual class plaintiffs were somehow dependent upon API so as to possibly assert any breach of fiduciary duty claim; (7) whether the individual class plaintiffs have had a lien filed against their respective parcel(s); and (8) whether each individual parcel is subject to the Homestead exemption. Accordingly, this matter is not appropriate for class-wide treatment as significant individual determinations will have to be made as to each of the putative class plaintiffs, precluding any finding of commonality, typicality, predominance, or superiority.

#### **Thirty-Fourth Affirmative Defense**

Plaintiff's class definition includes individuals who are no longer parcel owners. These individuals would be unable to state any claim for declaratory relief as they do not possess a present or practical need for any declaratory relief. Accordingly, any prior owners are unable to state a cause of action for declaratory relief.

#### **Thirty-Fifth Affirmative Defense**

To the extent that prior parcel owners are unable to state a cause of action for declaratory relief, Plaintiffs' proposed class definition fails as the causes of action presented in the amended complaint would not apply uniformly to the putative class members.

#### **DEFENDANTS' REQUEST FOR RELIEF**

WHEREFORE, Defendants, AV Homes, Inc. and Avatar Properties Inc. respectfully request that this Court deny Plaintiffs the relief they seek, dismiss the claims asserted against

Defendants, deny certification, grant Defendants their reasonable attorneys' fees and costs incurred in this action pursuant to §§ 15 and 17.7 of the Club Plan, and granting such other relief as the Court deems just and proper.

### **AVATAR PROPERTIES, INC.'S COUNTERCLAIM**

Avatar Properties Inc., ("API" or "Counter-Plaintiff") hereby files the following Counterclaim against Plaintiffs/Counter-Defendants, Norman Gundel ("Gundel"), William Mann ("Mann"), and Brenda Taylor ("Taylor") (collectively, the "Plaintiffs" or "Counter-Defendants") and states as follows:

#### **PARTIES, JURISDICTION, AND VENUE**

1. API is incorporated in Florida and conducts business within the state of Florida.
2. Upon information and belief, Counter-Defendants are all residents of Polk County, Florida. Each Counter-Defendant owns a residential parcel(s) in a community named *Solivita*, which is located in Polk County, Florida.
3. Venue is proper in this Court as the facts at issue in this Counterclaim arise from the same set of facts at issue in the Second Amended Complaint filed in this case by Counter-Defendants and in the related bond issuance case previously pending in this Court and assigned number 2017-CA-004023 (the "Bond Validation Case"). Moreover, the facts alleged in this Counterclaim occurred in Polk County, Florida.
4. All conditions precedent to this Counterclaim have been satisfied or waived.

#### **FACTUAL ALLEGATIONS The Club Plan and Club Facilities**

5. API is the developer of *Solivita*, a life-style community for individuals 55 and older. Each Counter-Defendant owns a residential parcel(s) in *Solivita*.

6. As part of the overall development and as an investment by API, API paid for and caused to be constructed (at its sole cost and expense) first-class recreational amenities that are located within *Solivita* (the “Club Facilities”). The Club Facilities comprise numerous amenities including, but not limited to, a spa and fitness center, dining venues, indoor and outdoor pools, parks, tennis courts, bocce courts, and pickleball courts. The Club Facilities are located throughout *Solivita* and are in addition to other commercial facilities operated by API in the community, including two (2) golf courses, as well as API’s sales and administrative center. Additional commercial uses in the community operated by third-party tenants include a bank and pharmacy. The Club Facilities are not Common Areas of *Solivita* as defined in the Master Declaration.

7. On August 10, 2000, before selling any homes in *Solivita*, API recorded a Club Plan in Official Record Book 4510 at Page 1529, of the Public Records of Polk County, Florida (the “Original Club Plan”).

8. On December 27, 2013, after several amendments to the Original Club Plan that are not germane to the issues in this Counterclaim, API recorded the Amended and Restated Club Plan in Official Record Book 9142 at Page 1678, of the Public Records of Polk County, Florida<sup>4</sup> (the “Club Plan”). A true and correct copy of the Club Plan is attached hereto as Exhibit “A.”

9. In recognition of API’s substantial investment in causing the Club Facilities to be constructed, the Club Plan provides as follows:

4.5 Material Consideration. All persons who shall become owners of any portion of *Solivita* acknowledge that the provisions and enforceability of this Club Plan were a material consideration in the initial conveyance by Developer of such

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<sup>4</sup> All pertinent portions of the Original Club Plan and the Amended and Restated Club Plan remained substantively unchanged.

real property to the Owner (or his predecessor in title) and that Developer would not have made such conveyance had this Club Plan not been included and enforceable as provided for herein. ***Each Owner and Builder acknowledges that the 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 the 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, effect the enforceability of this Club Plan so long as each Owner and Builder does not pay Club Fees in excess of the amounts provided herein.

(Emphasis added).

10. The Club Plan also makes it clear that API constructed the Club Facilities at its own expense and would remain the owner of the Club Facilities:

5.1 Club Property. Club Owner<sup>5</sup> presently owns all of the real property comprising the Club Property . . .

5.2 Club Facilities. Club Owner has constructed 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 . . .

5.3 Construction of the Club. Club Owner has constructed the Club Facilities at its sole costs and expense . . .

11. The Club Plan also makes it clear that API has the right to sell the Club Facilities to any person or entity at its absolute discretion at any time. Exhibit “A,” § 7.2.

12. In turn, the value the homeowners receive by virtue of the Club Facilities is addressed in the Club Plan as follows:

4.4 Value: By acceptance of a Deed, each grantee of any portion of Solivita upon which a Home may be (or has been) constructed hereby joins in the execution of this Club Plan for the purpose of binding himself, his successors in title and assigns to the provisions hereof and expressly acknowledges that the automatic membership in the Club granted to Owners and Lessees renders ownership in Solivita any part thereof more valuable that it would be otherwise.

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<sup>5</sup> “Club Owner” is defined in the Club Plan as the owner of the real property comprising the Club Facilities. At all times pertinent herein, API has been the Club Owner.

4.6 Best Interests: It is in the best interest of each Owner, for Solivita as a whole, and for property values therein, to provide for the Club to be located within Solivita.

4.7 Product Purchased: There were significant other housing opportunities available to each Owner in the general location of Solivita. The Home, and rights to utilize the Club, were material in each Owner's decision to purchase a Home in Solivita and were, for the purposes of the Club Plan a "single product." Each Owner understands that the Club is an integral part of Solivita.

13. The Club Plan also provides that, in exchange for the benefit provided by API, each residential parcel owner would pay the Club Dues associated with the Club Facilities, including the Club Membership Fees. See Exhibit "A," § 8. An Exhibit to the Club Plan even included a fee schedule, specifying the Club Membership Fee applicable to each particular residential parcel. Thus, the requirement to pay the fees associated with the Club and the amount of the Club Membership Fee were known at all times.

14. As a result of the significant investment made by API and the value received by the homeowners and *Solvita* as a whole, the obligation to pay the Club Dues is perpetual. Exhibit "A," § 8.5.

15. The Club Plan further provides that full disclosure of the Club and the obligations associated therewith was made to each owner prior to the execution of their respective Purchase and Sale Agreements and that each owner had an opportunity to consult with an attorney. Exhibit "A," § 4.8.

16. The material nature of the terms of the Club Plan was also stressed, as the Club Plan explicitly states in emphasized text:

29. Release. BEFORE ACCEPTING A DEED TO A HOME, EACH OWNER HAS AN OBLIGATION TO RETAIN AN ATTORNEY IN ORDER TO CONFIRM THE VALIDITY OF THIS CLUB PLAN. BY ACCEPTING A DEED TO A HOME, EACH OWNER ACKNOWLEDGES THAT HE HAS SOUGHT (OR HAD TITLE OPTION TO SEEK) AND RECEIVED (OR DECLINED TO OBTAIN) SUCH AN OPINION OR HAS MADE AN

AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. CLUB OWNER IS RELYING ON EACH OWNER CONFIRMING IN ADVANCE OF ACQUIRING A HOME THAT THIS CLUB PLAN IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO CLUB OWNER. ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EACH OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THIS CLUB PLAN IS INVALID IN ANY RESPECT . . .

Exhibit “A,” § 29.

17. The Club Plan specifies that its terms, including the obligation to pay Club Dues, shall run with the land and, by accepting a deed to any home in *Solivita*, the homeowner agrees to pay all Club Dues. Exhibit “A,” § 4.2.

18. Section 15 of the Club Plan provides that “[i]f at any time Club Owner must enforce any provision hereof, Club Owner shall be entitled to recover all of its costs and attorneys’ and professional fees at all levels, including appeals, collections, and bankruptcy.”

19. Similarly, § 17.7 of the Club Plan provides that:

Should any Member bring suit against Club Owner or Club Manager or any of the Indemnified Parties for any claim or matter and fail to obtain a judgment therein against such Indemnified Parties, the Member shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorneys’ fees and paraprofessional fees at trial and upon appeal.

### **The *Solivita* Master Declaration**

20. Prior to selling any homes, API also recorded an Original Master Declaration for *Solivita* in Official Record Book 4510 at Page 1576 in the Public Records of Polk County, Florida (the “Original Declaration”). There was also a Master Declaration for *Solivita* West recorded in Official Records Books 6774 at page 294 of the Public Records of Polk County, Florida (the “*Solivita* West Declaration”).

21. On December 27, 2013, an Amended and Restated Master Declaration for *Solivita* was filed in Official Record Book 9142 at page 1843 in the Public Records of Polk County (the

“Amended Declaration”). A true and correct copy of the Amended Declaration is attached hereto as Exhibit “B.” The Amended Declaration merged the *Solivita* West Declaration into the Amended Declaration.

22. The Amended Declaration incorporates the provisions of the Club Plan as follows:

17.7. Club Plan. Association and each Home Owner, where applicable, shall be bound by and comply with the Club Plan which is incorporated herein by reference. Although the Club Plan is an exhibit to this Master Declaration, the Association Documents are subordinate and inferior to the Club Plan. In the event of any conflict between the Club Plan and the Association Documents, the Club Plan shall control.<sup>6</sup>

### **The Individual Purchase and Sale Agreements**

23. On December 13, 2013, Gundel (along with his spouse, Lynn Gundel) entered into a Purchase and Sale Agreement with API for the purchase of a residential parcel in *Solivita* (the “Gundel Purchase and Sale Agreement”). A true and correct copy of the Gundel Purchase and Sale Agreement is attached hereto as Exhibit “C.” As part of the Gundel Purchase and Sale Agreement, Gundel executed a *Solivita* West Community Addendum (the “Addendum”), a true and correct copy of which is attached hereto as Exhibit “D.” The Addendum executed by Gundel specifically provides that membership in the Club is mandatory pursuant to the Club Plan and that Gundel “understands and agrees that all sums due pursuant to the Club Plan in regard to the Club are direct obligations of Buyer and a failure to pay Club Dues when due could cause the Club Owner to record a lien on the Home . . .”. Exhibit “D,” § 5.1.

24. By executing the Addendum, Gundel further acknowledged that “the Club Plan provides that each Owner becomes directly liable for Club Dues, including Club Membership

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<sup>6</sup> The Original Declaration contained a similar provision; however, the Master Declaration has always been subordinate to the Club Plan.

Fees to be paid to the Club Owner, as all set forth in the Club Plan . . .”. Exhibit “D”, § 5.4. The Addendum additionally provides an estimate of the Club Dues per month. Exhibit “D,” § 7.4.

25. Gundel also acknowledged and agreed that: (1) the terms of the Club Plan and the charges imposed thereby are fair and reasonable given the nature of the amenities provided; (2) there were other housing opportunities available to Gundel at the time of his purchase; (3) the Club Facilities and right to use the Club Facilities are important to Gundel; (4) the provisions of the Club Plan do not grant any ownership rights in the Club in favor of the Homeowners’ Association or Gundel; and (5) API may sell the Club to any person or entity at any time.

26. Upon executing the Gundel Purchase and Sale Agreement, Gundel acknowledged receipt of the Addendum and agreed that the Purchase and Sale Agreement and each Addendum thereto constituted the entire agreement between the parties.

27. Gundel also executed a *Solivita* West Disclosure Summary, which further specified the amount Gundel is required to pay per month in Club Dues. A true and correct copy of the *Solivita* West Disclosure Summary executed by Gundel is attached hereto as Exhibit “E.”

28. On June 10, 2006, Mann (along with his spouse, Gail Mann), entered into a Purchase and Sale Agreement with API for a residential parcel in *Solivita* (the “Mann Purchase and Sale Agreement”). A true and correct copy of the Mann Purchase and Sale Agreement is attached hereto as Exhibit “F.” By executing the Mann Purchase and Sale Agreement, Mann acknowledged the mandatory nature of Club membership, including the requirement to pay Club Dues and a Club Membership Fee as defined in the Club Plan. Exhibit “F,” § 12.3.

29. Mann further acknowledged that: (1) the terms of the Club Plan and the charges imposed thereby are fair and reasonable given the nature of the amenities provided; (2) there were other housing opportunities available to Mann at the time of his purchase; (3) the Club



Facilities and right to use the Club Facilities are important to Mann; and (4) the provisions of the Club Plan do not grant any ownership rights in the Club in favor of the Homeowners' Association or Mann. Exhibit "F," § 12.3.3.

30. Mann also executed a Disclosure Statement for *Solivita* West, which further specified the amount Mann is required to pay per month in Club Dues. A true and correct copy of the *Solivita* West Disclosure Summary executed by Mann is attached hereto as Exhibit "G."

31. Taylor purchased multiple residential parcels in *Solivita* from various previous owners. By accepting a deed to each of these parcels, Taylor became bound by the Club Plan by virtue of the automatic membership provided for in § 4.2 of the Club Plan.

#### **API's Contract with Poinciana Community Development District**

32. On December 15, 2016, API entered into an agreement with the Poinciana Community Development District (the "CDD") pursuant to which API agreed to sell the Club Facilities and accompanying real property to the CDD for \$73.7 million. A true and correct copy of this agreement is attached hereto as Exhibit "H".<sup>7</sup>

33. In furtherance of this objective, the CDD filed in the Bond Validation Case a Complaint Seeking Validation of Poinciana Community Development District Special Assessment Bonds in an Aggregate Principal Amount Not to Exceed \$102,000,000 (the "Bond Validation Complaint"). Approval of the Bond Validation is necessary for the CDD and API to consummate the sale of the Club Facilities.

35. After holding an evidentiary hearing on August 31, 2017, Judge McDonald, who presided over the Bond Validation Case, entered his Final Judgment Not Validating and Not Confirming Bond Issuance Herein Described for Failing to Properly Apportion the Special

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<sup>7</sup> There were amendments to this agreement, but the amendments are not pertinent to the issues presented here.

Assessment Among the Real Properties Specially Benefited. The Order noted that the Court's decision was not based upon any ruling as to the legality of the Club Plan or Club Dues "as privately contracted between [API] and Solivita Homeowners" as this issue is collateral to the Bond Validation Case. Accordingly, the Court specifically declined to address this issue in the Bond Validation Case.

### **Conduct by the Counter-Defendants**

36. Throughout the duration of the anticipated sale, Counter-Defendants engaged in extra-judicial conduct aimed at frustrating API's sale of the Club Facilities to the CDD. For example, the Counter-Defendants posted misleading information on *Solivita's* "Next Door" Blog and began handing out fliers to residents that included inaccurate information and contesting API's right to collect Club Dues.

37. Counter-Defendant Gundel also attended at least three meetings of the Jewish Philosophy Club (on February 2, 2017, March 10, 2017, and March 17, 2017) contesting API's right to sell the Club Facilities to the CDDs for the negotiated price because of Counter-Defendants (inaccurate) position that API should not be allowed to collect Club Dues.

38. Counter-Defendants also asked residents to sign petitions contesting API's right to sell the Club Facilities, with some residents complaining that they were being "bullied" to sign the petition.

### **This Current Action**

39. By virtue of this action, Counter-Defendants are continuing to frustrate API's contractual interests by attacking the validity of the Club Plan and arguing that the Club Membership Fee—which they all knowingly agreed to—is an unconscionable attempt by API to create a privately collectable tax.

40. API has retained the undersigned attorneys and is obligated to pay them a fee for the services rendered.

### **Count I- Breach of Contract**

41. API re-alleges and reincorporates allegations 1-38 above as if fully set forth herein.

42. By virtue of the Club Plan, the Counter-Defendants' respective Purchase and Sale Agreements, Addendums, applicable Disclosures, and Deeds, the Counter-Defendants each entered into a contractual agreement with API and stand in contractual privity with API.

43. As part of their contractual agreements, the Counter-Defendants agreed: (1) to mandatory membership in the Club; (2) to pay the applicable Club Dues including Club Membership Fees; (3) that API is the owner of the Club Facilities; (4) that API could sell the Club Facilities at its sole discretion; (5) the Club Plan is valid and enforceable; (6) the Club Plan is a covenant running with the land; (7) Counter-Defendants would not take the position that the Club Plan was invalid; and (8) the Club Plan granted no rights of ownership in the Club Facilities in favor of the Homeowners' Association. These covenants survived the closing of the individual parcels.

44. These terms were and are material to API and API would not have made such a substantial investment in the Club Facilities or caused the Club Facilities to be constructed without these covenants.

45. Counter-Defendants have breached the terms of their contractual agreements with API by actively and vocally contesting the validity and enforceability of: (1) the mandatory nature of the membership in the Club; (2) the Club Dues and Membership Fees; and (3) API's right to sell the Club Facilities at its sole discretion.

46. As a direct and proximate result of Counter-Defendants' breaches, API has suffered damages, including, but not limited to, increased attorneys' fees in the Bond Validation case, as well as the delay, frustration, and potential loss of the planned sale to the CDD.

47. API's reputation has also been damaged as a result of Counter-Defendants' breaches.

WHEREFORE, API demands judgment in its favor awarding all damages suffered, awarding its reasonable attorneys' fees and costs incurred in this action pursuant to §§ 15 and 17.7 of the Club Plan, and granting such other relief as the Court deems just and proper. API reserves its right to seek leave to amend its Counterclaim to seek an award of punitive damages.

#### **Count II- Breach of Affirmative Covenant**

48. API re-alleges and reincorporates allegations 1-40 above as if fully set forth herein.

49. The Club Plan establishes an enforceable Affirmative Covenant running with the land. As such, the Club Plan is enforceable against direct and remote grantees.

50. Specifically, the Club Plan is in writing and recorded and all original deeds from API to the individual owners of residential lots in *Solivita* contain a reference to the Club Plan.

51. Pursuant to § 4.3 of the Club Plan, the grantor of any portion of *Solivita* agreed to include in any Deed to a subsequent purchaser a statement that such Deed is subject to the terms of the Club Plan.

52. The Club Plan was recorded in the public records of Polk County, Florida, thereby providing constructive notice of the same to potential subsequent purchasers. Moreover,

the Disclosures associated with the Purchase and Sale Agreements, and all original Deeds from API to the owners of residential lots in *Solivita* contain a reference to the Club Plan.

53. The fact that API intended the requirements of the Club Plan to run with the land can be discerned from the documents governing *Solivita* as follows:

i. “This Club Plan is a covenant running with all of the land.” Exhibit “A,” Recitals H.

ii. “Every portion of Solivita which can be improved with a Home shall be burdened with the payment of Club Dues. This Club Plan including ... the obligation to pay Club Dues, shall run with the land.” Exhibit “A,” § 4.2.

iii. “By acceptance of a Deed, each grantee of any portion of Solivita upon which a Home may be (or has been) constructed hereby join in the execution of this Club Plan for the purpose of binding himself, his successors in title and assigns to the provision hereof...” Exhibit “A,” § 4.4.

54. There was also a uniform plan of development with benefits corresponding to the burden of the Club Plan, in that all of the lots in the subdivision were to be charged for the use of the Club Facilities, and API was bound to provide the Club Facilities as a significant benefit of the owners of property within.

55. The covenants set forth in the Club Plan enhance the value and enjoyment of the property. As a result, it touches and concerns the land. This fact was agreed to and acknowledged by all original purchasers as they all acknowledged that the Club Facilities enhance the value of their property in their respective Purchase and Sale Agreements and accompanying addendums. For example, upon executing their respective *Solivita* West Addendums, buyers agreed:

“By accepting a Deed to the Home, Buyer acknowledges that: (i) it is in the best interest of Buyer, Association, and the Community, as a whole, and property values therein, to provide for the Club to be located within the Community.... (iii) there were significant other housing opportunities available to the Buyer in the general location of the Community, both with and without a Club; (iv) the Club, and the right to use the Club were, for purposes of this acknowledgment, important to the Buyer and Buyer would not have purchased the Lot or Home without the right to use the Club....”

Exhibit “D,” § 5.5; *see also* Exhibit “F,” § 12.3.3.

56. Counter-Defendants have breached this Affirmative Covenant running with the land by contesting the validity of the Club Plan, API’s right to collect Club Dues, and API’s right to sell the Club Facilities.

WHEREFORE, API demands judgment in its favor awarding all damages suffered, awarding its reasonable attorneys’ fees and costs incurred in this action pursuant to §§ 15 and 17.7 of the Club Plan, and granting such other relief as the Court deems just and proper. API reserves its right to seek leave to amend its Counterclaim to seek an award of punitive damages.

### **Count III – Declaratory Judgment**

57. API re-alleges and reincorporates allegations 1-40 above as if fully set forth herein.

58. API seeks a Declaratory Judgment that the Club Facilities (and the fees associated therewith) are not subject to the HOA Act, which Act specifically states that it does not apply to parcels—like the Club Facilities—that are “commercial or industrial parcels in a community that contains both residential parcels and parcels intended for commercial or industrial use.” Fla. Stat. § 720.302(3)(b).

59. API further seeks a declaration that API, a for-profit corporation that is not responsible for the common areas of the residential portion of *Solivita*, is not a homeowners’ association.

60. There is a bona fide, actual, present, and practical need for the declaration.

61. The declaration sought herein deals with a present, ascertained or ascertainable state of facts and present controversy as to a state of facts in that Counter-Defendants are contesting API's—a for-profit corporation's ability—to collect fees in exchange for providing the Club Facilities that it paid for at its own substantial expense.

62. API's ability to own the Club Facilities and collect fees relative to the same depends on the application of this exemption to the HOA Act and a determination that API is not a homeowners' association.

63. Counter-Defendants have antagonistic and averse interests in the subject matter as they assert that the HOA Act applies.

64. The antagonistic and adverse interests are all before the Court.

WHEREFORE, API seeks a declaration that the Club Facilities is not subject to the purview of the HOA Act, that API is not a homeowners' association, a judgment awarding its reasonable attorneys' fees and costs incurred in this action pursuant to § 15 of the Club Plan, and granting such other relief as the Court deems just and proper.

#### **Count IV- Tortious Interference with Contractual Relations**

65. API re-alleges and reincorporates allegations 1-40 above as if fully set forth herein.

66. API entered into a valid and binding contract with the CDD pursuant to which it agreed to sell the Club Facilities to the CDD.

67. Counter-Defendants unjustifiably interfered with API's agreement with the CDD by contesting the enforceability of the Club Plan and right to collect Membership Fees despite acknowledging its enforceability (including API's right to sell the Club Facilities) at the time

they purchased their respective parcels and agreeing not to contest the enforceability of the Club Plan.

68. API has been damaged as a result of Counter-Defendant's unjustified interference by virtue of the resulting delay, frustration, and possible inability to sell the Club Facilities to the CDD.

WHEREFORE, API demands judgment in its favor awarding all damages suffered, awarding its reasonable attorneys' fees and costs incurred in this action pursuant to §§ 15 and 17.7 of the Club Plan, and granting such other relief as the Court deems just and proper. API reserves its right to seek leave to amend its Counterclaim to seek punitive damages as a result of Counter-Defendants unjustified interference.

/s/ Daniel J. Fleming

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ATTORNEYS FOR DEFENDANTS

### **CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy hereof was electronically served using the Florida Courts E-Filing Portal, on: J. Daniel Clark ([dclark@clarkmartino.com](mailto:dclark@clarkmartino.com); [rsmith@clarkmartino.com](mailto:rsmith@clarkmartino.com); and [jliza@clarkmartino.com](mailto:jliza@clarkmartino.com)), Clark & Martino, P.A., 3407 W. Kennedy Boulevard, Tampa, FL 33609; J. Carter Anderson,, Michelle R. Drab and Harold Holder ([canderson@bushross.com](mailto:canderson@bushross.com); [kpomponio@bushross.com](mailto:kpomponio@bushross.com); [mdrab@bushross.com](mailto:mdrab@bushross.com); [colson@bushross.com](mailto:colson@bushross.com); [hholder@bushross.com](mailto:hholder@bushross.com); [avianeuva@busross.com](mailto:avianeuva@busross.com), on this 29<sup>th</sup> day of September, 2017.

/s/ Daniel J. Fleming

Daniel J. Fleming, Esq.



# **EXHIBIT A**



INSTR # 2013235601  
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**AMENDED AND RESTATED SOLIVITA™ CLUB PLAN**

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## AMENDED AND RESTATED SOLIVITA™ CLUB PLAN

THIS AMENDED AND RESTATED SOLIVITA™ CLUB PLAN (this “Club Plan”) is made by Avatar Properties Inc., a Florida corporation (“Club Owner”).

### RECITALS:

A. Club Owner is the Developer of the community known as Solivita™ as currently legally described on Exhibit A attached hereto and made a part hereof.

B. Club owner recorded that certain Solivita Club Plan on August 10, 2000 in Official Records Book 4510 at Page 1529, of the Public Records of Polk County, Florida (the “Original Club Plan”). The Original Club Plan was thereafter amended by Club Owner as follows:

1. First Amendment to Solivita Club Plan recorded in Official Records Book 4804 at Page 2005;
2. Second Amendment to Solivita Club Plan recorded in Official Records Book 4824 at Page 1091;
3. Third Amendment to Solivita Club Plan recorded in Official Records Book 7665 at Page 40; and
4. Fourth Amendment to Solivita Club Plan recorded in Official Records Book 8287 at Page 1178

(collectively, the “Original Club Plan Amendments”).

C. The Original Club Plan was also recorded as an exhibit to the following declarations (as amended, the “Initial Declarations”):

1. Solivita Declaration recorded in Official Records Book 4510 at Page 1576 in the Public Records of Polk County, Florida. Club Owner thereafter recorded a number of amendments and then recorded that certain Amended and Restated Solivita Declaration in Official Records Book 7191 at Page 1224. Club Owner thereafter amended the Amended and Restated Solivita Declaration by the following instruments:

- i. First Amendment to Amended and Restated Solivita Declaration recorded in Official Records Book 7364 at Page 1475 in the Public Records of Polk County, Florida.
- ii. Second Amendment to Amended and Restated Solivita Declaration recorded in Official Records Book 7393 at Page 400 in the Public Records of Polk County, Florida.

iii. Third Amendment to Amended and Restated Solivita Declaration recorded in Official Records Book 8068 at Page 1802 in the Public Records of Polk County, Florida.

iv. Fourth Amendment to Amended and Restated Solivita Declaration recorded in Official Records Book 8631 at Page 2212 in the Public Records of Polk County, Florida.

2. Declaration for Solivita West recorded in Official Records Book 6774, at Page 294 in the Public Records of Polk County, Florida, and thereafter amended by the following instruments:

i. First Amendment to Declaration for Solivita West recorded in Official Records Book 7393 at Page 407 in the Public Records of Polk County, Florida.

ii. Second Amendment to Declaration for Solivita West recorded in Official Records Book 8068 at Page 1799 in the Public Records of Polk County, Florida.

iii. Third Amendment to Declaration for Solivita West recorded in Official Records Book 8631 at Page 2215 in the Public Records of Polk County, Florida.

D. The Initial Declarations were subsequently replaced by that certain Amended and Restated Master Declaration for Solivita™ recorded immediately after this Club Plan (the "Master Declaration"). All references in the Master Declaration to the Club Plan are references to this document.

E. The Original Club Plan was also supplemented by the following Membership Fee Schedules (collectively, the "Original Membership Fee Schedules"):

1. Solivita Club Membership Fee Schedule Solivita Phase 1, recorded in Official Records Book 4514 at Page 1753;

2. Solivita Club Membership Fee Schedule Solivita Phase 1D, recorded in Official Records Book 5444 at Page 1086;

3. Solivita Club Membership Fee Schedule Solivita Phase 1E, recorded in Official Records Book 6049 at Page 1090;

4. Solivita Club Membership Fee Schedule Solivita Phase 1H, being recorded immediately prior to this Club Plan.

5. Solivita Club Membership Fee Schedule Solivita Phase IIA, recorded in Official Records Book 4804 at Page 2008;

6. Solivita Club Membership Fee Schedule Solivita Phase IIB, recorded in Official Records Book 4824 at Page 1094;
7. Solivita Club Membership Fee Schedule Solivita Phase IIC and IID, recorded in Official Records Book 5123 at Page 1942;
8. Solivita Club Membership Fee Schedule Solivita Phase IIIA, recorded in Official Records Book 5941 at Page 461;
9. Solivita Club Membership Fee Schedule Solivita Phase IIIB and VIA, recorded in Official Records Book 6358 at Page 115;
10. Solivita Club Membership Fee Schedule Solivita Phase IVA, recorded in Official Records Book 5148 at Page 1041;
11. Solivita Club Membership Fee Schedule Solivita Phase IVB, recorded in Official Records Book 5295 at Page 1527;
12. Solivita Club Membership Fee Schedule Solivita Phase IVC Section 1, recorded in Official Records Book 5700 at Page 2132;
13. Solivita Club Membership Fee Schedule Solivita Phase IVC Section 2, recorded in Official Records Book 5720 at Page 1894;
14. Solivita Club Membership Fee Schedule Solivita Phase 5F, recorded in Official Records Book 7717 at Page 618;
15. Solivita Club Membership Fee Schedule Solivita Phase 5F – Unit 1, recorded in Official Records Book 9088 at Page 1377;
16. Solivita Club Membership Fee Schedule Solivita Phase VIB, recorded in Official Records Book 6467 at Page 146;
17. Solivita Club Membership Fee Schedule Solivita Phases 7A, 7B1, 7B2, 7C and 7D, recorded in Official Records Book 6914 at Page 842;
18. Solivita Club Membership Fee Schedule Solivita Phase 7G-1, recorded in Official Records Book 7871 at Page 124; and
19. Solivita Club Membership Fee Schedule Solivita Phase 7G – Unit 1, recorded in Official Records Book 9088 at Page 1372.

F. This Club Plan replaces entirely the Original Club Plan, the Original Club Plan Amendments and the Original Membership Fee Schedules.

G. This Club Plan governs the Solivita Club.



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

NOW, THEREFORE, Club Owner, in consideration of the promises and mutual covenants contained in this Club Plan, hereby declares that this Club Plan shall apply to every portion of Solivita.

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

2. This Club Plan. This Club Plan completely supersedes and replaces entirely the Original Club Plan, the Original Club Plan Amendments, the Original Club Plans attached to the Initial Declarations and the Original Membership Fee Schedules.

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

“Adjacent Facilities” shall have the meaning set forth in Section 12 herein.

“Assessments” shall have the meaning set forth in the Declaration.

“Association” shall mean the Solivita Community Association, Inc., its successors and assigns.

“Avatar” shall mean Avatar Properties Inc., and its successors or assigns.

“Board” shall mean the Board of Directors of Association.

“Budget” shall have the meaning set forth in Section 10 hereof.

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

“Capital Contribution” shall have the meaning set forth in Section 9 hereof.

“Club” shall mean the Solivita Club, the real property comprising the Club and all facilities constructed thereon subject to additions 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 (*i.e.*, satellite pool facilities).

“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.

“Club Expenses” shall mean all costs (as such term is used in its broadest sense) of owning (including Club Owner’s debt service and depreciation), operating, managing, maintaining, insuring the Club, whether direct or indirect including, but not limited to trash

collection, utility 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, casualty and business interruption insurance (with such deductibles as Club Owner deems appropriate); real property taxes, personal property taxes and taxing and community development district assessments; 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 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 SUBJECT TO CHANGE AT ANY TIME.

“Club Manager” shall mean the entity operating and managing the Club from time to time. Club Owner may be Club Manager.

“Club Membership Fee” shall mean the fee to be paid to Club Owner by each Owner pursuant to the provisions of Section 8.2 hereof.

“Club Membership Fee Schedule” shall have the meaning set forth in Section 8.2 hereof.

“Club Owner” shall mean the owner of the real property 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 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 Properties Inc. is Club Owner. Club Owner may change from time to time (*e.g.*, Club Owner 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 or partner 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 Plan, together with all amendments and modifications hereto.

“Club Property” shall include any real property designated by Club Owner as part of the Club Property by amendment to this Club Plan.

“Common Areas” shall have the meaning set forth in the Declaration.

“Community Completion Date” shall have the meaning set forth in the Declaration.

“Developer” shall have the meaning set forth in the Declaration.

“Declaration” shall mean the Master Declaration, as such Master 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 Solivita 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.

“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.

“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 Solivita. An Owner and Lessee shall be jointly and severally liable for all Club Dues.

“Member” shall mean each resident of a Home (up to two (2) persons) designated by the Owner or Owners of a Home to have the privileges of a Member. There shall not be more than two (2) persons designated as a Member for each Home, regardless of the number of persons holding title to a Home. Each Member shall be obligated to provide Club Owner with proof of age and residency upon Club Owner’s request for the same. Once an Owner leases a Home, only the Lessee (or those persons occupying the Home) 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. Notwithstanding the foregoing, Club Owner may provide access to the Club for contract purchasers upon the signing of a membership agreement and payment of Club Dues. Club Owner shall establish qualification requirements, fees and dues for a contract purchaser to have use of the Club Facilities prior to becoming an Owner of a Home. Once the purchaser obtains title to the Home, then such purchaser shall be deemed an Owner and Member hereunder.

“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. For example, an Owner of a Multi-Family Rental Building is an Owner with respect to each Home within such Multi-Family Rental Building.

“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.

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

“Solivita Club Rules and Regulations” shall have the meaning set forth in Section 17 hereof.

“Special Use Fees” shall have the meaning set forth in Section 8.9 hereof.

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

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

4.1 Term. The terms of this Club Plan shall be covenants running with Solivita in perpetuity.

4.2 Covenant Running with the Land. Every portion of Solivita which can be improved with a Home shall be burdened with the payment of Club Dues. This Club Plan including, without limitation, the obligation to pay Club Dues, shall run with the land. Every Owner, by acceptance of a Deed to any Home, shall automatically assume and agree to pay all Club Dues which shall be due and payable as of the date of such Deed and which shall become due and payable thereafter on account of the membership in the Club pertaining to the property belonging to such Owner. 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. Club Owner shall have the right to record a notice in accordance with Florida law preserving this Club Plan from extinguishment.

4.3 Obligation to Reference in Deeds. The grantor of any portion of Solivita hereby agrees to include in any Deed a statement that such Deed is subject to the terms of this Club Plan.

4.4 Value. By acceptance of a Deed, each grantee of any portion of Solivita upon which a Home may be (or has been) constructed hereby joins in the execution of this Club Plan for the purpose of binding himself, his successors in title and assigns to the provisions hereof and expressly acknowledges that the automatic membership in the Club granted to Owners and Lessees renders ownership of Solivita and any part thereof more valuable than it would be otherwise.

4.5 Material Consideration. All persons who shall become Owners of any portion of Solivita acknowledge that the provisions and enforceability of this Club Plan were a material consideration in the initial conveyance by Developer of such real property to the Owner (or his predecessor in title) and that Developer would not have made such conveyance had this Club Plan not been included and enforceable as provided for herein. 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 does not pay Club Fees in excess of the amounts provided herein.

4.6 Best Interests. It is in the best interest of each Owner, for Solivita as a whole, and for property values therein, to provide for the Club to be located within Solivita.

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

4.8 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.

4.9 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.

## 5. Club Facilities.

5.1 Club Property. Club Owner presently owns all of the real property comprising the Club Property. The Club Property may be expanded 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.

5.2 Club Facilities. Club Owner has constructed 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. Club Owner has the paramount right to unilaterally, and without the joinder of any party whomsoever, add to, alter, modify and amend the Club Facilities at any time subject to the provisions hereof.

5.3 Construction of the Club. Club Owner has constructed the Club Facilities at its sole cost and expense. Club Owner shall be the sole 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:

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

5.3.2 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;

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

5.3.4 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 Solivita;

5.3.5 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 of portions of Solivita including, without limitation, the sale of Parcels and Homes;

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

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

5.3.8 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

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

5.4 Changes. Club Owner reserves the absolute right to, from time to time, alter or change the Club, including construction of additional Club Facilities and/or the removal or modification thereof, at any time.

5.5 Commercial Space. Club Owner anticipates that portions of the Club Facilities may include a sales office, medical offices, assisted living facilities, retail space and/or other commercial space as Club Owner may deem appropriate in Club Owner's sole and absolute discretion. Club Owner may permit 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.

6. Persons Entitled to Use the Club.

6.1 Rights of Members. Each Member 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 up to two (2) persons residing in the Home who will be the Members 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.

6.2 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 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.

6.3 Subordination. This Club Plan and the rights of Members to use the Club is 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.

7. Ownership and Control of the Club.

7.1 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.

7.2 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.

7.3 Ambiguities. In the event that there is any ambiguity or question regarding the provisions of this Club Plan, Club Owner's reasonable determination of such matter shall be conclusive and binding.

7.4 Change In Terms of Offer. Club Owner has provided that some Owners pay Club Membership Fees on a different basis than other Owners. 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 the Club Membership Fee Schedule applicable to such Home.

7.5 Offer to Sell. Club Owner, in its sole discretion, may offer Association the option to purchase the Club (the "Purchase Option") on such price and terms that Club Owner determines. The 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, if at all, by written notice (the "Option Notice") delivered to Club Owner within ten (10) days of receipt of any Purchase Option and signed by a majority of the Board in the form attached hereto as Exhibit B delivered to Club Owner within such time period by personal delivery or professional overnight delivery.

8. 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 pay all Club Dues which are set forth herein. Club Owner presently intends to collect Club Dues 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.

8.1 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 Solivita 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.

8.2 Club Membership Fee. Each Owner of any Home within Solivita 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 applicable to a particular Home (the "Club Membership Fee Schedule"). The current list of Club Membership Fee Schedules is attached hereto as Exhibit C. Club Owner may change the Club Membership



Fee Schedule for any land within Solivita owned by Club Owner. Any new Membership Fee Schedules established by Club Owner shall be added to this Club Plan by a recorded amendment. Club Membership Fees change for all Homes subject to a particular Membership Fee Schedule on January 1 of the year regardless of the month during the previous year that (i) an Owner acquired the Home or (ii) a Builder obtained a Certificate of Occupancy on a Home. Accordingly, if an Owner acquires title to a Home on November 1, 2014, he or she will pay the Club Membership Fees applicable each month in 2014 from November 1, 2014 through December 31, 2014 and such Club Membership Fee for such Home shall increase on January 1, 2015 as provided in the applicable Club Membership Fee Schedule.

8.3 Taxes. In addition to the Club Membership Fee, each Owner shall pay all applicable sales, use or similar taxes now or hereafter imposed on the Club Membership Fee. Currently, sales tax is payable on the entire amount of Club Dues.

8.4 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.

8.5 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.

8.6 Individual Homes (Single Family Residences). Owners of individual Homes shall pay Club Dues for one membership per month per Home. If an Owner owns more than one Home, Club Dues are payable for each and every Home owned by such Owner.

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

8.8 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 Solivita, Club Owner agrees to pay the difference, if any, between actual Club Expenses and Club Dues paid by Owners and Builders, if any.

8.9 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, or performances held in the Club Facilities. 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 Solivita Club Rules and Regulations as to entitlement of the tickets as Club Owner deems necessary.

8.10 Additional Club Dues. If an Owner, his 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.

8.11 Commencement of First Charges. The obligation to pay Club Dues on any particular Home, 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.

8.12 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.

8.13 Obligation to Pay Real Estate Taxes and Other Expenses on Homes. Each Owner shall pay all taxes 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, 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.

8.14 Club Budgets. The budget for each year prepared by Club Owner is not a contractual statement or guaranty of actual Club Dues. Budgets may not take inflation into account. 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.

9. Club Contribution Fund. There shall be collected from each Owner purchasing a Home from Developer or a Builder at the time of closing a working capital contribution ("Capital Contribution") in the current amount of One Hundred and Fifty Dollars (\$150). Each Owner's Capital Contribution shall be transferred to Club Owner at that time. There shall be collected from each Builder purchasing a Parcel from Developer at the time of closing a Capital Contribution applicable to the Parcel based on One Hundred and Fifty Dollars (\$150) times the number of Homes which can be built on such Parcel. Each Builder's Capital Contribution shall be transferred to Club Owner at that time. Capital 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. Capital 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 (i) waive contributions to the Club Contribution Fund in its sole and absolute discretion and (ii) change the amount of Capital Contribution by amendment to this Club Plan.

10. Determination of Club Expenses.

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

10.2 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.

10.3 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.

10.4 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.

10.5 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.

10.6 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.

11. Creation of the Lien and Personal Obligation.

11.1 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 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 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 the Original Club Plan was 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 at all levels 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 lease to the contrary. Such lien may be enforced by Club Owner or the Club Manager. The lien created by this Section is superior to the lien of Association for Assessments and the claim of Club Owner for Club Dues is paramount to all claims of Association.

11.2 Right to Designate Collection Agent. Club Owner's right to designate who shall collect Club Expenses, Special Use Fees, and/or Club Membership Fees shall be perpetual.

11.3 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, if such Lender is the acquirer of title, such Lender, its successors and assigns of such first mortgage, 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 Lender) as a part of the Club Expenses. Any sale or transfer pursuant to a foreclosure shall not relieve the Owner or any acquirer other than the Lender 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.

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

11.5 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. 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, 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, 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.

11.6 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.

11.7 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.

12. Adjacent Facilities. Adjacent to the Club are other amenities, such as a golf course and club facilities. The Adjacent Facilities may be owned by Club Owner and/or third parties. Club Owner, at its sole discretion, may make such Adjacent Facilities available to Members on an interim basis. The use of Adjacent Facilities may be provided to Members on a fee basis (*i.e.* Club Owner may charge use fees) or the costs of using the Adjacent Facilities may be included as part of Club Expenses. Club Owner reserves the right to determine whether Adjacent Facilities will be available to Members and the method of cost allocation for the use thereof.

13. Operations.

13.1 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.

13.2 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, may file liens for unpaid Club Dues against Homes, may enforce the Solivita Club Rules and Regulations, and prepare the Budget for the Club.

14. Paramount Right of Association. Association shall have the right to post all notices of its Board and member meetings and all notices required by the Florida Statutes at a designated location within the Club Facilities visible to all Club Members without charge.

15. Attorneys' Fees. If at any time Club Owner must enforce any provision hereof, Club Owner shall be entitled to recover all of its reasonable costs and attorneys' and paraprofessional fees at all levels, including appeals, collections and bankruptcy.

16. Rights to Pay and Receive Reimbursement. Club Owner and/or Association shall have the right, but not the obligation to pay any Club Dues, or Special Use Fees 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 with regard to the amounts due. Further, Club Owner and/or Association shall have the right, but not the obligation, to loan funds and pay insurance premiums, taxes or other items of costs on behalf of an Owner to protect its lien. The party advancing such funds shall be entitled to immediate reimbursement, on demand, from the Owner for such amounts so paid, plus interest thereon at the highest rate permitted by law, plus any costs of collection including, but not limited to, reasonable attorneys' and paraprofessional fees at all levels including appeals, collections and bankruptcy.

17. General Restrictions. Club Owner has adopted the following general restrictions governing the use of the Club. Each Member and other person entitled to use the Club shall comply with following general restrictions:

17.1 Minors. The Club Facilities are specifically designed to meet the requirements of the Federal Fair Housing Act, 42 U.S.C. § 3601, *et. seq.* and the Florida Fair Housing Act, Chapter 760, Florida Statutes. Only Owners of Homes within Solivita that are subject to a recorded restriction requiring that eighty percent (80%) of such occupied Homes be occupied by at least one (1) person fifty-five (55) years of age or older (or such reduced age as may be time to time permitted by law) may use the Club Facilities pursuant to this Club Plan. Accordingly, persons under the age of eighteen (18) are not permitted in the Club Facilities except to the extent permitted by the Solivita Club Rules and Regulations. Club Owner reserves the right to allow Members to bring any guests within the Club Facilities under the age of eighteen (18) at any time by so providing in the Solivita Club Rules and Regulations. All guests of Members shall be required to present identification and proof of age before entering the Club Facilities. Each Owner recognizes the right of Club Owner and/or Developer to build recreational facilities within Solivita which shall be open to all persons, regardless of age, and that these facilities may or may not be subject to the Club Plan.

17.2 Responsibility for Personal Property and Persons. Each Member assumes sole responsibility for the health, safety and welfare of such Member, his or her family and guests, and the personal property of all of the foregoing, and each Member shall not allow any of the foregoing to damage the Club or interfere with the rights of other Members hereunder.

17.3 Cars and Personal Property. The Club is not responsible for any loss or damage to any private property used, placed or stored on the Club Facilities. Without limiting the foregoing, any person parking a car within the Parking Areas assumes all risk of loss with respect to his or her car in the Parking Areas. Further, any person entering the Club Facilities assumes all risk of loss with respect to his or her equipment, jewelry or other possessions stored in the fitness center lockers, on bicycles, or within cars and wallets, books and clothing left in the pool areas.

17.4 Activities. Any Member, guest or other person who, in any manner, makes use of, or accepts the use of, any apparatus, appliance, facility, privilege or service whatsoever owned, leased or operated by the Club, or who engages in any contest, game, function, exercise, competition or other activity operated, organized, arranged or sponsored by the Club, either on or off the Club Facilities, shall do so at their own risk. Every Member shall be liable for any property damage and/or personal injury at the Club, or at any activity or function operated, organized, arranged or sponsored by the Club, caused by any Member or guest. No Member may use the Club Facilities for any club, society, party, religious, political, charitable, fraternal, civil, fund-raising or other purposes without the prior written consent of Club Owner, which consent may be withheld for any reason.

17.5 Property Belonging to the Club. Property or furniture belonging to the Club shall not be removed from the room in which it is placed or from the Club Facilities.

17.6 Indemnification of Club Owner. In addition, each Member and guest agrees to indemnify and hold harmless Club Owner and Club Manager, their officers, partners, agents, employees, affiliates, directors and attorneys (collectively, "Indemnified Parties") against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever ("Losses") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to such Member's membership, including, without limitation, use of the Club Facilities by Members and their guests, or the interpretation of this Club Plan, and/or the Solivita Club Rules and Regulations and/or from any act or omission of the Club or of any of the Indemnified Parties. Losses shall include the deductible payable under any of the Club's insurance policies.

17.7 Attorneys' Fees. Should any Member bring suit against Club Owner or Club Manager or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, the Member shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorneys' fees and paraprofessional fees at trial and upon appeal.

17.8 Unrecorded Rules. Club Owner may adopt rules and regulations ("Solivita Club Rules and Regulations") from time to time. Such Solivita Club Rules and Regulations may not be recorded; therefore, each Owner and Lessee should request a copy of unrecorded Solivita Club Rules and Regulations from the Club and become familiar with the same. Such Solivita Club Rules and Regulations are in addition to the general restrictions set forth in this Section.

17.9 Waiver of Solivita Club Rules and Regulations. Club Owner may waive the application of any Solivita Club Rules and Regulations to one or more Owners, Lessees, guests, invitees, employees or agents in Club Owner's sole and absolute discretion. A waiver may be revoked at any time upon notice to affected Lessees and Owners.

18. Violation of the Solivita Club Rules and Regulations.

18.1 Basis For Suspension. The membership rights of a Member may be suspended by Club Owner if, in the sole judgment of Club Owner:

18.1.1 such person is not an Owner or a Lessee;

18.1.2 the Member violates one or more of these Solivita Club Rules and Regulations;

18.1.3 a guest or other person for whom a Member is responsible violates one or more of these Solivita Club Rules and Regulations;

18.1.4 an Owner fails to pay Club Dues in a proper and timely manner; or

18.1.5 a Member and/or guest has injured, harmed or threatened to injure or harm any person within the Club Facilities, or harmed, destroyed or stolen any personal property within the Club Facilities, whether belonging to a third party or to Club Owner.

18.2 Types of Suspension. Club Owner may restrict or suspend, for cause or causes described in the preceding Section, any Member's privileges to use any or all of the Club Facilities. By way of example, and not as a limitation, Club Owner may suspend the membership of a Lessee if such Lessee's Owner fails to pay Club Dues due in connection with a leased Home. In addition, Club Manager may suspend some membership rights while allowing a Member to continue to exercise other membership rights. For example, Club Manager may suspend the rights of a particular Member or Club Manager may prohibit a Member from using a portion of the Club Facilities. No Member whose membership privileges have been fully or partially suspended shall, on account of any such restriction or suspension, be entitled to any refund or abatement of Club Dues or any other fees. During the restriction or suspension, Club Dues shall continue to accrue and be payable each month. Under no circumstance will a Member be reinstated until all Club Dues and other amounts due to the Club are paid in full.

19. Destruction. In the event of the damage by partial or total destruction by fire, windstorm, or any other casualty for which insurance shall be payable, any insurance proceeds shall be paid to Club Owner. If Club Owner elects, in Club Owner's sole and absolute discretion, to reconstruct the Club Facilities, the insurance proceeds shall be available for the purpose of reconstruction or repair of the Club; provided, however, Club Owner shall have the right to change the design or facilities comprising the Club in its sole and absolute discretion. There shall be no abatement in payments of Club Dues, including the Club Membership Fee, during casualty or reconstruction. The reconstruction or repair, when completed, shall, to the extent legally possible, restore the Club Facilities substantially to the condition in which they existed before the damage or destruction took place. After all reconstruction or repairs have been made, if there are any insurance proceeds left over, then and in that event, the excess shall be the sole property of Club Owner. If Club Owner elects not to reconstruct the Club Facilities, Club Owner shall terminate this Club Plan and the provisions of the Declaration relating to the Club by document recorded in the Public Records.

20. Risk of Loss. Club Owner shall not be liable for, and the Members assume all risks that may occur by reason of, any condition or occurrence, including, but not limited to, damage to the Club on account of casualty, water or the bursting or leaking of any pipes or waste water about the Club, or from any act of negligence of any other person, or fire, or hurricane, or other act of God, or from any cause whatsoever, occurring after the date of the recording of this



Club Plan. Neither Association nor any Owner shall be entitled to cancel this Club Plan or any abatement in Club Dues on account of any such occurrence. By way of example, if the Club is destroyed in whole or part by a casualty, Owners shall remain liable to pay all Club Dues notwithstanding that the Club is not available for use.

21. Eminent Domain. If, during the operation of this Club Plan, an eminent domain proceeding is commenced affecting the Club, then in that event, the following conditions shall apply:

21.1 Complete Taking. If the whole or any material part of the Club is taken under the power of eminent domain, Club Owner may terminate this Club Plan and the provisions of the Declaration relating to the Club by written notice given to Association, which notice shall be recorded in the Public Records. Should such notice be given, this Club Plan and the provisions in the Declaration relating to the Club shall terminate. All damages awarded in relation to the taking shall be the sole property of Club Owner.

21.2 Partial Taking. Should a portion of the Club be taken in an eminent domain proceeding which requires the partial demolition of any of the improvements located on the Club so that Club Owner determines the taking is not a complete taking, then, in such event, Club Owner shall have the option, to the extent legally possible, to utilize a portion of the proceeds of such taking for the restoration, repair, or remodeling of the remaining improvements to the Club, or to terminate this Club Plan as provided in Section 21.1 hereof. All damages awarded in relation to the taking shall be the sole property of Club Owner, and Club Owner shall determine what portion of such damages, if any, shall be applied to restoration, repair, or remodeling.

22. Additional Indemnification of Club Owner. Association and each Owner covenant and agree jointly and severally to indemnify, defend and hold harmless Developer and Club Owner, their respective officers, directors, shareholders, and any related persons or corporations and their employees, attorneys, agents, officers and directors from and against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life, or damage to property, sustained on or about the Common Areas, Club Property, or other property serving Association, and improvements thereon, or resulting from or arising out of activities or operations of Association or Owners, and from and against all costs, expenses, court costs, counsel fees, paraprofessional fees (including, but not limited to, all trial and appellate levels and whether or not suit be instituted), expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders, judgments or decrees which may be entered relating thereto. In addition Association shall, and does hereby, indemnify and save harmless Club Owner from and against any and all claims, suits, actions, damages and/or causes of action arising for any personal injury, loss of life and/or damage to property sustained in or about the Club, by reason or as a result of Association's operations, and from and against any orders, judgments, and/or decrees which may be entered thereon, and from and against all costs, counsel fees, paraprofessional fee, expenses and liabilities incurred in and about the defense of any such claim and the investigation thereof. Association shall immediately give Club Owner notice in writing that the same are about to be incurred and Club Owner shall have the option to make the necessary investigation and employ, at the expense of Association, counsel of Club Owner's own

selection for the defense of any such claims and expenses, etc. The indemnifications provided in this Section shall survive termination of this Club Plan. The costs and expense of fulfilling this covenant of indemnification shall be Association Expenses to the extent such matters are not covered by insurance maintained by Association.

23. Remedies. The specific remedies of Club Owner under the terms of this Club Plan are cumulative and are not intended to be exclusive of any other remedies or means of redress to which it may be lawfully entitled in case of any breach or threatened breach of any provisions of this Club Plan. In addition to the other remedies provided in this Club Plan, Club Owner shall be entitled to enjoin, without bond, the violation or attempted or threatened violation of any of the provisions of this Club Plan or obtain specific performance of any such provisions.

24. Estoppel. Association shall, from time to time, upon not less than ten (10) days' prior written notice from Club Owner, execute, acknowledge and deliver a written statement: (a) certifying that this Club Plan is unmodified and in full force and effect (or, if modified, stating the nature of such modification, listing the instruments of modification, and certifying that this Club Plan, as so modified, is in full force and effect); and (b) acknowledging that there are not, to Association's knowledge, any uncured defaults by Club Owner with respect to this Club Plan. Any such statement may be conclusively relied upon by any prospective purchaser of Club Owner's interest or mortgagee of Club Owner's interest or assignee of any mortgage upon Club Owner's interest in the Club. Association's failure to deliver such statement within such time shall be conclusive evidence: (1) that this Club Plan is in full force and effect, without modification except as may be represented, in good faith, by Club Owner; and (2) that there are no uncured defaults by Club Owner under the Club Plan.

25. No Waiver. The failure of Club Owner in one or more instances to insist upon strict performance or observance of one or more provisions of the Club Plan or conditions hereof or to exercise any remedy, privilege or option herein conferred upon or reserved to Club Owner, shall not operate or be construed as a relinquishment or waiver of such covenant or condition or of the right to enforce the same or to exercise such privilege, option or remedy, but the same shall continue in full force and effect. The receipt by Club Owner of any payment required to be made by any Owner, or any part thereof, shall not be a waiver of any other payment then due, nor shall such receipt, though with knowledge of the breach of any covenant or condition hereof, operate as, or be deemed to be a waiver of such breach. No waiver of Club Owner shall be effective unless made by Club Owner in writing.

26. Franchises and Concessions. Club Owner may grant franchises or concessions to commercial concerns on all or part of the Club and shall be entitled to all income derived therefrom.

27. Resolution of Disputes. ASSOCIATION AND, BY ACCEPTANCE OF A DEED, EACH OWNER AND BUILDER, AGREE THAT THIS CLUB PLAN IS A VERY COMPLEX DOCUMENT. ACCORDINGLY, ASSOCIATION AND EACH OWNER AND BUILDER AGREE THAT JUSTICE WILL BEST BE SERVED IF ALL DISPUTES RESPECTING THIS CLUB PLAN ARE HEARD BY A JUDGE, AND NOT A JURY. 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 THIS CLUB PLAN, INCLUDING ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT, VALIDATION, PROTECTION, ENFORCEMENT ACTION OR OMISSION OF ANY PARTY, SHALL BE HEARD IN A COURT PROCEEDING BY A JUDGE, AND NOT A JURY. CLUB OWNER HEREBY SUGGESTS THAT EACH OWNER UNDERSTAND THE LEGAL CONSEQUENCES OF ACCEPTING A DEED TO A HOME.

28. 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 CLUB PLAN LEGALLY AND FACTUALLY WAS EXECUTED IN POLK COUNTY, FLORIDA. CLUB OWNER HAS AN OFFICE IN POLK COUNTY, FLORIDA AND EACH HOME IS LOCATED IN POLK COUNTY, FLORIDA. ACCORDINGLY, AN IRREFUTABLE PRESUMPTION EXISTS THAT THE ONLY APPROPRIATE VENUE FOR THE RESOLUTION OF ANY DISPUTE LIES IN POLK COUNTY, FLORIDA. IN ADDITION TO THE FOREGOING, EACH OWNER, BUILDER AND CLUB OWNER AGREE THAT THE VENUE FOR RESOLUTION OF ANY DISPUTE LIES IN POLK COUNTY, FLORIDA.

29. Release. BEFORE ACCEPTING A DEED TO A HOME, EACH OWNER HAS AN OBLIGATION TO RETAIN AN ATTORNEY IN ORDER TO CONFIRM THE VALIDITY OF THIS CLUB PLAN. BY ACCEPTANCE OF A DEED TO A HOME, EACH OWNER ACKNOWLEDGES THAT HE HAS SOUGHT (OR HAD TITLE OPTION TO SEEK) AND RECEIVED (OR DECLINED TO OBTAIN) SUCH AN OPINION OR HAS MADE AN AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. CLUB OWNER IS RELYING ON EACH OWNER CONFIRMING IN ADVANCE OF ACQUIRING A HOME THAT THIS CLUB PLAN IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO CLUB OWNER. ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EACH OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THIS CLUB PLAN IS INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR CLUB OWNER TO SUBJECT THE CLUB PROPERTY TO THIS CLUB PLAN, EACH OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE CLUB OWNER, 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 CLUB OWNER, 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 CLUB PLAN, 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.

30. Amendment. Notwithstanding any other provision herein to the contrary, no amendment to this Club Plan 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. No amendment shall alter the provisions of this Club Plan benefitting Lenders without the prior approval of the Lender(s) enjoying the benefit of such provisions. No amendment shall be effective until it is recorded in the Public Records. Club Owner shall have the right to amend this Club Plan as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Club Owner's right to amend under this provision is to be construed as broadly as possible. By way of example, Club Owner may terminate this Club Plan (and all rights and obligations hereunder) in the event of partial or full destruction of the Club. Further, Club Owner may elect, in Club Owner's sole and absolute discretion, to subject property outside of Solivita to this Club Plan by amendment recorded in the Public Records. Likewise, Club Owner may elect, in Club Owner's sole and absolute discretion, to remove portions of Solivita from the benefit and encumbrance of this Club Plan by amendment recorded in the Public Records.

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

32. Notices. Any notice required to be sent to any person, firm, or entity under the provisions of this Club Plan shall be deemed to have been properly sent when mailed, postpaid, hand delivered, telefaxed, or delivered by professional carrier or overnight delivery to the last known address at the time of such mailing.

33. Florida Statutes. Whenever this Club Plan refers to the Florida Statutes, the reference shall be deemed to refer to the Florida Statutes as they exist on the date the Club Plan was recorded except to the extent provided otherwise as to any particular provision of the Florida Statutes.

34. Headings. The headings within this Club Plan are for convenience only and shall not be used to limit or interpret the terms hereof.

NOW THEREFORE, Avatar Properties Inc. has set its signature and seal below this 13<sup>th</sup> day of December, 2013.

WITNESSES:

AVATAR PROPERTIES INC., a Florida corporation

Tami Delgado  
Print Name: Tami Delgado

Anthony S. Iorio  
Name: Anthony S. Iorio  
Title: Vice President

Kaye Burchenson  
Print Name: Kaye Burchenson

[SEAL]

STATE OF FLORIDA     )  
  ) SS.:  
COUNTY OF Polk     )

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of December 2013 by Anthony S. Iorio as Vice President of Avatar Properties Inc., a Florida corporation, who is personally known to me or who produced \_\_\_\_\_ as identification, on behalf of the corporation.

My commission expires: 7/26/2016

Kaye Burchenson  
NOTARY PUBLIC, State of Florida  
Print name: Kaye Burchenson



KAYE BURCHENSON  
MY COMMISSION # EE 220083  
EXPIRES: July 26, 2016  
Bonded Thru Budget Notary Services

**EXHIBIT A**

**LEGAL DESCRIPTION OF SOLIVITA**

All of the following plats as recorded in the Public Records of Polk County, Florida:

All the lots within SOLIVITA - PHASE 1, according to the Plat thereof, as recorded in Plat Book 112, at Pages 1;

All the lots within SOLIVITA - PHASE 1D, according to the Plat thereof, as recorded in Plat Book 122, at Page 9;

All the lots within SOLIVITA - PHASE 1E, according to the Plat thereof, as recorded in Plat Book 128, at Page 27;

All the lots within SOLIVITA - PHASE 1H, according to the Plat thereof, as recorded in Plat Book 153, at Page 14;

All the lots within SOLIVITA - PHASE IIA, according to the Plat thereof, as recorded in Plat Book 115, at Page 9;

All the lots within SOLIVITA - PHASE IIB, according to the Plat thereof, as recorded in Plat Book 115, at Page 34;

All the lots within SOLIVITA - PHASE IIC, according to the Plat thereof, as recorded in Plat Book 118, at Page 12;

All the lots within SOLIVITA - PHASE IID, according to the Plat thereof, as recorded in Plat Book 118, at Page 17;

All the lots within SOLIVITA - PHASE IIIA, according to the Plat thereof, as recorded in Plat Book 127, at Page 10;

All the lots within SOLIVITA - PHASE IIIB, according to the Plat thereof, as recorded in Plat Book 131, at Page 36;

All the lots within SOLIVITA - PHASE IVA, according to the Plat thereof, as recorded in Plat Book 120, at Page 13;

All the lots within SOLIVITA - PHASE IVB, according to the Plat thereof, as recorded in Plat Book 121, at Page 2;

All the lots within SOLIVITA - PHASE IVC SECTION 1, according to the Plat thereof, as recorded in Plat Book 124, at Page 15;

All the lots within SOLIVITA - PHASE IVC SECTION 2, according to the Plat thereof, as recorded in Plat Book 124, at Page 33;

All the lots within SOLIVITA PHASE 5F, according to the Plat thereof, as recorded in Plat Book 145, at Page 1;

All the lots within SOLIVITA PHASE 5F - UNIT 1, according to the Plat thereof, as recorded in Plat Book 154, at Page 1;

All the lots within SOLIVITA - PHASE VIA, according to the Plat thereof, as recorded in Plat Book 131, at Page 30;

All the lots within SOLIVITA - PHASE VIB, according to the Plat thereof, as recorded in Plat Book 133, at Page 14;

All the lots within SOLIVITA PHASE 7A, according to the Plat thereof, as recorded in Plat Book 134, at Page 20;

All the lots within SOLIVITA PHASE 7B1, according to the Plat thereof, as recorded in Plat Book 136, at Page 14;

All the lots within SOLIVITA PHASE 7B2, according to the Plat thereof, as recorded in Plat Book 136, at Page 39;

All the lots within SOLIVITA PHASE 7C, according to the Plat thereof, as recorded in Plat Book 136, at Page 3;

All the lots within SOLIVITA PHASE 7D, according to the Plat thereof, as recorded in Plat Book 137, at Page 9;

All the lots within SOLIVITA PHASE 7G-1, according to the Plat thereof, as recorded in Plat Book 143, at Page 13; and

All the lots within SOLIVITA PHASE 7G – UNIT 1, according to the Plat thereof, as recorded in Plat Book 153, at Pages 36 through 39.

**EXHIBIT B TO CLUB PLAN**

**OPTION NOTICE**

**IRREVOCABLE OPTION NOTICE**

The Board of Directors of Solivita Community Association, Inc., (the "Board") hereby provides Club Owner (as defined in that certain Amended and Restated Solivita Club Plan recorded in Official Records Book \_\_\_\_\_ at Page \_\_\_\_\_ of the Public Records of Polk County, Florida) with notice of its intent to purchase the Club (as defined in the Club Plan) pursuant to the Purchase Option offered by Club Owner dated \_\_\_\_\_, 20\_\_\_. Attached hereto as Schedule 1 is a resolution executed by the majority of the Board approving this Irrevocable Option Notice.

The undersigned Board has executed this Irrevocable Option Notice on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Director

\_\_\_\_\_  
Name: \_\_\_\_\_  
Director

\_\_\_\_\_  
Name: \_\_\_\_\_  
Director



**Schedule 1 Of Exhibit B**

**SOLIVITA COMMUNITY ASSOCIATION, INC.,  
(THE "ASSOCIATION")**

**ACTION BY THE BOARD OF DIRECTORS OF ASSOCIATION  
AT A MEETING HELD \_\_\_\_\_, 20\_\_.**

The undersigned constituting the majority of the Board of Directors of Association do hereby consent to and approve the following actions:

WHEREAS, the Board of Directors hereby acknowledges and agrees that it is in the best interest of Association to purchase the Club (as defined in that certain Amended and Restated Club Plan recorded in Official Records Book \_\_\_\_ at Page \_\_\_\_\_ of the Public Records of Polk County, Florida; and

WHEREAS, the Board of Directors hereby agrees to provide Club Owner (as defined in the Club Plan) with the Option Notice (as defined in the Club Plan) in order to evidence its intent to purchase the Club (as defined in the Club Plan) pursuant to the terms of the Club Plan;

NOW THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves the purchase of the Club and the giving of the Option Notice to Club Owner.

Effective: \_\_\_\_\_

\_\_\_\_\_  
Name: \_\_\_\_\_  
Director

\_\_\_\_\_  
Name: \_\_\_\_\_  
Director

\_\_\_\_\_  
Name: \_\_\_\_\_  
Director

EXHIBIT C  
MEMBERSHIP FEE SCHEDULES

**CLUB MEMBERSHIP FEES PER PLAT**

<b>Club Membership Fee Schedule for Homes within:</b>	
<p><b>Solivita - Phase 1</b>, recorded in Plat Book 112 at Page 1, according to the plat thereof, as recorded in the Public Records of Polk County, Florida;</p> <p><b>Solivita - Phase IIA</b>, recorded in Plat Book 115 at Page 9, according to the plat thereof, as recorded in the Public Records of Polk County, Florida; and</p> <p><b>Solivita - Phase IIB</b>, recorded in Plat Book 115 at Page 34, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.</p>	
<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$62
January 1 through December 31, 2014	\$63
January 1 through December 31, 2015	\$64
January 1 through December 31, 2016	\$65
January 1 through December 31, 2017	\$66
January 1 through December 31, 2018	\$67
January 1 through December 31, 2019	\$68
January 1 through December 31, 2020	\$69
January 1 through December 31, 2021	\$70
January 1 through December 31, 2022	\$71
January 1 through December 31, 2023	\$72
January 1 through December 31, 2024	\$73
January 1 through December 31, 2025	\$74
January 1 through December 31, 2026	\$75
January 1 through December 31, 2027	\$76
January 1 through December 31, 2028	\$77
January 1 through December 31, 2029	\$78
For all months thereafter	\$79

**Club Membership Fee Schedule for Homes within:**

**Solivita - Phase 1D**, recorded in Plat Book 122 at Page 9, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$71
January 1 through December 31, 2014	\$72
January 1 through December 31, 2015	\$73
January 1 through December 31, 2016	\$74
January 1 through December 31, 2017	\$75
January 1 through December 31, 2018	\$76
January 1 through December 31, 2019	\$77
January 1 through December 31, 2020	\$78
January 1 through December 31, 2021	\$79
January 1 through December 31, 2022	\$80
January 1 through December 31, 2023	\$81
January 1 through December 31, 2024	\$82
January 1 through December 31, 2025	\$83
January 1 through December 31, 2026	\$84
January 1 through December 31, 2027	\$85
January 1 through December 31, 2028	\$86
January 1 through December 31, 2029	\$87
January 1 through December 31, 2030	\$88
January 1 through December 31, 2031	\$89
For all months thereafter	\$90

**Club Membership Fee Schedule for Homes within:**

**Solivita - Phase 1E**, recorded in Plat Book 128 at Page 27, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$71
January 1 through December 31, 2014	\$72
January 1 through December 31, 2015	\$73
January 1 through December 31, 2016	\$74
January 1 through December 31, 2017	\$75
January 1 through December 31, 2018	\$76
January 1 through December 31, 2019	\$77
January 1 through December 31, 2020	\$78
January 1 through December 31, 2021	\$79
January 1 through December 31, 2022	\$80
January 1 through December 31, 2023	\$81
January 1 through December 31, 2024	\$82
January 1 through December 31, 2025	\$83
January 1 through December 31, 2026	\$84
January 1 through December 31, 2027	\$85
January 1 through December 31, 2028	\$86
January 1 through December 31, 2029	\$87
January 1 through December 31, 2030	\$88
January 1 through December 31, 2031	\$89
January 1 through December 31, 2032	\$90
January 1 through December 31, 2033	\$91
For all months thereafter	\$92

**Club Membership Fee Schedule for Homes within:**

**Solivita Phase III**, recorded in Plat Book 153 at Page 14, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
January 1 through December 31, 2033	\$102
January 1 through December 31, 2034	\$103
January 1 through December 31, 2035	\$104
January 1 through December 31, 2036	\$105
January 1 through December 31, 2037	\$106
January 1 through December 31, 2038	\$107
January 1 through December 31, 2039	\$108
January 1 through December 31, 2040	\$109
January 1 through December 31, 2041	\$110
January 1 through December 31, 2042	\$111
For all months thereafter	\$112

**Club Membership Fee Schedule for Homes within:**

**Solivita - Phase IIC**, recorded in Plat Book 118 at Page 12, according to the plat thereof, as recorded in the Public Records of Polk County, Florida; and

**Solivita – Phase IID**, recorded in Plat Book 118 at Page 17, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$72
January 1 through December 31, 2014	\$73
January 1 through December 31, 2015	\$74
January 1 through December 31, 2016	\$75
January 1 through December 31, 2017	\$76
January 1 through December 31, 2018	\$77
January 1 through December 31, 2019	\$78
January 1 through December 31, 2020	\$79
January 1 through December 31, 2021	\$80
January 1 through December 31, 2022	\$81
January 1 through December 31, 2023	\$82
January 1 through December 31, 2024	\$83
January 1 through December 31, 2025	\$84
January 1 through December 31, 2026	\$85
January 1 through December 31, 2027	\$86
January 1 through December 31, 2028	\$87
January 1 through December 31, 2029	\$88
January 1 through December 31, 2030	\$89
January 1 through December 31, 2031	\$90
For all months thereafter	\$91

**Club Membership Fee Schedule for Homes within:**

**Solivita - Phase IIIA**, recorded in Plat Book 127 at Page 10, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
For all months thereafter	\$102

**Club Membership Fee Schedule for Homes within:**

**Solivita - Phase IIIB**, recorded in Plat Book 131 at Page 36, according to the plat thereof, as recorded in the Public Records of Polk County, Florida; and

**Solivita – Phase VIA**, recorded in Plat Book 131 at Page 30, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
January 1 through December 31, 2033	\$102
For all months thereafter	\$103



**Club Membership Fee Schedule for Homes within:**

**Solivita - Phase IVA**, recorded in Plat Book 120 at Page 13, according to the plat thereof, as recorded in the Public Records of Polk County, Florida; and

**Solivita – Phase IVB**, recorded in Plat Book 121 at Page 2, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$72
January 1 through December 31, 2014	\$73
January 1 through December 31, 2015	\$74
January 1 through December 31, 2016	\$75
January 1 through December 31, 2017	\$76
January 1 through December 31, 2018	\$77
January 1 through December 31, 2019	\$78
January 1 through December 31, 2020	\$79
January 1 through December 31, 2021	\$80
January 1 through December 31, 2022	\$81
January 1 through December 31, 2023	\$82
January 1 through December 31, 2024	\$83
January 1 through December 31, 2025	\$84
January 1 through December 31, 2026	\$85
January 1 through December 31, 2027	\$86
January 1 through December 31, 2028	\$87
January 1 through December 31, 2029	\$88
January 1 through December 31, 2030	\$89
January 1 through December 31, 2031	\$90
For all months thereafter	\$91

**Club Membership Fee Schedule for Homes within:**

**Solivita - Phase IVC Section 1**, recorded in Plat Book 124 at Page 15, according to the plat thereof, as recorded in the Public Records of Polk County, Florida; and  
**Solivita – Phase IVC Section 2**, recorded in Plat Book 124 at Page 33, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
For all months thereafter	\$102

**Club Membership Fee Schedule for Homes within:**

**Solivita Phase 5F**, recorded in Plat Book 145 at Page 1, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$81
January 1 through December 31, 2014	\$82
January 1 through December 31, 2015	\$83
January 1 through December 31, 2016	\$84
January 1 through December 31, 2017	\$85
January 1 through December 31, 2018	\$86
January 1 through December 31, 2019	\$87
January 1 through December 31, 2020	\$88
January 1 through December 31, 2021	\$89
January 1 through December 31, 2022	\$90
January 1 through December 31, 2023	\$91
January 1 through December 31, 2024	\$92
January 1 through December 31, 2025	\$93
January 1 through December 31, 2026	\$94
January 1 through December 31, 2027	\$95
January 1 through December 31, 2028	\$96
January 1 through December 31, 2029	\$97
January 1 through December 31, 2030	\$98
January 1 through December 31, 2031	\$99
January 1 through December 31, 2032	\$100
January 1 through December 31, 2033	\$101
January 1 through December 31, 2034	\$102
January 1 through December 31, 2035	\$103
January 1 through December 31, 2036	\$104
For all months thereafter	\$105

**Club Membership Fee Schedule for Homes within:**

**Solivita Phase 5F – Unit 1**, recorded in Plat Book 154 at Page 1, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$81
January 1 through December 31, 2014	\$82
January 1 through December 31, 2015	\$83
January 1 through December 31, 2016	\$84
January 1 through December 31, 2017	\$85
January 1 through December 31, 2018	\$86
January 1 through December 31, 2019	\$87
January 1 through December 31, 2020	\$88
January 1 through December 31, 2021	\$89
January 1 through December 31, 2022	\$90
January 1 through December 31, 2023	\$91
January 1 through December 31, 2024	\$92
January 1 through December 31, 2025	\$93
January 1 through December 31, 2026	\$94
January 1 through December 31, 2027	\$95
January 1 through December 31, 2028	\$96
January 1 through December 31, 2029	\$97
January 1 through December 31, 2030	\$98
January 1 through December 31, 2031	\$99
January 1 through December 31, 2032	\$100
January 1 through December 31, 2033	\$101
January 1 through December 31, 2034	\$102
January 1 through December 31, 2035	\$103
January 1 through December 31, 2036	\$104
January 1 through December 31, 2037	\$105
January 1 through December 31, 2038	\$106
January 1 through December 31, 2039	\$107
January 1 through December 31, 2040	\$108
January 1 through December 31, 2041	\$109
January 1 through December 31, 2042	\$110
For all months thereafter	\$111

**Club Membership Fee Schedule for Homes within:**

**Solivita - Phase VIB**, recorded in Plat Book 133 at Page 14, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
January 1 through December 31, 2033	\$102
For all months thereafter	\$103

**Club Membership Fee Schedule for Homes within:**

**Solivita Phase 7A**, recorded in Plat Book 134 at Page 20, according to the plat thereof, as recorded in the Public Records of Polk County, Florida;

**Solivita Phase 7B1**, recorded in Plat Book 136 at Page 14, according to the plat thereof, as recorded in the Public Records of Polk County, Florida;

**Solivita Phase 7B2**, recorded in Plat Book 136 at Page 39, according to the plat thereof, as recorded in the Public Records of Polk County, Florida;

**Solivita Phase 7C**, recorded in Plat Book 136 at Page 3, according to the plat thereof, as recorded in the Public Records of Polk County, Florida; and

**Solivita - Phase 7D**, recorded in Plat Book 137 at Page 9, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
January 1 through December 31, 2033	\$102
January 1 through December 31, 2034	\$103
For all months thereafter	\$104

**Club Membership Fee Schedule for Homes within:**

**Solivita Phase 7G- 1**, recorded in Plat Book 143 at Page 13, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
January 1 through December 31, 2033	\$102
January 1 through December 31, 2034	\$103
January 1 through December 31, 2035	\$104
January 1 through December 31, 2036	\$105
January 1 through December 31, 2037	\$106
January 1 through December 31, 2038	\$107
For all months thereafter	\$108

**Club Membership Fee Schedule for Homes within:**

**Solivita Phase 7G- Unit 1**, recorded in Plat Book 153 at Page 36, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
January 1 through December 31, 2033	\$102
January 1 through December 31, 2034	\$103
January 1 through December 31, 2035	\$104
January 1 through December 31, 2036	\$105
January 1 through December 31, 2037	\$106
January 1 through December 31, 2038	\$107
January 1 through December 31, 2039	\$108
January 1 through December 31, 2040	\$109
January 1 through December 31, 2041	\$110
January 1 through December 31, 2042	\$111
For all months thereafter	\$112



**JOINDER**

SOLIVITA COMMUNITY ASSOCIATION, INC. does hereby join in the document to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 13<sup>th</sup> day of December, 2013.

WITNESSES:

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

Tami Delgado  
Print Name: Tami Delgado

Anthony S. Iorio  
Name: Anthony S. Iorio  
Title: President

Kaye Burchenson  
Print Name: KAYE Burchenson

[SEAL]

STATE OF FLORIDA )  
COUNTY OF Polk ) SS.:

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of December 2013 by Anthony S. Iorio as President of SOLIVITA COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation, who is personally known to me or who produced \_\_\_\_\_ as identification, on behalf of the corporation.

My commission expires:

Kaye Burchenson  
NOTARY PUBLIC, State of Florida  
Print name: Kaye Burchenson



KAYE BURCHENSON  
MY COMMISSION # EE 220083  
EXPIRES: July 26, 2018  
Bonded Thru Budget Notary Services

B

Prepared by and return to:  
Melisa R. Boross, Esq.  
Vice President & Asst. General Counsel  
AV Homes, Inc.  
8601 N. Scottsdale Road, Suite 225  
Scottsdale, AZ 85253

AV HOMES  
395 VILLAGE DR  
KISSIMMEE, FL 34759



INSTR # 2013235692  
BK 9142 Pgs 1843-2018 PG(s) 176  
RECORDED 12/27/2013 12:24:13 PM  
STACY N. BUTTERFIELD,  
CLERK OF COURT POLK COUNTY  
RECORDING FEES \$1,497.50  
RECORDED BY tobepleh

**AMENDED AND RESTATED**  
**MASTER DECLARATION FOR SOLIVITA™**

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AMENDED AND RESTATED

MASTER DECLARATION FOR SOLIVITA™

THIS AMENDED AND RESTATED MASTER DECLARATION FOR SOLIVITA™ (this "Master Declaration") is made by Avatar Properties Inc., a Florida corporation ("Developer") and joined in by Solivita Community Association, Inc., a Florida not-for-profit corporation ("Association").

RECITALS

A. Developer is developing a residential community in Polk County, Florida known as Solivita ("Solivita"). Originally Solivita was developed as a single master community. In 2006, Developer decided to split the community into two communities for marketing and other business purposes. One portion of the community was designated Solivita (the "Solivita Subdivision") and the other portion of the community was designated Solivita West (the "Solivita West Subdivision"). Thereafter, the Solivita community had two different homeowners associations and two declarations of covenants: one set for the Solivita Subdivision and one set for Solivita West Subdivision.

B. Developer previously recorded that certain Solivita Declaration in Official Records Book 4510 at Page 1576 in the Public Records of Polk County, Florida (the "Original Declaration"). Developer thereafter recorded a number of amendments to the Original Declaration, and then recorded that certain Amended and Restated Solivita Declaration in Official Records Book 7191 at Page 1224 in the Public Records of Polk County, Florida (the "Amended and Restated Solivita Declaration"). Developer thereafter amended the Amended and Restated Solivita Declaration by the following instruments:

- i. First Amendment to Amended and Restated Solivita Declaration recorded in Official Records Book 7364 at Page 1475 in the Public Records of Polk County, Florida (the "First Amendment").
- ii. Second Amendment to Amended and Restated Solivita Declaration recorded in Official Records Book 7393 at Page 400 in the Public Records of Polk County, Florida (the "Second Amendment").
- iii. Third Amendment to Amended and Restated Solivita Declaration recorded in Official Records Book 8068 at Page 1802 in the Public Records of Polk County, Florida (the "Third Amendment").
- iv. Fourth Amendment to Amended and Restated Solivita Declaration recorded in Official Records Book 8631 at Page 2212 in the Public Records of Polk County, Florida (the "Fourth Amendment").

The Amended and Restated Solivita Declaration together with the First Amendment, Second Amendment, Third Amendment, and Fourth Amendment shall hereinafter be collectively referred to as the "Solivita Declaration".

C. The Solivita Declaration only affects the Solivita Subdivision portion of the Solivita community. Solivita Community Association, Inc. (the "Association") is the homeowners association for the Solivita Subdivision.

D. Developer also previously recorded that certain Declaration for Solivita West in Official Records Book 6774, at Page 294 in the Public Records of Polk County, Florida (the "SW Declaration"), and thereafter amended the SW Declaration by the following instruments:

- i. First Amendment to Declaration for Solivita West recorded in Official Records Book 7393 at Page 407 in the Public Records of Polk County, Florida (the "First Solivita West Amendment").
- ii. Second Amendment to Declaration for Solivita West recorded in Official Records Book 8068 at Page 1799 in the Public Records of Polk County, Florida (the "Second Solivita West Amendment").
- iii. Third Amendment to Declaration for Solivita West recorded in Official Records Book 8631 at Page 2215 in the Public Records of Polk County, Florida (the "Third Solivita West Amendment").

The SW Declaration together with the First Solivita West Amendment, Second Solivita West Amendment, and Third Solivita West Amendment shall hereinafter be collectively referred to as the "Solivita West Declaration".

E. The Solivita West Declaration only affects the Solivita West Subdivision. Solivita West Community Association, Inc. (the "Solivita West Association") is the homeowners association for the Solivita West Subdivision.

F. The Association and the Solivita West Association (collectively, the "Associations") have decided that it is unnecessary, cumbersome and inefficient to have (i) two different declarations of covenants for different portions of the Solivita community and (ii) two different homeowners associations. The Associations desire to have only one master declaration that applies to the entire Solivita community and only one homeowners association for the entire Solivita community.

G. The Associations have merged the Solivita West Association into the Association, with the Association being the surviving entity. The Association shall hereafter be the only homeowners association for the entire Solivita community.

H. Section 4.3 of the Solivita West Declaration states that the Developer reserves the right to merge the Solivita West Declaration into the Solivita Declaration. To assist the Associations with the merger of the Solivita Subdivision and the Solivita West Subdivision, Developer has decided to merge the Solivita West Declaration into the Solivita Declaration, in accordance with the merger provision set forth in Section 4.3 of the Solivita West Declaration, so that the Solivita Declaration (as amended and restated herein) shall be the only declaration of covenants for the entire Solivita community.

I. Section 42.3 of the Solivita Declaration permits Developer to amend the Solivita Declaration as it deems appropriate without the joinder or consent of any other person or entity whatsoever prior to the Turnover Date (as defined in the Solivita Declaration), which date has not yet occurred. Developer desires to amend and restate the Solivita Declaration as set forth herein so that it shall be the only declaration of covenants for the Solivita community and will apply to the entire Solivita community. Accordingly, Developer desires to subject all of the property located within Solivita not currently or in the future owned by the Poinciana Community Development District or the Poinciana West Community Development District to the covenants, conditions and restrictions contained in this Master Declaration so that this Master Declaration will be the master declaration for the entire Solivita community.

J. Further, Section 43.1 of the Solivita Declaration allows Developer to annex additional lands into the Solivita Subdivision prior to the Community Completion Date (as defined therein) without the consent or joinder of any person or entity. By this Master Declaration, Developer is annexing the Solivita West Subdivision into the Solivita Subdivision. Hereinafter, the two subdivisions shall be known collectively as "Solivita."

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

NOW THEREFORE, Avatar, in consideration of the promises and mutual covenants contained in this Master Declaration, hereby declares that every portion of Solivita is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, reservations, regulations, charges and liens hereinafter set forth.

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

2. Master Declaration. This Master Declaration: (i) completely supersedes and replaces the Solivita West Declaration, which has been merged into this Master Declaration, and (ii) amends and restates the Solivita Declaration. This Master Declaration is a master declaration that shall hereafter apply to the entire Solivita community.

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

"Access Control System" shall mean any system intended to control access and/or enhance the welfare of Solivita. 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 SOLIVITA OR ANY RESIDENTIAL SUBDIVISION CONTAINED THEREIN. DEVELOPER AND/OR ITS AFFILIATES, BUILDERS, AND ASSOCIATION DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR BY IMPLICATION, THE MERCHANTABILITY OF FITNESS FOR USE OF ANY ACCESS CONTROL SYSTEM, OR THAT ANY SUCH SYSTEM (OR ANY OF ITS COMPONENTS OR RELATED SERVICES) WILL PREVENT INTRUSIONS, FIRES, OR OTHER OCCURRENCES, REGARDLESS OF

WHETHER OR NOT THE ACCESS CONTROL SERVICE IS DESIGNED TO MONITOR SUCH EVENTS. EACH AND EVERY OWNER AND THE OCCUPANT OF EACH HOME ACKNOWLEDGES THAT DEVELOPER AND/OR ITS AFFILIATES, BUILDERS, AND ASSOCIATION, THEIR EMPLOYEES, AGENTS, MANAGERS, DIRECTORS, AND OFFICERS, ARE NOT INSURERS OF OWNERS OR HOMES, OR THE PERSONAL PROPERTY LOCATED WITHIN HOMES. DEVELOPER AND/OR ITS AFFILIATES, BUILDERS, AND ASSOCIATION WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES, OR DEATHS RESULTING FROM ANY SUCH EVENTS

“**ACC**” shall mean the Architectural Control Committee for Solivita established pursuant to Section 30 hereof.

“**Articles**” shall mean the Second Amended and Restated Articles of Incorporation of Association filed with the Florida Secretary of State in the form attached hereto as **Exhibit 3** and made a part hereof, as amended from time to time.

“**Assessments**” shall mean any assessments made in accordance with this Master Declaration and as further defined in Section 28 hereof.

“**Association**” shall mean Solivita Community Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

“**Association Club Debt**” shall mean all costs of financing the purchase of the Club from the Club Owner in the event the Board determines such purchase is in the best interest of the Owners. Association Club Debt shall include principal and interest payments to be paid by Association to any lender financing the purchase of the Club. Association Club Debt shall not be part of Operating Costs.

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

“**Association Initial Expense Fund**” shall have the meaning set forth in Section 28.14 hereof.

“**Avatar**” shall mean Avatar Properties Inc., a Florida corporation, its successors and/or assigns.

“**Back Yard**” shall mean the portion of the yard of a Home between the back of the Home and the designated rear property line for such Home. In the event that there is any question about what portion of a Home is part of the Back Yard, Association’s determination shall be final and in Association’s sole and absolute discretion.

“**Board**” shall mean the Board of Directors of Association.

“**Bonds**” shall have the meaning set forth in Section 12.2 and 13.2 hereof.

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

“**By-Laws**” shall mean the Amended and Restated By-Laws of Association in the form attached hereto as **Exhibit 4** and made a part hereof, as amended from time to time.

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

“**Club**” shall mean the Solivita Club, including the land and club facilities provided for the Owners pursuant to the provisions of Club Plan, as amended from time to time.

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

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

“**Club Manager**” shall mean the entity operating and managing the Club at any given time. As provided in the Club Plan, Association may, at the written direction of Club Owner, be required to act as Club Manager from time to time.

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

“**Club Owner**” shall mean the owner of the Club, its successors and assigns. Presently the Club Owner is Avatar Properties Inc.

“**Club Plan**” shall mean Solivita Club Plan together with all amendments and modifications thereof. A copy of the Club Plan and the First, Second, Third, Fourth and Fifth Amendments are attached hereto as **Exhibit 5** and made a part hereof. This Master Declaration is subordinate in all respects to the Club Plan.

“**Common Areas**” shall mean all real property interests and personalty within Solivita designated as Common Areas from time to time by Plat or recorded amendment to this Master Declaration and provided for, owned, leased by, or dedicated to, the common use and enjoyment of the Owners within Solivita. The Common Areas may include, without limitation, community signage, Neighborhood entrance features, open space areas, internal buffers, improvements, Surface Water Management System, easement areas owned by others, additions, lakes, irrigation pumps, irrigation lines, parks, sidewalks, private roads (excluding those roads to be maintained by a Neighborhood Association, if any), streets, street lights, service roads, walls, commonly used utility facilities, project signage, parking areas, other lighting, entrance ways, features, and parks. The Common Areas does not include any portion of a Home or the Club. The Common Areas is contemplated at this time to include fountains, buffer and/or landscape areas, private

roads and wetlands. NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, THE DEFINITION OF "COMMON AREAS" AS SET FORTH IN THIS MASTER DECLARATION IS FOR DESCRIPTIVE PURPOSES ONLY AND SHALL IN NO WAY BIND, OBLIGATE OR LIMIT DEVELOPER TO CONSTRUCT OR SUPPLY ANY SUCH ITEM AS SET FORTH IN SUCH DESCRIPTION, THE CONSTRUCTION OR SUPPLYING OF ANY SUCH ITEM BEING IN DEVELOPER'S SOLE DISCRETION. FURTHER, NO PARTY SHALL BE ENTITLED TO RELY UPON SUCH DESCRIPTION AS A REPRESENTATION OR WARRANTY AS TO THE EXTENT OF THE COMMON AREAS TO BE OWNED, LEASED BY OR DEDICATED TO ASSOCIATION, EXCEPT AFTER CONSTRUCTION AND DEDICATION OR CONVEYANCE OF ANY SUCH ITEM.

**"Community"** shall mean the Solivita residential community, also referred to herein as Solivita.

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

**"Community Standards"** shall mean such standards of conduct, maintenance or other activity, if any, established by the ACC pursuant to Section 30 hereof.

**"Conservation Easement"** shall mean that certain Deed of Conservation Easement by and between Avatar and SFWMD recorded or to be recorded in the Public Records.

**"Contractors"** shall have the meaning set forth in Section 30.12.2 hereof.

**"County"** shall mean Polk County, Florida.

**"Courtyards Expenses"** shall have the meaning set forth in Section 25.1 hereof.

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

**"Debt Service Club Assessments"** shall have the meaning set forth in Section 28.26 hereof.

**"Developer"** shall mean Avatar and any of its designees (including its affiliated or related entities which conduct land development, homebuilding and sales activities), successors and assigns who receive a written assignment of all or some of the rights of Developer hereunder. Such assignment need not be recorded in the Public Records in order to be effective. In the event of such a partial assignment, the assignee shall not be deemed Developer, but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis.

**"Development Plan"** shall mean collectively the full or partial concept plan for the development of Solivita, as it exists as of the date of recording this Master Declaration,



regardless of whether such plan is currently on file with one or more governmental agencies. The Development Plan is subject to change as set forth herein. The Development Plan is not a representation by Developer as to the development of Solivita or its amenities, as Developer reserves the right to amend all or part of the Development Plan from time to time.

**“Front Yard”** shall mean the portion of the yard of a Home between the front of the Home and the road providing access to such Home. In the event that there is any question about what portion of a Home is part of the Front Yard, Association’s determination shall be final and in Association’s sole and absolute discretion.

**“Golf Owner”** shall mean any person or entity owning the golf course within or near to Solivita.

**“Home”** shall mean each residential home and appurtenances thereto constructed on a Lot within Solivita. A Home shall include, without limitation, a townhome, a Condominium Unit, a patio home, zero lot line home, each residential apartment within a Multi-Family Rental Building, and single family detached estate home. The term Home may not reflect the same division of property as reflected on a Plat. The term “Home” includes any interest in land, improvements, or other property appurtenant to the Home. 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 Assessments 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 Owner and all unmarried children twenty-two (22) years and younger of either the Owner or the Owner's spouse. If an Owner is unmarried, the Owner may designate one other person who is living with such Owner in the Home in addition to children twenty-two (22) years and younger as an additional adult Immediate Family Member. Children twenty-two (22) years and younger of such additional adult Immediate Family Member shall also be deemed Immediate Family Members. No unmarried child or other person shall qualify as an Immediate Family Member unless such person is living with the Owner within the Home. In no event shall the Owner and all Immediate Family Members exceed a number equal to two times the number of bedrooms in the Home. Without limiting the foregoing, Immediate Family Members shall not include grandchildren of an owner or the spouses of the Owner's children.

**“Individual Assessments”** shall have the meaning set forth in Section 28.2.5 hereof.

**“Lender”** shall mean (i) the institutional and licensed holder of a first mortgage encumbering a Lot or Home or (ii) Developer and its affiliates, to the extent Developer or its affiliates finances the purchase of a Home or Lot 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 Solivita.

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

**“Master Declaration”** shall mean this Master Declaration together with all amendments and modifications thereof.

**“Monthly Assessments”** shall have the meaning set forth in Section 28.2.1 hereof.

**“Multi-Family Rental Building”** shall mean any multi-family structure with individual residential apartments which are leased (and not sold) on an individual basis. A Multi-Family Rental Building does not include a building submitted to Condominium ownership.

**“Neighborhood”** shall mean any subdivision of Solivita which is subject to the jurisdiction of a Neighborhood Association. Each Home shall be part of a Neighborhood, if any.

**“Neighborhood Association”** shall mean any homeowners or condominium association which governs a portion of Solivita, if any.

**“Neighborhood Common Areas”** shall mean all property owned and/or maintained by a Neighborhood Association, if any.

**“Neighborhood Declaration”** shall mean any declaration recorded in the Public Records governing a Neighborhood including, without limitation, any Condominium declaration. No Neighborhood Declaration shall be effective unless and until approved by Developer, which approval shall be evidenced by Developer’s execution of, or joinder in, such Neighborhood Declaration.

**“Non-Conforming Pavers”** shall have the meaning set forth in Section 16 hereof.

**“Operating Costs”** shall mean all costs and expenses of Association and the Common Areas, Operating Costs may include, without limitation, all of the costs of ownership; operation; administration; all amounts payable by Association; all amounts required to remove canvas canopies located within the Common Areas as required herein; all amounts required to maintain the Surface Water Management System; all community lighting including up-lighting and entrance lighting; all amounts payable in connection with any private street lighting agreement between Association and Progress Energy; amounts payable to a Telecommunications Provider for Telecommunications Services furnished to all Owners; utilities; taxes; insurance; bonds; Access Control Systems; salaries; management fees; professional fees; service costs; supplies; maintenance; repairs; replacements; refurbishments; common area landscape maintenance and any and all of the costs relating to the discharge of the obligations hereunder and/or under the Club Plan, or as determined to be part of the Operating Costs by Association. By way of example, and not of limitation, Operating Costs shall include all of Association’s legal expenses and costs relating to or arising from the enforcement and/or interpretation of this Master Declaration and/or the Club Plan. If Association purchases the Club, all costs of owning, maintaining, repairing and replacing the Club shall be Operating Costs except for Association Club Debt. Operating Costs do not include Association Club Debt.

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

Family Rental Building is an Owner with respect to each Home within such Multi-Family Rental Building.

**“Paired Residence”** shall mean each Home within The Courtyards at Montelena which is part of a Paired Residences Building.

**“Paired Residences Building”** shall mean a single structure containing two Homes in which the Homes are separated by a Party Wall.

**“Parcel”** shall mean any portion of Solivita upon which one or more Homes may be constructed, 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.

**“Party Walls”** shall mean any fence or wall built as part of the original construction of two or more Homes which is placed on the dividing line or platted lot line between such Homes.

**“Party Roof”** shall mean any roof built as part of the construction of two or more Homes, which Homes are connected by one or more Party Walls.

**“PCDD”** shall mean the Poinciana Community Development District, its successors or assigns.

**“PCDD Capital Assessments”** shall have the meaning set forth in Section 13.2 hereof.

**“PCDD Facilities”** shall have the meaning set forth in Section 13.3 hereof.

**“PCDD Operation Assessments”** shall have the meaning set forth in Section 13.2 hereof.

**“PCDD Revenue Bonds”** shall have the meaning set forth in Section 13.2 hereof.

**“Permit”** shall mean, collectively, all permits issued by the SFWMD.

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

**“Public Infrastructure”** shall have the meaning set forth in Section 12.2 and Section 13.2 hereof.

**“Public Records”** shall mean the Public Records of Polk County, Florida.

**“PWCDD”** shall mean the Poinciana West Community Development District, its successors or assigns.

**“PWCDD Capital Assessments”** shall have the meaning set forth in Section 12.2 hereof.

**“PWCDD Facilities”** shall have the meaning set forth in Section 12.1 hereof.

**“PWCDD Operation Assessments”** shall have the meaning set forth in Section 12.2 hereof.

**“PWCDD Revenue Bonds”** shall have the meaning set forth in Section 12.2 hereof.

**“Reserves”** shall have the meaning set forth in Section 28.2.4 hereof.

**“Rules and Regulations”** shall mean collectively the Rules and Regulations governing Solivita as adopted by the Board from time to time.

**“SFWMD”** shall mean the South Florida Water Management District.

**“Side Yard”** shall mean those portions of the yard of a Home between the front lot line to the back lot line running along the exterior sides of the Home. In the event that there is any question about what portion of a Home is part of the Side Yard, Association’s determination shall be final and in Association’s sole and absolute discretion.

**“Solivita Association”** shall mean Solivita Community Association, Inc., its successors and/or assigns.

**“Solivita”** shall mean the real property described in **Exhibit 1** attached hereto subject to additions and deletions thereto as permitted pursuant to the terms of this Master Declaration. Developer may, when amending or modifying the description of real property which is subject to the operation of this Master Declaration, also amend or modify the definition of Solivita. Solivita includes from and after this date the Solivita Subdivision and Solivita West Subdivision as such terms are defined in the Recitals of this Master Declaration.

**“Special Assessments”** shall mean those Assessments more particularly described as Special Assessments in Section 28.2.2 hereof.

**“Surface Water Management System”** shall mean the collection of devices, improvements, or natural systems whereby surface waters are controlled, impounded or obstructed. This term may include exfiltration trenches, wetland preservation areas, mitigation areas, conservation areas (which may include those areas described in the Conservation Easement), lakes, water quality monitoring, dams, impoundments, reservoirs, drainage maintenance easements and those works defined in Section 373.403(1)-(5) of the Florida Statutes. The Surface Water Management System includes those works authorized by SFWMD pursuant to the Permit.

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

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

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

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

**“The Courtyards at Montelena”** shall mean all of the real property described on Exhibit 2 attached hereto and made a part hereof. The Courtyards at Montelena are within Solivita.

**“Title Documents”** shall have the meaning set forth in Section 45.6 hereof. The current Title Documents include, without limitation, those matters set forth on Exhibit 6 attached hereto.

**“TOHO”** shall mean the Tohopekaliga Water Authority.

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

**“Transfer Fee”** shall have the meaning set forth in Section 28.25 hereof.

**“Transportation Service Agreement”** shall have the meaning set forth in the Club Plan and be part of Club Expenses. Club Owner may, in its sole discretion, assign its obligations respecting the Transportation Service Agreement to Association, at which time the costs thereof will be Operating Costs.

**“Turnover Date”** shall mean the date on which transition of control of Association from Developer to Owners occurs. Without limiting the foregoing, Developer shall never be obligated to turnover Association prior to the date currently required by law.

**“Use Fees”** shall have the meaning set forth in Section 28.2.3 hereof.

**“Zero Lot Line Wall”** shall mean a wall built directly on a lot line which forms part of a Home commonly known as a zero lot line. If there is any question about whether a Home is a zero lot line residence, or which portion of a residence is a Zero Lot Line Wall, Association’s determination shall be final.

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

5. **Amendment.**

5.1 **General Restrictions on Amendments.** Notwithstanding any other provision herein to the contrary, no amendment to this Master Declaration shall affect the rights of Developer or Club Owner, including without limitation any easements that benefit Developer or Club Owner, unless such amendment receives the prior written consent of Developer or Club Owner, as applicable, which consent may be withheld for any reason whatsoever. No amendment shall alter the provisions of this Master Declaration benefiting Lenders without the prior approval of the Lender(s) enjoying the benefit of such provisions. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to this Master Declaration, then the prior written consent of such entity or agency must also be obtained. All amendments must comply with Section 11.3.2 hereof which benefits the SFWMD. No amendment shall be effective until it is recorded in the Public Records.

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

5.3 **Amendments Prior to and Including the Turnover Date.** Prior to and including the Turnover Date, Developer shall have the right to amend this Master Declaration as it deems appropriate in Developer’s sole and absolute discretion, without the joinder or consent of any person or entity whatsoever. Such amendments may include, without limitation, the creation of easements for Telecommunications Systems, utility, drainage, ingress and egress and roof overhangs over any portion of Solivita; additions or deletions from the properties comprising the Common Areas; changes in the Rules and Regulations, and modifications of restrictions on the Homes, and maintenance standards for landscaping. Developer’s right to amend under this

provision is to be construed as broadly as possible. By way of example, and not as a limitation, Developer may create easements over Homes conveyed to Owners provided that such easements do not prohibit the use of such Homes as residential homes. In the event that Association shall desire to amend this Master Declaration prior to and including the Turnover Date, Association must first obtain Developer's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Developer may be adopted by Association pursuant to the requirements for amendments after the Turnover Date. Thereafter, Developer shall join in such identical amendment so that its consent to the same will be reflected in the Public Records.

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

6. Annexation, Merger and Withdrawal.

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

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

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

7. Dissolution.

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

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

8. Binding Effect and Membership.

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

8.2 Transfer. The transfer of the fee simple title to a Home, whether voluntary or by operation of law, terminating the Owner's title to that Home shall terminate the Owner's rights to the use of and enjoyment of the Common Areas as such pertain to that Home and shall terminate such Owner's membership in Association. An Owner's rights and privileges under this Master Declaration are not assignable separately from a Home. The Owner of each Home is entitled to



the benefits of, and is burdened with the duties and responsibilities set forth in, the provisions of this Master Declaration. All parties acquiring any right, title and interest in and to any Home shall be fully bound by the provisions of this Master Declaration. In no event shall any Owner acquire any rights that are greater than the rights granted to, and limitations placed upon its predecessor in title pursuant to the provisions of this Master Declaration. In the event that any Owner desires to sell or otherwise transfer title of his or her Home, such Owner shall give the Board at least fourteen (14) days prior written notice of the name and address of the purchaser or transferee, the date on which such transfer of title is to take place, and such other information as the Board may reasonably require. The transferor shall remain jointly and severally liable with the transferee for all obligations of the Owner and the Home pursuant to this Master Declaration including, without limitation, payment of all Assessments accruing prior to the date of transfer. Until written notice is received as provided in this Section, the transferor and transferee shall be jointly and severally liable for Assessment accruing subsequent to the date of transfer. In the event that upon the conveyance of a Home an Owner fails in the deed of conveyance to reference the imposition of this Master Declaration on the Home, the transferring Owner shall remain liable for Assessments accruing on the Home from and after the date of conveyance.

8.3 Membership. Upon acceptance of title to a Home, and as more fully provided in the Articles and By-Laws, each Owner (or his or her Lessee, if applicable) shall be a member of Association. Membership rights are governed by the provisions of this Master Declaration, the deed to a Home, the Articles and By-Laws. Membership shall be an appurtenance to and may not be separated from, the ownership of a Home. Developer rights with respect to Association are set forth in this Master Declaration, the Articles and the By-Laws.

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

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

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

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

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

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

10. Operation of Common Areas.

10.1 Prior to Conveyance. Prior to the conveyance, identification and/or dedication of the Common Areas to Association as set forth in Section 10.4 herein, any portion of the Common Areas owned by Developer shall be operated, maintained, and administered at the sole cost of Association for all purposes and uses reasonably intended, as Developer in its sole discretion deems appropriate. During such period, Developer shall own, operate, and administer the Common Areas without interference from any Owner or Lender of a Parcel or any portion of Solivita or Home or any other person or entity whatsoever. Owners shall have no right in or to any Common Areas referred to in this Master Declaration unless and until same are actually constructed, completed, and conveyed to, leased by, dedicated to, and/or maintained by Association. The current conceptual plans and/or representations, if any, regarding the composition of the Common Areas are not a guarantee of the final composition of the Common Areas. No party should rely upon any statement contained herein as a representation or warranty as to the extent of the Common Areas to be owned, leased by, or dedicated to Association. Developer, so long as it controls Association, further specifically retains the right to add to, delete from, or modify any of the Common Areas referred to herein at its discretion and without notice.

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

personalty (e.g., furniture), color, textures and finishes of the Common Areas, or changes or modifications to any of them.

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

10.4 Conveyance.

10.4.1 Generally. Within sixty (60) days after the Turnover Date, or earlier as determined by Developer in its sole discretion, or as may be required by law, all or portions of the Common Areas may be dedicated by Plats, created in the form of easements, or conveyed by written instrument or by Quitclaim Deed recorded in the Public Records from Developer to Association. Association shall pay all of the costs of the conveyance. The dedication, creation by easement, or conveyance shall be subject to easements, restrictions, reservations, conditions, limitations, and declarations of record, real estate taxes for the year of conveyance, zoning, land use regulations and survey matters. Association shall be deemed to have assumed and agreed to pay all continuing obligations and service and similar contracts relating to the ownership operation, maintenance, and administration of the conveyed portions of Common Areas and other obligations relating to the Common Areas imposed herein. Association shall, and does hereby, indemnify and hold Developer harmless on account thereof. Association, by its joinder in this Master Declaration, hereby accepts such dedication(s) or conveyance(s) without setoff, condition, or qualification of any nature. The Common Areas, personal property and equipment thereon and appurtenances thereto shall be dedicated or conveyed in "as is, where is" condition WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION, FITNESS OR MERCHANTABILITY OF THE COMMON AREAS BEING CONVEYED.

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

10.4.2.1 the Amended and Restated Master Declaration for Solivita™;

10.4.2.2 matters reflected in the plat(s) of Solivita;

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

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

10.4.2.5 in the event that Association believes that Developer shall have failed in any respect to meet Developer's obligations under the Master Declaration or has failed to comply with any of Developer's obligations under law or the Common Areas conveyed herein

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

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

10.5 Operation After Conveyance. After the conveyance or dedication of any portion of the Common Areas to Association, the portion of the Common Areas so dedicated shall be owned, operated and administered by Association for the use and benefit of the owners of all property interests in Solivita including, but not limited to, Association, Developer, Club Owner, Owners and any Lenders. Subject to Association's right to grant easements, and other interests as provided herein, Association may not convey, abandon, alienate, encumber, or transfer all or a portion of the Common Areas to a third party without (i) if prior to and including the Turnover Date, the approval of (a) a majority of the Board; and (b) the consent of Developer and Club Owner, or (ii) from and after the Turnover Date, approval of (a) sixty-six and two-thirds percent (66 2/3%) of the Board; (b) seventy-five percent (75%) of all of the votes in Association; and (c) the consent of the Club Owner being first had and obtained.

10.6 Paved Common Areas. The Common Areas may contain certain paved areas. Without limiting any other provision of this Master Declaration, Association is responsible for the maintenance and/or resurfacing of all paved surfaces including, but not limited to, roads, pathways, bicycle paths, and sidewalks forming a part of the Common Areas, if any. Although pavement appears to be a durable material, it requires maintenance. Association shall have the right, but not the obligation, to arrange for an annual inspection of all paved surfaces forming a part of the Common Areas by a licensed paving contractor and/or engineer. The cost of such inspection shall be a part of the Operating Costs of Association. Association shall determine annually the parameters of the inspection to be performed, if any. By way of example, and not of limitation, the inspector may be required to inspect the roads and sidewalks forming part of the Common Areas annually for deterioration and to advise Association of the overall pavement conditions including any upcoming maintenance needs. Any patching, grading, or other maintenance work should be performed by a Company licensed to perform the work. From and

after the Community Completion Date, Association should monitor the roads, cart paths and sidewalks forming the Common Areas monthly to ensure that vegetation does not grow into the asphalt and that there are no eroded or damaged areas that need immediate maintenance.

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

#### 10.8 Use.

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

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

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

10.8.4 Waterbodies. BY ACCEPTANCE OF A DEED TO A HOME OR LOT, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL WATERBODIES MAY VARY. THERE IS NO GUARANTY BY DEVELOPER OR ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME. AT TIMES, WATER LEVELS MAY BE NONEXISTENT. Developer and Association shall not be obligated to erect fences, gates, or walls around or adjacent to any waterbody or waterfall within Solivita or adjacent to Solivita. Notwithstanding the foregoing, an Owner may erect a fence adjacent to the boundary of a waterbody but within the boundary of a Home (but outside any easement in favor of SFWMD, PCDD or PWCDD) with the prior approval of the ACC. No fence or other structure may be placed within any waterbody maintenance easement. Petroleum powered motorized fan watercraft are expressly prohibited from operation on waterbodies within Solivita. Man powered boats such as canoes and kayaks are permitted in waterbodies within Common Areas. Sailboats not longer than twelve feet (12') are permitted on the waterbodies within Common Areas. From time to time the Board may permit electric boats to be operated on waterbodies within Common Areas within Solivita pursuant to the Rules and Regulations. Swimming will not be permitted in any waterbody within Solivita. Prior to the Community Completion Date, no private docks may be erected within any waterbody forming part of the Common Areas. It is not anticipated that there will be a boat ramp within Solivita; however, Developer may install one or more in its sole and absolute discretion. As further provided in Section 10.8.5 of this Master Declaration, each Owner and such Owner's guests, invitees and agents assume all risk in using any waterbody within Solivita.

10.8.5 Assumption of Risk. Without limiting any other provision herein, each person within any portion of the Common Areas accepts and assumes all risk and responsibility for noise, liability, injury, or damage connected with use or occupation of any portion of such Common Areas including, without limitation: (a) noise from maintenance equipment, (b) use of pesticides, herbicides and fertilizers, (c) view restrictions caused by maturation of trees and shrubbery, (d) reduction in privacy caused by the removal or pruning of shrubbery or trees within any portion of the Common Areas, (e) design of any portion of the Common Areas, (f) injury, damage, destruction and/or loss of life arising from the presence of waterbodies within Solivita or the exercise of any privilege permitted by this Master Declaration, (g) the use of effluent in the irrigation or fertilization of the Common Areas or other portions of Solivita, and (h) the use of any transportation service, if Club Owner ever assigns its obligations thereto to Association as provided in the Club Plan. Each person entering onto any portion of Solivita also expressly indemnifies and agrees to defend and hold harmless Developer, Association, Club Owner, Club Manager, Builders, Neighborhood Associations and all employees, directors, representatives, officers, agents, subsidiaries, affiliates and partners of the foregoing, from any and all damages, whether direct or consequential, arising from or related to the person's use of the Common Areas, including for attorneys' fees, paraprofessional fees and costs, pre-trial and at all levels of proceedings, including appeals. Without limiting the foregoing, all persons using the Common Areas, including without limitation, all waterbodies, lakes, pools or areas adjacent to a waterbody, do so at their own risk. BY ACCEPTANCE OF A DEED, EACH OWNER

ACKNOWLEDGES THAT THE COMMON AREAS MAY CONTAIN WILDLIFE SUCH AS ALLIGATORS, DOGS, RACCOONS, SNAKES, DUCKS, DEER, SWINE, TURKEYS AND FOXES. DEVELOPER, BUILDERS, CLUB OWNER, CLUB MANAGER, NEIGHBORHOOD ASSOCIATIONS AND ASSOCIATION SHALL HAVE NO RESPONSIBILITY FOR MONITORING SUCH WILDLIFE OR NOTIFYING OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE. EACH OWNER AND HIS OR HER GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN SAFETY.

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

## 11. Maintenance by Association.

11.1 Common Areas. Except as otherwise specifically provided in this Master Declaration to the contrary, Association shall at all times maintain, repair, replace and insure the Common Areas, including all improvements placed thereon.

11.2 Canvas Canopies. Association shall be responsible for the removal of all canvas canopies including, but not limited to, mailbox and entrance canopies located within the Common Areas in the event winds are forecasted to exceed fifty (50) miles per hour. The expense of such removal shall be part of Operating Costs of Association. Additionally, under the same wind conditions, each Owner shall be responsible, at its sole cost and expense, for the removal of all canvas canopies located within its respective Home and yard.

## 11.3 Surface Water Management System.

11.3.1 Duty to Maintain. Association acknowledges that the Surface Water Management System, or components thereof, will be owned by Association, PWCDD or PCDD. The duty of maintenance of the Common Areas expressly includes the duty to operate, maintain, and repair any portion of the Surface Water Management System owned by Association including, without limitation any signage required by the Permit, in a manner which complies with the Permit. The costs of the operation and maintenance of the Surface Water Management

System owned by Association are part of Operating Costs of Association and each Owner shall pay Assessments which shall include a pro rata share of such costs. Association will take any action against Owners as necessary to enforce the conditions of the Conservation Easement and the Permit, including, without limitation, any monitoring required by the Permit.

11.3.2 Amendments to Association Documents. Association shall submit to SFWMD any proposed amendment to Association Documents which will affect the Surface Water Management System, including any environmental conservation area and the water management portions of the Common Areas. SFWMD shall then inform Association as to whether the amendment requires a modification of the Permit. If a modification of the Permit is necessary, SFWMD may so advise Association. Once Association receives the modification to the Permit and any conditions to the Permit, both shall be attached as an exhibit to an amendment to this Master Declaration, which amendment shall not require the approval of the Owners. Association shall maintain copies of all water management permits and correspondence respecting such permits for the benefit of Association.

11.3.3 Wetland Conservation Areas. Parcels may contain or be adjacent to wetlands, wetland mitigation or preservation areas, upland conservation areas, upland buffers and drainage easements, which may be dedicated by Plat and/or protected by a conservation easement ("**Wetland Conservation Areas**"). Owners of Homes abutting Wetland Conservation Areas shall not remove native vegetation that become established within the Wetland Conservation Areas abutting their Home with the exception of exotic or nuisance vegetation removal, or restoration in accordance with the restoration plan included in the conservation easement. Exotic vegetation may include, but is not limited to, melaleuca, Brazilian pepper, Australian pine, and Japanese climbing fern or any other species currently listed by the Florida Exotic Pest Plant Council. Nuisance vegetation may include, but is not limited to, cattails, primrose willow and grapevine. Association shall be responsible for the perpetual maintenance of the Wetland Conservation Areas and will take action against Owners as necessary to enforce the conditions of the conservation easement(s) and of the Permit.

11.3.4 Use Restrictions for Wetland Conservation Areas. The conservation areas may in no way be altered from their natural or permitted state, with the exception of permitted maintenance activities as set forth in the Permit. These use restrictions may be defined on the Permit and the plats associated with Solivita.

11.3.5 Association to Notify Owners. Association shall notify Owners of any mitigation and/or monitoring and/or financial assurances undertaken by Association with regard to the Wetland Conservation Areas and/or the Permit.

11.3.6 Signage. Owners shall be responsible for the perpetual maintenance of any signage required by the Permit.

11.3.7 Golf Course Irrigation. Club Owner reserves the right, in its sole and absolute discretion, to use water from any lakes or other waterbodies now or hereafter located within Solivita to irrigate the golf course, subject only to applicable laws, governmental regulations and the Permit.



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

11.5 Adjoining Areas. Association shall also maintain those drainage areas, swales, waterbody maintenance easements, driveways, and landscape areas that are within the Common Areas and immediately adjacent to a Home, provided that such areas are readily accessible to Association. Maintenance of driveways within the boundaries of a Lot shall be the responsibility of the Owner of such Lot. Association shall be responsible for repairing any driveway which must be removed in order to maintain the Surface Water Management System within the Common Areas. PCDD or PWCDD shall be responsible for repairing any driveway which must be removed in order to maintain the Surface Water Management System components owned by PCDD or PWCDD, respectively.

11.6 Right of Entry. Developer, PCDD, PWCDD, Club Owner, and Association are granted a perpetual and irrevocable easement over, under and across Solivita for the purposes herein expressed including, without limitation, for inspections to ascertain compliance with the provisions of this Master Declaration, and for the performance of any maintenance, alteration or repair which it is entitled to perform. Without limiting the foregoing, Developer specifically reserves easements for all purposes necessary to comply with any governmental requirement or to satisfy any condition that is a prerequisite for a governmental approval. By way of example, and not of limitation, Developer may construct, maintain, repair, alter, replace and/or remove improvements; install landscaping; install utilities; and/or remove structures on any portion of Solivita if Developer is required to do so in order to obtain the release of any bond posted with any governmental agency.

11.7 Maintenance of Property Owned by Others. Association shall, if designated by Developer by amendment to this Master Declaration or by other notice or direction, maintain vegetation, landscaping, sprinkler system, community identification/features and/or other areas or elements designated by Developer upon areas which are within or outside of Solivita, so as to enhance the appearance of Solivita. Such areas may abut, or be proximate to, Solivita, and may be owned by, or be dedicated to, others including, but not limited to, a utility, governmental or quasi-governmental entity, a condominium association. These areas may include (by way of example and not limitation) swale areas, landscape buffer areas, berm areas or median areas within the right-of-way of public streets, roads, drainage areas, community identification or entrance features, community signage or other identification and/or areas within canal rights-of-ways or other abutting waterways. Without limiting the foregoing, Association specifically has the right and obligation to perform the maintenance and management requested by the SFWMD or other governmental agency with respect to Common Areas.

11.8 Maintenance of Roads, Lighting, and Landscaping. Without limiting any provision herein to the contrary, Association shall maintain the roads, lighting and landscaping

within the Common Areas of Solivita in conformity with the maintenance standards determined by Developer, to the extent the roads are not maintained by PWCDD or PCDD. Association shall not have the right to reduce the level of maintenance and shall increase the level of maintenance, at Developer's written request, so long as Developer owns any property within Solivita. The provisions of this Section cannot be amended without Developer's prior written consent, which consent may be withheld for any reason.

11.9 Lawn Maintenance. Association shall cut and edge the grass in the Front Yard, Back Yard and Side Yard of each Home. Association will fertilize, weed and mulch the Front Yard, Back Yard and Side Yard of each Home. Association will also cut and trim the trees and hedges in the Front Yard, Back Yard and Side Yard of each Home. Without limiting the foregoing, if an Owner modifies the plant bed(s) from the original plant bed(s) installed by Developer, then such Owner is responsible for trimming all trees and shrubs, and weeding and caring for such plant bed(s). Association is responsible for replacing dead or damaged grass and/or landscaping initially installed by Developer. Association shall be responsible for the irrigation and sprinkler systems in the Front Yard, Back Yard and/or Side Yard of each Home, if any; provided, however, any modifications by an Owner are the responsibility of such Owner. Owners shall be responsible for the replacement of soil underlying grass or landscaping which is lost to erosion. However, if an Owner upgrades or changes landscaping in the Front Yard, Back Yard and/or Side Yard with ACC approval, such Owner shall be responsible for the maintenance of such upgraded or changed landscaping at such Owner's sole expense. Each Owner is specifically responsible for maintaining all landscaping within any portion of a Home that is fenced and inaccessible to Association and any other property, whether or not comprising part of the Home, which is within such fenced area (e.g., a lake bank). Moreover, Association will not be responsible for damage to fences, walls, and/or gates resulting from lawn and landscape maintenance. Association shall not maintain a Front Yard, Back Yard and/or Side Yard that is covered or blocked in any fashion by patio furniture or other objects, nor will it maintain a Front Yard, Back Yard and/or Side Yard containing pets. EACH OWNER ACKNOWLEDGES THAT SOME HOMES MAY NOT HAVE FRONT YARDS, SIDE YARDS AND/OR BACK YARDS, OTHER HOMES MAY HAVE FRONT YARDS, SIDE YARDS AND/OR BACK YARDS THAT ARE LARGER OR SMALLER THAN THE FRONT YARDS, SIDE YARDS AND/OR BACK YARDS OF OTHER HOMES. Notwithstanding the foregoing, the Board may decide by a Board action if some or all of Association maintenance responsibilities will be implemented. Association may discontinue all or a portion of such maintenance in which case each Owner shall provide such maintenance to his or her Lot at such Owner's sole cost and expense.

## 12. Poinciana West Community Development District.

12.1 Generally. The Poinciana West Community Development District ("**PWCDD**") has been created within Solivita. Portions of Solivita may be owned and maintained by PWCDD. Other portions of Solivita may be owned by PWCDD and maintained by Association. In the event that any portion of Solivita is owned by PWCDD, such facilities shall not be part of the Common Areas, but will be part of the infrastructure facilities owned by PWCDD (the "**PWCDD Facilities**").

12.2 Creation of PWCDD. PWCDD has issued special assessment bonds (the "**Bonds**") to finance a portion of the cost of the PWCDD Facilities. PWCDD is an independent, multi-purpose, special district created pursuant to Chapter 190 of the Florida Statutes. The creation of PWCDD puts certain residential units and non-residential development of Solivita under the jurisdiction of PWCDD. PWCDD may be authorized to acquire, finance, fund, install, equip, extend, construct or reconstruct water and sewer facilities, environmental mitigation, roadways, the Surface Water Management System, utility plants and lines, lift stations, parks, entrance features, landscaping and other infrastructure projects and services necessitated by the development of, and serving lands within, Solivita (collectively, the "**Public Infrastructure**"). The estimated design, development, construction and acquisition costs for the PWCDD Facilities may be funded by PWCDD in one or more series of municipal bond financings utilizing Bonds or other revenue backed bonds. PWCDD may issue both long-term debt and short term debt to finance the Public Infrastructure. The principal and interest on Bonds may be repaid through non ad valorem special assessments ("**PWCDD Capital Assessments**") levied on all benefiting properties in PWCDD, which property has been found to be specially benefited by the Public Infrastructure. The principal and interest on the other revenue backed bonds ("**PWCDD Revenue Bonds**") may be repaid through user fees, franchise fees or other use related revenues. In addition to Bonds, PWCDD may also impose an annual non ad valorem special assessment to fund the operations of PWCDD and the maintenance and repair of its Public Infrastructure and services ("**PWCDD Operation Assessments**").

12.3 PWCDD Assessments. PWCDD Capital Assessments and District Maintenance Special Assessments will not be taxes but, under Florida law, constitute a lien co-equal with the lien of state, county, municipal, and school board taxes and may be collected on the ad valorem tax bill sent each year by the Tax Collector of Polk County and disbursed to PWCDD. The homestead exemption is not applicable to PWCDD Assessments. Failure to pay PWCDD Capital Assessments or District Maintenance Special Assessments will result in the sale of tax certificates and could ultimately result in the loss of title to the property of the delinquent taxpayer through the issuance of a tax deed. PWCDD Revenue Bonds are not taxes or liens on property. If the fees and user charges underlying PWCDD Revenue Bonds are not paid, then such fees and user charges could become liens on the property which could ultimately result in the loss of title to the property through the issuance of a tax deed. It is anticipated, but not guaranteed, that the initial amount of PWCDD Capital Assessments will be no greater than \$900.00 per year per Home. The total amount of District Maintenance Special Assessments in future years is unknown at this time. The actual amount of PWCDD Capital Assessments will be set forth in PWCDD Assessment Methodology Reports adopted from time to time. District Maintenance Special Assessments relating to PWCDD Facilities will be determined by PWCDD. Any future District assessments and/or other charges due with respect to the PWCDD Facilities are secured by a lien against the Home. Failure to pay such sums may result in loss of property. PWCDD may construct, in part or in whole, by the issuance of Bonds and/or levy of special assessments, certain facilities which may consist of roads, utilities, landscaping and/or drainage system, as PWCDD determines in its sole discretion.

12.4 Common Areas and PWCDD Facilities Part of PWCDD. Portions of the Common Areas may be conveyed by Developer to PWCDD. Such PWCDD Facilities will be part of PWCDD and PWCDD shall govern the use and maintenance of the PWCDD Facilities. Some of the provisions of this Master Declaration will not apply to such PWCDD Facilities, as

the PWCDD Facilities will no longer be Common Areas. By way of example and not of limitation, the procedures herein respecting Developer's obligation to convey the Common Areas will not apply to the PWCDD Facilities. ANY CONVEYANCE OF COMMON AREAS TO PWCDD SHALL IN NO WAY INVALIDATE THIS MASTER DECLARATION. Developer may decide, in its sole and absolute discretion, to convey additional portions of the Common Areas to PWCDD, thereby making such Common Areas part of PWCDD's PWCDD Facilities. PWCDD may promulgate rules, which may outline use restrictions for the PWCDD Facilities. The establishment of PWCDD and the inclusion of PWCDD Facilities in PWCDD will obligate each Owner to become responsible for the payment of PWCDD Capital Assessments and PWCDD Operation Assessments for the acquisition, construction and operation of the PWCDD Facilities as set forth in this Section.

12.5 PWCDD Facilities Owned by PWCDD. The PWCDD Facilities may be owned and operated by PWCDD or owned by PWCDD and managed by Association. The PWCDD Facilities may also be owned by a governmental entity other than PWCDD. The PWCDD Facilities shall be used and enjoyed by the Owners, on a non-exclusive basis, in common with such other persons, entities, and corporations that may be entitled to use the PWCDD Facilities.

13. Poinciana Community Development District.

13.1 Generally. The Poinciana Community Development District (the "**PCDD**") has been created within Solivita. Portions of Solivita may be owned by the PCDD and maintained by the PCDD including, without limitation, the drainage system, landscaping, lakes, roads, Surface Water Management System, and/or utilities. Other portions of Solivita may be owned by the PCDD and maintained by Association. By way of example, it is possible that the entrance features and common open spaces will be owned by the PCDD but maintained by Association. In the event that any portion of Solivita is owned by the PCDD, such facilities shall not be part of the Common Areas, but will be part of the infrastructure facilities owned by the PCDD (the "**PCDD Facilities**"). AT THIS TIME IT IS NOT KNOWN WHAT PORTIONS OF SOLIVITA BE DESIGNATED COMMON AREAS OR FACILITIES OF THE PCDD. FINAL DETERMINATION OF WHICH PROPERTIES WILL BE COMMON AREAS MAY NOT OCCUR UNTIL THE COMPLETION OF ALL DEVELOPMENT.

13.2 Creation of the PCDD. The PCDD has issued special assessment bonds (the "**Bonds**") to finance a portion of the cost of the PCDD Facilities. The PCDD is an independent, multi-purpose, special district created pursuant to Chapter 190 of the Florida Statutes. The creation of the PCDD puts certain residential units and non-residential development of Solivita under the jurisdiction of the PCDD. The PCDD may be authorized to acquire, finance, fund, install, equip, extend, construct or reconstruct, without limitation, the following: water and sewer facilities, environmental mitigation, roadways, Surface Water Management System, utility plants and lines, and land acquisition, miscellaneous utilities for the community, and other infrastructure projects and services necessitated by the development of, and serving lands, within Solivita (the "**Public Infrastructure**"). The estimated design, development, construction and acquisition costs for the PCDD Facilities may be funded by the PCDD in one or more series of governmental bond financings utilizing Bonds or other revenue backed bonds. The PCDD may issue both long-term debt and short-term debt to finance the Public Infrastructure. The principal and interest on the Bonds may be repaid through non ad valorem special assessments ("**PCDD**

Capital Assessments”) levied on all benefiting properties in the PCDD, which properties have been found to be specially benefited by the Public Infrastructure over an approximately 30-year period. The principal and interest on the other revenue backed bonds (“PCDD Revenue Bonds”) may be repaid through user fees, franchise fees or other use related revenues. In addition to the Bonds issued to fund the Public Infrastructure costs, the PCDD may also impose an annual non ad valorem special assessment to fund the operations of the PCDD and the maintenance, repair and removal of its Public Infrastructure and services (“PCDD Operation Assessments”).

13.3 PCDD Assessments. The PCDD Capital Assessments and PCDD Operation Assessments will not be taxes but, under Florida law, constitute a lien co-equal with the lien of state, county, municipal, and school board taxes and may be collected on the ad valorem tax bill sent each year by the Tax Collector of County and disbursed to the PCDD or may be billed directly by the PCDD. The homestead exemption is not applicable to the PCDD Assessments. Failure to pay the PCDD Capital Assessments or PCDD Operation Assessments will result in the sale of tax certificates and could ultimately result in the loss of title to the property of the delinquent taxpayer through the issuance of a tax deed. PCDD Revenue Bonds are not taxes or liens on property. If the fees and user charges underlying the PCDD Revenue Bonds are not paid, then such fees and user charges could become liens on the property which could ultimately result in the loss of title to the property through the issuance of a tax deed. It is anticipated, but not guaranteed, that the initial amount of the PCDD Capital Assessments is estimated to be no greater than approximately \$800.00 per year per Home. The total amount of PCDD Operation Assessments in future years is unknown at this time. The actual amount of PCDD Capital Assessments will be set forth in the PCDD Assessment Methodology Reports adopted from time to time. PCDD Capital Assessments relating to PCDD Facilities will be determined by the PCDD. Any future PCDD Assessments and/or other charges due with respect to the PCDD Facilities are secured by a lien against the Home as set forth in this Section 13. Failure to pay such sums may result in loss of property as set forth in this Section 13. The PCDD may construct, in part or in whole, by the issuance of Bonds and/or levy of special assessments (as explained in Section 13.2 above) certain PCDD Facilities which may include, but are not limited to, roads, utilities, landscaping and/or drainage system, as the PCDD determines in its sole discretion.

13.4 Common Areas and PCDD Facilities Part of PCDD. Portions of the Common Areas may be conveyed by Developer to the PCDD. Such PCDD Facilities will be part of the PCDD and the PCDD shall govern the use and maintenance of the PCDD Facilities. In the event that Developer conveys certain PCDD Facilities to the PCDD, some of the provisions of this Master Declaration will not apply to such PCDD Facilities, as the PCDD Facilities will no longer be Common Areas. By way of example and not of limitation, the procedures herein respecting Developer’s obligation to convey the Common Areas will not apply to the PCDD Facilities. ANY CONVEYANCE OF COMMON AREAS TO THE PCDD SHALL IN NO WAY INVALIDATE THIS MASTER DECLARATION. Developer may decide, in its sole discretion, to convey additional portions of the Common Areas to either the PCDD, thereby making such Common Areas part of the PCDD’s PCDD Facilities. The PCDD may promulgate rules, which may outline use restrictions for the PCDD Facilities. The establishment of the PCDD and the inclusion of PCDD Facilities in the PCDD will obligate each Owner to become responsible for the payment of PCDD Capital Assessments and PCDD Operation Assessments for the

acquisition, construction, reconstruction, and equipping of the PCDD Facilities as set forth in this Section.

13.5 PCDD Facilities Owned by PCDD. The PCDD Facilities may be owned and operated by the PCDD or owned by the PCDD and managed by Association. The PCDD Facilities may also be owned by a governmental entity other than the PCDD. The PCDD Facilities shall be used and enjoyed by the Owners, on a non-exclusive basis, in common with such other persons, entities, and corporations that may be entitled to use the PCDD Facilities.

#### 14. Rules and Regulations.

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

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

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

justification, waiver or indulgence of the covenants and promises contained in this Master Declaration.

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

16. Water Transmission and Distribution Facilities Easement and Repair. Developer hereby grants and conveys to County and/or TOHO, and their successors and assigns, the non-exclusive right, privilege and easement to construct, re-construct, lay, install, operate, maintain, relocate, repair, replace, improve and inspect water transmission and distribution facilities and sewer collection facilities and all appurtenances thereto, and all appurtenant equipment, with the full right of ingress thereto and egress therefrom, within Solivita (excluding such facilities located inside a Home) in accordance with plans approved by Developer or Association. Certain water transmission and distribution facilities and sewer collection facilities may be covered with decorative brick pavers that do not conform to County regulations ("Non-Conforming Pavers") in the course of construction of Homes and Common Areas, as and to the extent permitted under the terms of this Master Declaration. In the event County or any of its subdivisions, agencies and/or divisions shall damage any Non-Conforming Pavers as a result of construction, repair or maintenance operations of the water and/or sewer facilities or the County's use of its easement rights granted in this Section 16, then if not repaired by the County, Association shall replace or repair such damage at the expense of the Owner of the affected Home and such cost shall be billed to such Owner as an Individual Assessment, unless, and only to the extent that, such cost is not paid by County or such other subdivisions, agencies and/or divisions. Association shall indemnify and hold harmless County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance by Association of Association's obligations under this Section 16.

17. Water Mains. In the event County or any of its subdivisions, agencies and/or divisions must remove any portion of a Home driveway which is constructed of pavers within any portion of the Common Areas, then Association will be responsible to replace or repair the driveway at

each affected Owner's expense as an Individual Assessment, if such expenses are not paid for by County or other entity.

18. Public Facilities. Solivita may include one or more facilities which may be open and available for the use of the general public. By way of example, there are several lift stations owned, operated and maintained by TOHO.

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

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

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

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

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

21.3 Boating, Docks and Fishing. No gas powered boats and no jet skis shall be permitted on the waterbodies within Solivita. Sailboats no longer than twelve feet (12') are permitted in waterbodies within the Common Areas; however, no sailboats longer than twelve



feet (12') in length shall be permitted. Watercraft such as canoes and kayaks are permitted in waterbodies within the Common Areas. From time to time the Board may adopt Rules and Regulations permitting electric boats to be used on the waterbodies within the Common Areas within Solivita. No private docks are permitted without the prior written approval of the ACC. Fishing is permitted by Owners and their guests only. Boats must be stored in garages or outside of Solivita. Association may require that an Owner produce evidence of adequate liability insurance (as determined by Association) prior to allowing any Owner to place a boat in a waterbody within the Common Areas.

21.4 Casualty Destruction to Improvements. In the event that a Home or other improvement is damaged or destroyed by casualty loss or other loss, then within a reasonable period of time after such incident, Owner thereof shall either commence to rebuild or repair the damaged Home or improvement and diligently continue such rebuilding or repairing until completion, or properly clear the damaged Home or improvement or restore or repair the Home as set forth in Section 25 herein and as approved by the ACC. As to any such reconstruction of a destroyed Home or improvements, the same shall only be replaced as approved by the ACC.

21.5 Commercial Activity. No Owner may actively engage in any solicitations in person or by flyer or similar modality for commercial purposes within Solivita. No solicitors of a commercial nature shall be allowed within Solivita, without the prior written consent of Association. No garage or yard sales are permitted except as permitted by the Association. No day care center, group babysitting service or day care facility may be operated out of a Home. Prior to the Community Completion Date, Association shall not permit any garage or yard sales without the prior written consent of Developer. Subject to the provisions and restrictions in the Polk County Land Development Code Chapter 2 Ordinance No. 04-80 Home Occupations, as amended ("County Home Occupation Ordinance"), to the extent applicable, an Owner may maintain a home business within a Home in strict compliance with the County Home Occupation Ordinance. Notwithstanding the foregoing, in no way shall a home occupation cause a Nuisance as defined in this Master Declaration.

21.6 Completion and Sale of Units. No person or entity shall interfere with the completion and sale of Homes within Solivita. WITHOUT LIMITING THE FOREGOING, EACH OWNER, BY ACCEPTANCE OF A DEED TO A HOME, AGREES THAT ACTIONS OF OWNERS MAY IMPACT THE VALUE OF HOMES; THEREFORE, EACH OWNER IS BENEFITED BY THE FOLLOWING RESTRICTION: PICKETING AND POSTING OF NEGATIVE SIGNS OR POSTING OF NEGATIVE WEBSITES ON THE INTERNET IS STRICTLY PROHIBITED IN ORDER TO PRESERVE THE VALUE OF THE HOMES IN SOLIVITA AND THE RESIDENTIAL ATMOSPHERE THEREOF.

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

21.8 Cooking. No cooking shall be permitted in the Common Areas. The ACC shall have the right to prohibit or restrict the use of grills or barbecue facilities throughout Solivita.

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

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

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

21.12 Driveway Repair. Each Owner shall be responsible to timely repair, maintain and/or replace the driveway comprising part of a Home including, without limitation, any damage caused by Developer, Association or by the holder of any easement over which such driveway is constructed. Each Owner, by acceptance of a deed to a Home, shall be deemed to indemnify, defend and hold harmless Association and the holder of any such easement, including without limitation, all applicable utility companies and governmental agencies, their agents, servants, employees and elected officials, from and against any and all actions or claims whatsoever arising out of the use of the Common Areas and any easement or the construction and/or maintenance of any driveway in that portion of the Common Areas, easement area, or in a public right-of-way between the boundary of such Owner's Home and the edge of the adjacent paved roadway. Further, each Owner agrees to reimburse Association any expense incurred in repairing any damage to such driveway in the event that such Owner fails to make the required repairs, together with interest at the highest rate allowed by law.

21.13 Extended Vacation and Absences. In the event a Home will be unoccupied for an extended period, the Home must be prepared prior to departure by: (i) notifying Association in writing; (ii) removing all removable furniture, plants and other objects from outside the Home; and (iii) designating a responsible firm or individual to care for the Home, should the Home suffer damage or require attention, and providing a key to that firm or individual. The name of the designee shall be furnished to Association. Neither Association nor Developer shall have responsibility of any nature relating to any unoccupied Home.

21.14 Fences and Walls. No walls or fences shall be erected or installed without prior written consent of the ACC. No chain link fencing of any kind shall be allowed, except for perimeter areas screened by landscaping. All enclosures of balconies or patios including, without limitation, addition of vinyl windows and decks shall require the prior written approval of the ACC. Fences on the sides or rear of a Home shall be four (4) feet or less, made of black or bronze rail aluminum only.

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

21.16 Garages. Each Home may have its own garage. No garage shall be converted into a general living area unless specifically approved by the ACC. Garage doors shall remain closed at all times except when vehicular or pedestrian access is required.

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

21.18 General Use Restrictions. Each Home, the Common Areas and any portion of Solivita shall not be used in a manner contrary to the Association Documents, provided such restriction shall not apply to PCDD, PCDD Facilities, PWCCD and PWCCD Facilities.

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

other than a storm event. Any approval by the ACC shall not be deemed an endorsement of the effectiveness of hurricane shutters.

21.20 Irrigation. Due to water quality, irrigation systems may cause staining on Homes, other structures, paved areas or vehicles. It is each Owner's responsibility to treat and remove any such staining. Association may require from time to time, that Owners adopt systems to prevent stains (e.g., automatic deionization systems). No Owner whose Home adjoins a waterway or waterbody may utilize the waterway or waterbody to irrigate unless so provided by Developer as part of original construction, subject to applicable permitting. Developer and/or Association may use waterways, waterbodies and/or effluent to irrigate Common Areas subject to applicable permitting. Developer, Owners (if provided by Developer as part of original construction), Association, SFWMD and/or Club Owner, shall have the right to use one or more pumps to remove water from waterways and waterbodies for irrigation purposes at all times, subject to permitting. Developer may utilize a computerized loop system to irrigate the Common Areas and/or Homes. BY ACCEPTANCE OF A DEED TO A HOME OR LOT, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL WATERWAYS AND WATERBODIES MAY VARY. THERE IS NO GUARANTEE BY DEVELOPER OR ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME. Developer and/or Association shall have the right to use one or more pumps to remove water from waterbodies for irrigation purposes at all time, subject to applicable permitting. No Owner shall be permitted to install an individual water well on his or her Lot.

21.21 Lake and Canal Slopes. Homes may border lakes and canals. The Owner of each Home bordering on the lake and canals shall ensure that lake and canal banks and slopes remain free of any structural or landscape encroachments so as to permit vehicular access for maintenance when needed. Lakes and canal slopes may be owned and maintained by the PWCDD or the PCDD. Each Owner hereby grants Association and/or PWCDD and/or PCDD an easement of ingress and egress across his or her Home to all adjacent lake and canal areas for the purpose of insuring compliance with the requirements of this Section. All lakes within Solivita shall be maintained by PWCDD or PCDD as PWCDD Facilities or PCDD Facilities.

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

21.22.1 Association shall irrigate the grass and landscaping located on the Lots in a routine and ordinary manner, and shall ensure that sufficient irrigation occurs during all periods.

21.22.2 All grass and landscaping located within any rear yard of a Lot that is fenced pursuant to Section 21.14 herein, shall be maintained by Association. No gardens, Jacuzzis, fountains, playground equipment, pools, screened rooms, or other permitted improvements shall be constructed within the rear yard of a Lot without the prior written approval of the ACC. Each Owner understands that Lots within this Community may not be large enough to accommodate any of the foregoing items in any event.

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

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

21.22.5 Association may designate one or more portions of the Common Areas for community gardens. The use of any community garden shall be governed by the Rules and Regulations.

21.23 Laundry. Subject to the provisions of Section 163.04 of the Florida Statutes, to the extent applicable, no rugs, mops, or laundry of any kind, or any other similar type article, shall be shaken, hung or exposed so as to be visible outside the Home or Parcel. No clothes drying area may be placed in Solivita except within the boundaries of a Lot. No clothes drying area may be placed on any Lot until its location and material for the clotheslines have been submitted to and approved by the ACC. No outdoor clothes drying area shall be allowed on any Lot except in the rear of the Lot. In the case of corner Lots, the clothes drying area shall not be placed within twenty-five (25') feet of the Lot's street side property line. The clothes drying area shall be located and screened so it is not readily visible from abutting or nearby Lots or streets.

21.24 Lawful Use. No immoral, improper, offensive, unlawful or obnoxious use shall be made in any portion of Solivita. All laws, zoning ordinances and regulations of all governmental entities having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental entities for maintenance, modification or repair of a portion of Solivita shall be the same as the responsibility for maintenance and repair of the property concerned.

21.25 Lawn Maintenance Standards. The following maintenance standards (the "**Lawn Maintenance Standards**") apply to landscaping maintained by Association and/or Owners only if Association is denied access to fenced portions of Lots. Association shall not be responsible for maintenance of any landscaping installed by Owner with the permission of the ACC. Owner shall maintain any such additional landscaping at Owner's sole cost and expense in accordance with the following standards.

21.25.1 Trees. Trees are to be pruned as needed.

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

21.25.3 Grass.

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

21.25.3.2 Edging. Edging of all streets, curbs, beds and borders shall be performed as needed.

21.25.3.3 Dead Grass. Association shall be responsible to replace dead grass.

21.25.4 Mulch. Association shall replenish mulch once annually at a predetermined timeframe for all Homes.

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

21.25.6 Fertilization. Fertilization of all turf, trees, shrubs, and palms shall be performed at a minimum of three (3) times a year.

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

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

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

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

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

21.25.12 Maintenance of Lots. No weeds, underbrush, dead or dying trees and landscape materials, or other unsightly growths shall be permitted to grow or remain on any Lot, and no refuse, trash, junk or other unsightly objects shall be allowed to be placed or suffered to remain anywhere on any Lot. To the extent not provided by Association, all lawns shall be neatly edged and all landscaping material shall be maintained in good and living condition at all times. "**Good and Living Condition**" for the landscaping material shall mean the proper irrigation, fertilizing, grooming and trimming thereof and the replacement of dead, diseased and/or missing landscaping material with the material of the same species, height, width, and quality as the remaining landscaping material on the applicable Lot, unless a variation is approved in writing by the ACC. Failure by an Owner to maintain the landscaping as required herein and/or to keep the Lot free of weeds, underbrush, dead or dying trees, unsightly growths, refuse, trash, junk or other unsightly objects, shall be cause for Association to enter upon the Lot to maintain such landscaping and/or to remove such objectionable material and (i) such entry shall not be deemed a trespass; and (ii) the disposal of removed material shall not be deemed a conversion. Any costs incurred by Association shall be borne by Owner as an Individual Assessment and shall be due and payable within fifteen (15) days after written request from Association for payment.

21.26 Leases. Homes may be leased, licensed or occupied only in their entirety and no fraction or portion may be rented. No bed and breakfast facility may be operated out of a Home. Individual rooms of a Home may not be leased on any basis. No transient Lessees may be accommodated in a Home. All leases or occupancy agreements shall be in writing and a copy of all leases of Homes not comprising part of a Multi-Family Rental Building shall be provided to and approved by Association. Leases of Homes forming a part of a Multi-Family Rental Building shall not be submitted to Association unless Association reasonably requests a copy of the same from the Owner of a Multi-Family Rental Building in connection with the enforcement of this Master Declaration or Rules and Regulations. No Home, other than Homes within a Multi-Family Rental Building, may be subject to more than two (2) leases in any twelve (12) month period, regardless of the lease term. No time-share or other similar arrangement is permitted. The Owner must make available to the Lessee or occupants copies of the Association Documents.

21.27 Lot Lights. Lighting, if any, installed within the perimeter of a Lot shall be maintained in good working order and replaced by the Owner of such Lot. All lighting must have the prior written approval of the ACC.

21.28 Minors' Use of Facilities. Persons who are not eighteen (18) years of age or older shall not be permitted to use the Common Areas unless under the supervision of an adult Owner or lawful occupant over the age of eighteen (18) years, except in such cases and under such conditions as Association may from time to time establish and require. Each Owner shall be responsible for all actions of minor children dwelling in and/or visiting his/her Home. Neither Developer nor Association shall be responsible for any use of the facilities by anyone, including minors.

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

21.30 Paint. Homes shall be repainted at least once every seven (7) years or more often, as needed as determined by the ACC, but in any event within forty-five (45) days of notice by the ACC.

21.31 Parking. Owners' automobiles shall be parked in the garage or driveway. Each Home will contain its own garage. On-street parking will be permitted for passenger cars and commercial vehicles only during daylight hours. Golf carts shall be parked only in the garage of a Home. No vehicle (i) without valid registration or (ii) which cannot operate on its own power shall remain on Solivita for more than twelve (12) hours, except in the garage of a Home. No repair, except emergency repair, of vehicles shall be made within Solivita, except in the garage of a Home. No "commercial vehicle" (as such term is defined in the city or County Code in effect on the date of recordation of this Master Declaration): (i) shall be permitted to be parked in Solivita for a period of more than four (4) hours per day unless such commercial vehicle is temporarily present and necessary in the actual construction, maintenance, or repair of a Home or other improvements in Solivita or (ii) shall be permitted to be parked overnight or stored in Solivita unless fully enclosed within a garage. No recreational vehicle of any kind shall be parked overnight in Solivita, and no boats, boat trailers, trailers of any kind, campers, motor homes, mobile homes or buses shall be permitted to be parked in Solivita unless kept fully enclosed within a garage; provided, however, from time to time Association may allow Owners to store such items on designated portions of the Common Areas in return for the payment of a license fee. No vehicle shall be used as a domicile or residence, either temporary or permanent.

21.32 Personal Property. All personal property of Owners or other occupants of Homes shall be stored within the Homes. No personal property may be stored on, nor any use made of, the Common Areas, any Lot or Home, or any other portion of Solivita which is unsightly or which interferes with the comfort and convenience of others.

21.33 Pets and Animals. Three (3) commonly accepted household pets such as dogs and cats may be kept. Association may prohibit breeds of dogs that the Board considers dangerous in its sole discretion. No household pets over one hundred (100) pounds are permitted. Swine, goats, horses, pigs, cattle, sheep, chickens, and the like, are hereby specifically prohibited. Animals, fowl and reptiles which are deemed by the Board to be obnoxious are prohibited. The determination of what is or what may be obnoxious shall be determined by Association in its sole discretion. No animals shall be raised, bred or kept within Solivita for commercial purposes. A determination by the Board that an animal or pet kept or harbored in a Home is a nuisance shall be conclusive and binding on all parties. No pet or animal shall be "tied out" on the exterior of the Home or in the Common Areas, or left unattended in a yard or on a balcony, porch, or patio. No dog runs or enclosures shall be permitted on any Home. All pets shall be walked on a leash



which shall not exceed twenty (20) feet. No pet shall be permitted outside a Home except on a leash or in the fenced portion of a yard. When notice of removal of any pet is given by the Board, the pet shall be removed within forty-eight (48) hours of the giving of the notice. All pets shall urinate and defecate in the "pet walking" areas within Solivita designated for such purpose, if any, or on that Owner's Home. The person walking the pet of the Owner shall clean up all matter created by that pet. Each Owner shall be responsible for the activities of his/her pet. Notwithstanding anything to the contrary, seeing eye dogs shall not be governed by the restrictions contained in this Section.

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

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

21.36 Rights to Stormwater Runoff, Effluent and Water Reclamation. By conveyance of a Home within Solivita, each Owner understands and irrevocably consents to the possibility of irrigation of the Common Areas, other areas within Solivita and adjacent areas, with treated effluent, provided that the effluent emanates from an approved treatment plant with an operating permit from the appropriate governmental agencies. Developer, its agents, successors and/or assigns, shall have the exclusive right to develop and utilize the ground and surface water resources of Solivita for any legal purpose, including the distribution and use of such water beyond Solivita. Such right shall include an easement over Solivita for access and for installation and maintenance of facilities and equipment to capture and transport ground water, surface water and storm water runoff. The conveyance of any Home to an Owner by Developer does not include the right to develop or utilize the ground, surface or storm water resources within such Home. Developer or its designee may establish programs for reclamation of storm water runoff and wastewater for appropriate uses within or outside Solivita and may require Owners and occupants of Homes to participate in such programs to the extent reasonably practical. No Owner or occupant shall have any right to compensation for water claimed or reclaimed from his or her Home. Additionally, the Board may establish restrictions on or

prohibit outside use of potable water within Solivita. A non-exclusive easement is hereby created over Solivita in favor of Association for overspray of water from any irrigation system serving the Common Areas. Association may use treated effluent in the irrigation of any Common Areas. Association shall not be held liable for any damage or injury resulting from such overspray or the exercise of this easement. This Section may not be amended without the consent of Developer, and the rights created in this Section shall survive the termination of this Master Declaration.

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

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

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

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

21.41 Signs and Flags. No sign (including brokerage or for sale/lease signs), flag, banner, sculpture, fountain, outdoor play equipment, solar equipment, artificial vegetation, sports equipment, advertisement, notice or other lettering shall be exhibited, displayed, inscribed, painted or affixed in or upon any portion of Solivita that is visible from the outside without the prior written approval thereof being first had and obtained from the ACC as required by this Master Declaration; provided, however, signs required by governmental agencies and approved by the ACC may be displayed (e.g., permit boards); and further provided that not signs posted by the PCDD or the PWCDD shall be subject to this section. "For Sale" and "For Rent" signs must

be approved by the ACC prior to displaying the sign at the Home; limit one (1) sign per Home; and signs shall be displayed in the window of a Home only. Political campaign signs must be approved by the ACC prior to displaying the sign at the Home. Each Home may display one (1) political campaign sign in a window of the Home and such sign must be removed the week after the campaign is concluded. No lawn ornament, fountain, solar equipment, artificial vegetation, shall be placed in or upon any part of a Home that is visible from the outside without the prior written approval thereof being first had and obtained from the ACC as required by this Master Declaration. Developer and Builders are exempt from this Section. No in-ground flag poles (except as Developer may use) shall be permitted within Solivita, unless written approval of the ACC is obtained. Notwithstanding the foregoing, no ACC approval is required for the installation of one portable, removable United States of America flag or official flag of the State of Florida displayed in a respectful manner, and on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day, Owners may display, in a respectful manner, portable, removable official flags, not larger than 4 and one-half (4 ½') feet by 6 feet (6'), which represent the United States Army, Navy, Air Force, Marine Corps, Coast Guard or a POW-MIA flag. In addition, notwithstanding the foregoing, no ACC approval is necessary for the installation of an American flag, up to two feet (2') by four feet (4') in size, posted on a three foot (3') pole and attached at a forty-five (45) degree angle from the Home. After ACC approval, a free standing flagpole may be installed on a Lot, if permitted by Chapter 720.

21.42 Sports Equipment. No recreational, playground or sports equipment shall be installed or placed within or about any portion of Solivita without prior written consent of the ACC. No basketball backboards, skateboard ramps, or play structures will be permitted without written approval by the ACC. Such approved equipment shall be located at the rear of the Home or on the inside portion of corner Homes within the setback lines. Tree houses or platforms of a similar nature shall not be constructed on any part of a Home. No basketball hoops shall be attached to a Home and any portable basketball hoops must be stored inside the Home when not in use. No play courts, game courts or tennis courts are permitted within Lots.

21.43 Storage. No temporary or permanent utility or storage shed, storage building, tent, or other structure or improvement shall be permitted and no other structure or improvement shall be constructed, erected, altered, modified or maintained without the prior approval of the ACC, which approval shall conform to the requirements of this Master Declaration; provided however that the PCDD and the PWCD shall not be subject to this Section. Water softeners, trash containers, propane tanks and other similar devices shall be properly screened from the street in a manner approved by the ACC.

21.44 Subdivision and Regulation of Land. No portion of any Home or Lot shall be divided or subdivided or its boundaries changed without the prior written approval of Association. No Owner shall inaugurate or implement any variation from, modification to, or amendment of governmental regulations, land use plans, land development regulations, zoning, or any other development orders or development permits applicable to Solivita, without the prior written approval of Developer, which may be granted or denied in its sole discretion.

21.45 Substances. No flammable, combustible or explosive fuel, fluid, chemical, hazardous waste, or substance shall be kept on any portion of Solivita or within any Home or Lot, except those which are required for normal household use. All propane tanks and bottled

gas for household and/or pool purposes (excluding barbecue grill tanks) must be installed underground or in a manner to be screened from view by landscaping or other materials approved by the ACC.

21.46 Surface Water Management System. Association acknowledges that the Surface Water Management System within the Common Areas will be owned by Association. The duty of maintenance of the Common Areas expressly includes, without limitation, the duty to operate, maintain, and repair the Surface Water Management System. The costs of the operation and maintenance of the Surface Water Management System within a Common Area is part of Operating Costs and each Owner shall pay Assessments which shall include a pro rata share of such costs. No structure of any kind shall be constructed or erected, nor shall any Owner in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water in any portion of the ditches, canals, channels, lakes, retention areas, ponds or other water bodies reserved for, or intended by Developer to be reserved for, drainage ways or for the accumulation of runoff waters, as reflected in any permits, or Plat, without the specific written consent of Association and Developer. An Owner or Neighborhood Association shall not deny or prevent ingress and egress by Developer, Association, PCDD, PWCCD or other governmental agencies to such drainage areas for maintenance or landscape purposes.

21.47 Swimming Prohibited. Swimming in the waterbodies within Solivita is prohibited.

21.48 Use of Homes. Each Home is restricted to residential use as a residence by the Owner, his or her Immediate Family Members, guests, Lessees and invitees.

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

21.50 Water Intrusion. Florida experiences heavy rainfall and humidity on a regular basis. Each Owner is responsible for making sure his or her Home remains watertight including, without limitation, checking caulking around windows and seals on doors. Each Owner acknowledges that running air conditioning machinery with windows and/or doors open in humid conditions can result in condensation, mold and/or water intrusion. Neither Developer nor Association shall have liability under such circumstances for any damage or loss that an Owner may incur.

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

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

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

22. Paramount Right of Developer. Notwithstanding anything to the contrary herein, prior to the Community Completion Date, Developer shall have the paramount right to dedicate, transfer, and/or convey (by absolute conveyance, easement, or otherwise) portions of Solivita for various public purposes or for the provision of Telecommunications Systems, or to make any portions of Solivita part of the Common Areas. In addition, the Common Areas of Solivita may include decorative improvements, berms, waterfalls, and waterbodies. Developer may remove, modify, eliminate or replace these items from time to time in its sole discretion. Developer specifically reserves the right to change the layout, composition, and design of all Common Areas. Sales brochures, site plans, and marketing materials are not guarantees or representations as to what facilities, if any, will be included within the Common Areas.

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

24. Insurance.

24.1 Association. Association shall maintain the following insurance coverage:

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

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

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

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

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

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

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

25.1 Paired Residence Buildings. All insurance maintained by an Owner pursuant to Section 24.2 hereof respecting a Paired Residence shall name Association as an additional insured and as loss payee. At any time, Association may, but shall not be obligated to, obtain

and maintain insurance on the Paired Residences on a bulk basis. The cost of which shall be Courtyards Expenses. Paired Residences are separated by Party Walls but form part of a Paired Residences Building. The Association shall be responsible for performing, in a timely manner, any Required Repair or Required Demolition to any Paired Residence damaged or destroyed including, without limitation, hiring architects, engineers, general contractors and subcontractors, supervising the same and obtaining permits and governmental approvals. All costs and expenses associated with such Required Repair or Required Demolition shall be paid from the insurance proceeds payable to the Association in connection with such damage or destruction. Any shortfall in insurance proceeds payable to the Association, the cost of any insurance deductible, and any other costs and expenses not paid by the insurance proceeds shall be paid as follows:

25.1.1 Mechanical Failure. If a Paired Residence is damaged or destroyed due to a mechanical failure in the Paired Residences Building, which failure is **not** the result of the Owner's failure to properly maintain the Paired Residence or the negligence of the Owner, then the amount of any shortfall in insurance proceeds payable to the Association as a result of such repair or damage, the cost of any insurance deductible, and any other costs and expenses not paid by insurance proceeds shall be shared equally by each Paired Residence within the Paired Residences Building, and the Association shall levy a Special Assessment against the Owners of such Paired Residence for any shortfall. In the event of damage or destruction of a Paired Residence due to a mechanical failure as set forth in the preceding sentence, the Owner of the Paired Residence shall relocate from the Paired Residence and store such Owner's personal property prior to and during any Required Repair or Required Demolition.

25.1.2 Acts of God. If a Paired Residence is damaged or destroyed due to an act of God, then the amount of any shortfall in insurance proceeds payable to the Association as a result of such repair or damage, the cost of any insurance deductible, and any other costs and expenses not paid by insurance proceeds shall be paid by Owner of the Paired Residence so damaged or destroyed, and the Association shall levy a Special Assessment against the Owner of such Paired Residence for any shortfall. In the event of damage or destruction of a Paired Residence due to an act of God, the Owner of the Paired Residence shall relocate from the Paired Residence and store such Owner's personal property prior to and during any Required Repair or Required Demolition.

25.1.3 Lanai or Patio. No lanai or patio that is a part of a Paired Residence can be expanded, reduced in size or relocated to any different location within the Lot.

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

25.3 Additional Rights of Association. If an Owner refuses or fails, for any reason, to perform the Required Repair or Required Demolition as herein provided, then Association, in its sole and absolute discretion, by and through its respective Board is hereby irrevocably authorized by such Owner to perform the Required Repair or Required Demolition. All Required Repair performed by Association pursuant to this Section shall be in conformance with the original plans and specifications for the Home, subject to approved modifications. Association shall have

the absolute right to perform the Required Demolition to a Home pursuant to this Section if any contractor certifies in writing to Association that such Home cannot be rebuilt or repaired. The Board may levy an Individual Assessment against the Owner in whatever amount may be sufficient to adequately pay for Required Repair or Required Demolition performed by Association.

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

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

25.5.1 The bonds shall name Association as an obligee.

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

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

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

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

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

25.8 Nature of Reconstruction. Any reconstruction of improvements hereunder shall be substantially in accordance with the plans and specifications of the original improvement, or



as the improvement was last constructed, subject to modification to conform with the then current governmental regulation(s).

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

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

26. Property Rights.

26.1 Owners' Easement of Enjoyment. Every Owner and Lessee, and his or her Immediate Family Members, Lessees, guests, invitees and every owner of an interest in Solivita shall have a non-exclusive right and easement of enjoyment in and to those portions of the Common Areas which he or she is entitled to use for their intended purpose, subject to the following provisions:

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

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

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

26.1.4 The right of Developer and/or Association to dedicate or transfer all or any part of the Common Areas. No such dedication or transfer shall be effective prior to the Community Completion Date without prior written consent of Developer and, at any time, without prior written consent of the Club Owner, provided however that transfers to the PCDD or the PWCCD shall not require such consent.

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

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

26.1.7 The rights of Developer and/or Association and/or Club Owner regarding Solivita as reserved in this Master Declaration, including the right to utilize the same and to grant use rights, etc. to others.

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

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

26.2 Ingress and Egress. An easement for ingress and egress is hereby created for pedestrian traffic over, and through and directly across sidewalks, paths, walkways, driveways, passageways, and lanes as the same, from time to time, may exist upon, or be designed as part of, the Common Areas, and for vehicular traffic over, through and across such portions of the Common Areas as, from time to time, may be paved and intended for such purposes.

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

easements. Without limiting any other provision of this Master Declaration, Developer may non-exclusively assign its rights hereunder to each Builder.

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

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

26.6 Easement for Encroachments. In the event that any improvement upon Common Areas, as originally constructed, shall encroach upon any other property or improvements thereon, or for any reason, then an easement appurtenant to the encroachment shall exist for so long as the encroachment shall naturally exist.

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

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

26.9 Drainage Easement. A non-exclusive easement shall exist in favor of Developer, SFWMD, Club Owner, PCDD, PWCDD, Association, and their designees, and any other applicable water management district, state agency, county agency and/or federal agency having jurisdiction over Solivita over, across and upon Solivita for drainage, irrigation and water management purposes. A non-exclusive easement for ingress and egress and access exists as shown on the Plat for such parties to enter upon and over any portion of Solivita (including Homes) in order to construct, maintain, inspect, record data on, monitor, test, or repair, as necessary, any water management areas, conservation areas, mitigation areas, irrigation systems and facilities thereon and appurtenances thereto. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage or

irrigation of Solivita and/or installation or maintenance of utilities or which may obstruct or retard the flow of water through Solivita and/or water management areas and facilities or otherwise interfere with any drainage, irrigation and/or easement provided for in this Section or the use rights set forth elsewhere in this Master Declaration. Notwithstanding the foregoing, a non-exclusive easement shall exist over, across and upon Solivita for property adjacent to Solivita for the purpose of surface water flow and surface storm water management.

26.10 Club Easements. A non-exclusive easement shall exist in favor of the Club Owner and its respective designees, invitees, guests, agents, employees, and members over and upon the Common Areas and any other portions of Solivita necessary for ingress, egress, access to, construction, maintenance and/or repair of the Club. Club Owner, Club employees, agents, invitees, guests, any manager of the Club, all members of the Club and all licensees of the Club (including non-property owners) shall be given access to the Club on the same basis as Owners, but without any charge therefor (in the term of Assessments or otherwise). This Section may not be amended or revoked without the prior written consent of Club Owner, which consent may be granted or denied in its sole and absolute discretion.

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

26.12 Waterbodies. It is the responsibility of Association to maintain any Common Areas that borders on waterbodies or canals. Erosion of slopes and banks is possible due to drainage or roof culvert outfalls and runoff can affect the integrity of the lake or canal bank. Each such Owner shall ensure that banks and slopes of canals and waterbodies that lie within a Lot remain free of any structural or landscape encroachments so as to permit vehicular access for maintenance when needed.

26.13 Easement in Favor of Association. Association is hereby granted an easement over all of Solivita, including all Homes and Lots, for the purposes of (a) constructing, maintaining, replacing and operating all Common Areas, including, but not limited to, lakes, perimeter walls and fences, and (b) performing any obligation of an Owner for which Association intends to impose an Individual Assessment.

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

26.15 Easement for Errant Golf Balls. Non-specific easements are created for the benefit of users of the Golf Course over Homes, Common Areas, Neighborhood common areas and other properties adjacent to the Golf Course, to permit every reasonable act necessary and appropriate to playing golf. These easements include, without limitation, the flight of golf balls over Homes and the Common Areas, the landing of golf balls, the use of necessary golf carts and maintenance equipment and the usual common noises created by playing golf and maintaining

the Golf Course. Developer and its affiliates, Builders, Association, and each Neighborhood Association shall not be liable or responsible for disputes between an Owner and any person using the course. All Owners, by acceptance of delivery of a deed to a Home or unimproved Lot will assume all risks associated with errant golf balls, and agree and covenant not to make any claim or institute any action against the Developer and its affiliates, Association, Builders, Neighborhood Associations, or the owner of any golf course adjacent to or in the general vicinity of Solivita arising or resulting from any errant golf balls or damages caused thereby.

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

28. Assessments.

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

28.2 Purpose of Assessments. The Assessments levied by Association shall be used for, among other things, the purpose of promoting the recreation, health and welfare of the residents of Solivita, and in particular for the improvement and maintenance of the Common Areas and any easement in favor of Association, including, but not limited to, the following categories of Assessments as and when levied and deemed payable by the Board and as otherwise provided in this Master Declaration:

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

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

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

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

28.2.5 Assessments for which one or more Owners (but less than all Owners) within Solivita is subject ("**Individual Assessments**") such as costs of special services provided to a Home or Owner or cost relating to enforcement of the provisions of this Master Declaration or the architectural provisions hereof as it relates to a particular Owner or Home. By way of example, and not of limitation, all of the Owners within a plat may be subject to Individual Assessments for maintenance, repair and/or replacement of facilities serving only the residents of such Plat. Further, in the event an Owner fails to maintain the exterior of his or her Home (other than those portions of a Home maintained by Association) or a lake or canal slope or bank in a manner satisfactory to Association, Association shall have the right, through its agents and employees, to enter upon the Home and to repair, restore, and maintain the Home as required by this Master Declaration. Such entrance shall not be deemed a trespass. The cost thereof, plus the reasonable administrative expenses of Association, shall be an Individual Assessment. The lien for an Individual Assessment may be foreclosed in the same manner as any other Assessment. As a further example, if one or more Owners receive optional Telecommunications Services such as Toll Calls, Cable Services and/or Data Transmission Services, and Association pays a Telecommunications Provider for such services, then the cost of such services shall be an Individual Assessment as to each Owner receiving such services. Further, in the event that Association decides it is in the best interest of Solivita that Association perform any other obligation of an Owner under this Master Declaration, the cost of performing such obligation shall be an Individual Assessment. The lien for an Individual Assessment may be foreclosed in the same manner as any other Assessment.

28.2.6 Assessments relating to Association Club Debt ("Debt Service Club Assessments") shall be assessed to each Home on a proportional basis established by the Membership Fee applicable to such Home under the Club Plan on the debt that Association closes on the purchase of the Club. The lien for Debt Service Club Assessments may be foreclosed in the same manner as any other Assessment.

28.3 Association Option. Notwithstanding the foregoing, Association may require that an Owner (or all Owners) pay Monthly Assessments on a monthly basis or other basis based on prior payment history or other financial concerns, in Association's sole discretion.

28.4 Club Dues. As provided in the Club Plan, Club Owner shall have the right, at its sole option, to require that Association enforce Club Owner's lien to collect Club Dues. In the event that Association shall receive a partial payment in any month of Assessments and Club Dues from a particular Owner, the payment from such Owner shall be first allocated to the payment of Club Membership Fees, then to the payment of Club Expenses, and then to the payment of Assessments. Association shall provide the Club Owner each month with a list of all Owners that did not remit Club Dues to Association for the prior month. Such list shall include the Owner's name, Home description, and the amount not remitted for the prior month, and the total amount of Club Dues not remitted by such Owner to date.

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

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

28.6.1 Commencing on the first day of the period covered by the annual budget, and until the adoption of the next annual budget, the Monthly Assessments shall be allocated so that each Owner shall pay his or her pro rata portion of Monthly Assessments, Special Assessments, and Reserves based upon a fraction, the numerator of which is one (1) and the denominator of which is the total number of Homes in Solivita conveyed to Owners as of the immediately preceding September 30th or any greater number determined by Developer from time to time. Developer, in its sole and absolute discretion, may change such denominator from time to time. Under no circumstances will the denominator be less than the number of Homes owned by Owners other than Developer. Further, for the purposes of determining the total number of Homes subject to Assessments, each Home owned by the Owner of a Multi-Family Rental Building shall be included in the total.

28.6.2 In the event Operating Costs as estimated in the budget for a particular fiscal year are, after the actual Operating Costs for that period is known, less than the actual costs, then the difference shall, at the election of Association: (i) be added to the calculation of Monthly Assessments, as applicable, for the next ensuing fiscal year; or (ii) be immediately collected from the Owners as a Special Assessment. Association shall have the unequivocal right to specially assess Owners retroactively on January 1st of any year for any shortfall in

Monthly Assessments, which Special Assessment shall relate back to the date that the Monthly Assessments could have been made. No vote of the Owners shall be required for such Special Assessment (or for any other Assessment except to the extent specifically provided herein.

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

28.7 General Expenses Allocation. Except as hereinafter specified to the contrary, Monthly Assessments, Special Assessments and Reserves shall be allocated equally to each Owner. Notwithstanding the foregoing, the Board may decide to assess Owners at different rates based on the size of the Home or other factors as may be determined by the Board from time to time. By way of example and not of limitation, if Association provides lawn maintenance, the Board may elect annually to charge each Home equal Assessments for such lawn service, or base such Assessments on the size of the Lot upon which the Home lies, base it on the size of the Home, or allocate such Assessments on any other reasonable basis adopted by the Board. The rate of Assessments shall be set forth in an amendment to this Master Declaration recorded in the Public Records and adopted by the Board at a Board meeting.

28.8 Courtyards Expenses. In addition to Monthly Assessments, Special Assessments, Reserves and other expenses payable by an Owner pursuant to this Master Declaration, each Owner of a Paired Residence in The Courtyards at Montelena shall pay his or her pro rata portion of the Courtyards Expenses based upon a fraction, the numerator of which is one (1) and the denominator of which is the total number of Paired Residences in The Courtyards at Montelena conveyed to Owners or any greater number determined by Developer from time to time. Developer, in its sole discretion, may change such denominator from time to time. Under no circumstances will the denominator be less than the number of Homes owned by Owners other than Developer. An Owner's pro rata portion of the Courtyards Expenses is an Individual Assessment under this Master Declaration. The term "Courtyards Expenses" shall include all costs and expenses associated with the following:

28.8.1 Painting. Association shall repaint each Paired Residence Buildings every seven (7) years or more often, as needed, but in any event in a timely manner upon notice by the ACC.

28.8.2 Pressure Cleaning. Association shall pressure clean each Paired Residence Buildings once per year.

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

28.10 Commencement of First Assessment. Assessments shall commence as to each Owner on the day of the conveyance of title of a Home to an Owner. The applicable portion of Assessments shall commence as to each Builder on the day of conveyance of title of a Lot or Parcel to such Builder. Notwithstanding the foregoing, each Home in a Multi-Family Rental



Building is subject to Assessments upon the issuance of a final or temporary Certificate of Completion for such Home.

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

28.12 Budgets. The initial budget prepared by Developer is adopted as the budget for the period of operation until adoption of the first annual Association budget. Thereafter, the annual budget respecting Operating Costs shall be prepared and adopted by the Board. To the extent Association has commenced or will commence operations prior to the date this Master Declaration is recorded or the first Home is closed, the Operating Costs may vary in one or more respects from that set forth in the initial Budget. A Builder shall pay Assessments as per the Budget for each Lot owned by such Builder commencing from the date the Builder obtained title to such Lot. Developer shall fund entirely all Operating Costs not covered by Builders' Assessments until the month prior to the closing of the first Home. Thereafter, Assessments shall be payable by each Owner and Builder as provided in this Master Declaration. THE INITIAL BUDGET OF ASSOCIATION IS PROJECTED (NOT BASED ON HISTORICAL OPERATING FIGURES); THEREFORE, IT IS POSSIBLE THAT ACTUAL ASSESSMENTS MAY BE LESSER OR GREATER THAN PROJECTED. Budgets do not take into account inflation. Because there is no history of operation, it is impossible to predict actual expenses once Association begins operation. It is not intended that you rely on any budget in electing to purchase a Home. Projections in the initial budget are an effort to provide some information regarding future operating costs.

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

28.13.1 Monthly Assessments shall be established by the adoption of a twelve (12) month operating budget by the Board. The budget shall be in the form required by Section

720.303(6) of the Florida Statutes, as amended from time to time. Written notice of the amount and date of commencement thereof shall be given to each Owner not less than ten (10) days in advance of the due date of the first installment thereof. Notwithstanding the foregoing, the budget may cover a period of less than twelve (12) months if the first budget is adopted mid-year or in order to change the fiscal year of Association.

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

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

28.14 Association Initial Expense Fund. Association has established a capital fund for the operation of Association (the "Association Initial Expense Fund"). There shall be collected from each Owner that purchases a Home from Developer at the time of conveyance of each Home an amount determined by Developer from time to time. Owners of Multi-Family Rental Buildings shall not be required to contribute to Association Initial Expense Fund. There shall be collected from each Builder that purchases a Parcel from Developer at the time of conveyance of each Parcel an amount determined by Developer from time to time for each Home which Developer determines can be built on such Parcel. At the time that such Builder conveys a Home to an Owner, such Owner shall reimburse such Builder for the amount paid to Association Initial Expense Fund by such Builder for the Home. Each Owner's share of Association Initial Expense Fund shall be transferred to Association immediately after the closing of the Home. Association Initial Expense Fund shall be used to reduce the deficit that might otherwise be funded by Developer or for any other purposes deemed appropriate by Developer and/or Association. Without limiting the foregoing, no portion of Association Initial Expense Fund shall be used for the payment of legal fees or litigation expenses. To the extent of any deficiencies in the Common Areas, Association shall use Association Initial Expense Fund to remedy such deficiencies before making any claim against Developer. Moreover, the total amount of such funds and interest accrued thereon, if any, shall be a set-off against any amounts payable by Developer to Association. Amounts paid into Association Initial Expense Fund are not to be considered as advance payment of Assessments. Notwithstanding anything herein to the contrary, Developer shall have the option to waive contributions to Association Initial Expense Fund. Association Initial Expense Fund shall be used for any purposes deemed appropriate by Developer and/or Association.

28.15 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 in recordable form shall have been received by such Owner. Association shall prepare and maintain a ledger noting Assessments and Club Dues 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.

28.16 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 Master Declaration.

28.17 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 the priority of the lien shall relate back to the date that the original version of this Master Declaration was recorded, which was August 10, 2000. Notwithstanding the foregoing, Association may not file a claim of lien against a Home for unpaid Assessments unless a 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 amended or renumbered from time to time, as long as it may exist. Without limiting the foregoing, the claim of lien filed by Association shall have priority and be superior to any lien of a Neighborhood Association. 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, 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, that: (i) 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, and (ii) the liability of a first mortgagee, or its successor or assignee as a subsequent holder of the first mortgage who acquires title to a Home by foreclosure or by deed in lieu of foreclosure for the unpaid Assessments that became due before the mortgagee's acquisition of title is limited to the extent specifically set forth in Section 28.18.

28.18 Subordination of the Lien to Mortgages and Club Dues.

28.18.1 The lien for Assessments shall be subordinate to: (i) Liens by the PCDD and the PWCD, (ii) 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 (iii) to Club Dues as further provided in this Section 28.18. The lien for Assessments shall be a lien superior to all

other liens save and except tax liens and mortgage liens, provided such mortgage liens are first liens against the property encumbered thereby, subject only to tax liens. The lien for Assessments 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.

28.18.2 Notwithstanding anything to the contrary contained in this Master Declaration, the liability of a first mortgagee, or its successor or assignee as a subsequent holder of the first mortgage who acquires title to a Home by foreclosure or by deed in lieu of foreclosure for the unpaid Assessments that became due before the mortgagee's acquisition of title, shall be limited to the maximum amount permitted by Section 720.3085 of the Florida Statutes, as such section may be amended or renumbered from time to time, as long as it may exist. Joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location that was known to or reasonably discoverable by the mortgagee.

28.18.3 In the event of a sale pursuant to a lien for Club Dues, 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.

28.18.4 Any 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 Monthly Assessments. Any sale or transfer pursuant to a foreclosure (or by deed in lieu of foreclosure or otherwise), or a lien for Club Dues, 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.

28.19 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.

28.20 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, 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 collection 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.

28.21 Exemption. Notwithstanding anything to the contrary herein, and except as otherwise expressly provided herein, Developer and Club Owner shall not be responsible for any Assessments of any nature or any portion of 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 28.11 herein. In addition, the Developer, prior to the Community Completion Date, and thereafter the Board shall have the right to exempt any portion of Solivita subject to this Master Declaration from the Assessments, provided that such portion of Solivita exempted is used (and as long as it is used) for any of the following purposes:

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

28.21.2 Any real property interest held by a Telecommunications Provider under this Master Declaration;

28.21.3 Common Areas or property (other than a Home) owned by a Neighborhood Association;

28.21.4 Any of Solivita exempted from ad valorem taxation by the laws of the State of Florida; and

28.21.5 Any easement or other interest dedicated or conveyed to not for profit corporations for the use and benefit of residents in the Development of Regional Impact of which Solivita is a part.

28.22 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 and paraprofessional fees pre-trial and at all levels of proceedings including appeals, collections and bankruptcy, 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 three percent (3%), 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, collections and bankruptcy.

28.23 Rights to Pay Assessments and Receive Reimbursement. Association, Developer, Club Owner 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.

28.24 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 given as a courtesy to a Lender and the furnishing of such notice is not an obligation of Association to Lender.

28.25 Transfer Fee. Association has established a Transfer Fee ("**Transfer Fee**"). There shall be collected upon every conveyance of ownership interest in a Home by an Owner other than Developer or a Builder an amount of two hundred fifty dollars (\$250.00) payable to Association. The Transfer Fee 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 Transfer Fee and the manner of payment may be changed by resolution of the Board from time to time; provided, however, all Homes shall be assessed a uniform amount.

29. Information to Lenders and Owners.

29.1 Availability. There shall be available for inspections upon request, during normal business hours or under other reasonable circumstances, to Owners and Lenders current copies of the Association Documents.

29.2 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.

29.3 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:

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

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

29.3.3 Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained hereunder; and

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

30. Architectural Control.

30.1 Architectural Control Committee. The ACC shall be a permanent committee of Association and shall administer and perform the architectural and landscape review and control functions relating to Solivita. The ACC 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. Until the Community Completion Date, Developer shall have the right to change the number of members on the ACC, and to appoint, remove, and replace all members of the ACC. Developer shall determine which members of the ACC 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 ACC 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 ACC. The ACC shall have no authority over the PCDD, PCDD Facilities, the PWCDD, and PWCDD Facilities.

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

30.3 General Plan. It is the intent of this Master Declaration to create a general plan and scheme of development of Solivita. Accordingly, the ACC shall have the right and authority to approve or disapprove all architectural, landscaping, and improvements within Solivita by Owners other than Developer or Club Owner. The ACC 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 ACC from time to time. The ACC 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.

30.4 Development Plan. Developer has established an overall Development Plan. However, notwithstanding the above, or any other document, brochures or plans, Developer reserves the right to modify the Development 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 SOLIVITA. SUCH RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS ARE NOT A GUARANTEE OF HOW SOLIVITA 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.

30.5 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 ACC and approved by the Board 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.

30.6 Quorum. A majority of the ACC 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 ACC. Meetings of the ACC shall be open to all members of Association.

30.7 Power and Duties of the ACC. The ACC 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 Home, structure or other improvement on a Lot or Parcel. No structures or improvements shall be constructed on any portion of Solivita, no exterior of a Home shall be repainted, no landscaping, sign, or improvements erected, removed, planted, or maintained on any portion of Solivita, 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 ACC.

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

30.8.1 Each applicant shall submit an application to the ACC 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 ACC. The applications shall include such information as may be required by the application form adopted by the ACC. The ACC 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 ACC, 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 ACC.



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

30.8.3 No later than thirty (30) days after receipt of all information required by the ACC for final review, the ACC shall approve or deny the application in writing. The ACC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in the ACC'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 ACC 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 ACC fails to respond within such thirty (30) day period, the plans and specifications shall be deemed disapproved by the ACC.

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

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

30.8.6 Upon disapproval (even if the members of the Board and ACC are the same), the applicant may appeal the decision of the ACC to the Board within thirty (30) days of the ACC'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 therefor. 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 approved. 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 approved. The decision of the ACC, or if appealed, the Board, shall be final and binding upon the applicant, its heirs, legal representatives, successors and assigns.

30.9 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 ACC, including, but not limited to, changes relating to exterior design, landscaping, location, size, type and appearance, shall be subject to the approval of the ACC in the same manner as required for approval of original plans and specifications. Notwithstanding the foregoing, the ACC shall have no right to approve any changes to a Home not visible from the exterior of Home.

30.10 Variiances. Association or ACC shall have the power to grant variances from any requirements set forth in this Master 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 ACC shall enforce any policy or restriction that is inconsistent with the rights and privileges of an Owner set forth in this Master 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 Master Declaration or in the Community Standards on any other occasion.

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

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

30.12.1 Each Owner shall deliver to the ACC, if requested, copies of all construction and building permits as and when received by the Owner. Each construction site in Solivita 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 Solivita shall be kept clear of construction vehicles, construction materials and debris at all times. No construction office or trailer shall be kept in Solivita and no construction materials shall be stored in Solivita subject, however, to such conditions and requirements as may be promulgated by the ACC. 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 Solivita 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 in any regard to comply with the requirements of this Section, the ACC may require that such Owner or contractor post security with Association in such form and such amount deemed appropriate by the ACC in its sole discretion.

30.12.2 There shall be provided to the ACC, 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 Solivita as are designated by the ACC for construction activities. The ACC 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 ACC.

30.12.3 Each Owner is responsible for insuring 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 ACC, 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 ACC shall have, in addition to the other rights hereunder, the right to prohibit the violating employee or Contractor from performing any further services in Solivita.

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

30.13 Inspection. There is specifically reserved to Association and ACC and to any agent or member of either of them, the right of entry and inspection upon any portion of Solivita 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 Master Declaration or the Community Standards.

30.14 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 ACC, 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 and paraprofessional fees pre-trial and at all levels of proceedings including appeals, collections and bankruptcy, incurred by Association and/or ACC. The costs shall be deemed an Individual Assessment and enforceable pursuant to the provisions of this Master Declaration. The ACC and/or Association are specifically empowered to enforce the architectural and landscaping provisions of this Master Declaration and the Community Standards, by any legal or equitable remedy.

30.15 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 ACC shall be entitled to recover court costs, expenses and attorneys' fees and paraprofessional fees pre-trial and at all levels of proceedings including appeals, collections and bankruptcy, in connection therewith.

30.16 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 ACC, Association and/or ACC 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 Master Declaration and that the Home is subject to further enforcement remedies.

30.17 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 ACC, certifying that the Owner has complied with the requirements set forth herein. The ACC may, from time to time, delegate to a member or members of the ACC, the responsibility for issuing the Certificate of

Compliance. The issuance of a Certificate of Compliance does not abrogate the ACC's rights set forth in Section 30.13 herein.

30.18 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, or 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 ACC, Association, or the provisions of the Community Standards.

30.19 Exculpation. The ACC's rights of review and approval or disapproval of plans and other submissions under this Master Declaration are intended solely for the benefit of the ACC and Association. Neither the ACC, 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 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 ACC and/or the Association or any of their respective officers, directors, shareholders, members, managers, employees, agents, contractors, consultants or attorneys arising out of the ACC's review of any plans or other submissions under this Master Declaration except as otherwise expressly provided by Section 720.3035. Without limiting the generality of the foregoing, the ACC 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. By way of example, and not of limitation, the approval of hurricane shutters shall not be deemed an endorsement or guarantee of the effectiveness of such hurricane shutters. Further, each Owner agrees to indemnify and hold Developer, Association and the ACC 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, pretrial and at all levels of proceedings, including appeals), arising out of any review of plans by the ACC under this Master Declaration except as otherwise expressly prohibited by law.

### 31. Party Walls.

31.1 General Rules of Law to Apply. To the extent not inconsistent with the provisions of this Section, the general rule of law regarding party walls and liability for personal damage due to negligence or willful acts or omissions shall apply to all Party Walls within Solivita which are built by Developer as part of the original construction of the Paired Residences and any replacement thereof. In the event any portion of any structure or facility, as originally constructed by Developer including, without limitation, any Party Wall, shall protrude over an adjoining Home, it shall be deemed that such Owners have granted perpetual easements to the adjoining Owner or Owners for continuing maintenance and use of the projection or Party

Wall. The foregoing shall also apply to any replacements of any Party Walls. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of this Master Declaration.

31.2 Sharing of Repair, Replacement and Maintenance for Party Walls.

31.2.1 Generally. Repair, maintenance or replacement of a Party Wall shall be performed by Association.

31.2.2 Special Assessment. Except as provided in Section 25.1 hereof, the cost of repair, maintenance and replacement of Party Walls shall be shared equally by the Owners of the Paired Residence sharing such Party Walls and shall be imposed by Special Assessment to such Owners, without prejudice, however, to the right of any Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

31.3 Alterations. The Owner of a Home sharing a Party Wall with an adjoining Home shall not cut windows or other openings in the Party Wall, nor make any alterations, additions or structural changes in the Party Wall without the joint agreement of all of the Owners sharing the Party Wall and after obtaining written approval of the ACC to do so.

31.4 Weatherproofing. Notwithstanding any other provisions of this Master Declaration, an Owner who by his negligent or willful act causes a Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

31.5 Easements. Association and each Owner sharing a Party Wall shall have all easement rights reasonably necessary to perform the obligations contained herein over the Homes sharing the Party Wall.

32. Party Roofs.

32.1 General Rules of Law to Apply. To the extent not inconsistent with the provisions of this Section, the general rule of law regarding party roofs and liability for personal damage due to negligence of willful acts or omissions shall apply to all Party Roofs within Solivita which are built by Developer as part of the original construction of the Homes and any replacement thereof. In the event any portion of any structure or facility, as originally constructed by Developer, including, without limitation, any Party Roof, shall protrude over an adjoining Paired Residence, it shall be deemed that such Owners have granted perpetual easements to the adjoining Owner or Owners for continuing maintenance and use of the protruding structure, facility or Party Roof. The foregoing shall also apply to any replacements of Party Roofs. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of this Master Declaration.

32.2 Sharing of Repair, Replacement and Maintenance for Party Roofs.

32.2.1 Generally. Repair, maintenance or replacement of a Party Roof shall be performed by Association.

32.2.2 Special Assessment. Except as provided in Section 25.1 hereof, the cost of reasonable repair, maintenance and replacement of a Party Roof shall be shared equally by the Owners of the Paired Residences in the Paired Residences Building sharing such Party Roof and shall be imposed by Special Assessment to such Owners, without prejudice, subject however, to the right of any Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

32.3 Alterations. Subject to applicable building codes, the Owner of a Home sharing a Party Roof with an adjoining Home shall not make any alterations, additions or structural changes in the Party Roof without the joint agreement of all of the Owners sharing the Party Roof in the Paired Residences Building and after obtaining written approval of the ACC to do so.

32.4 Easements. Each Owner sharing a Party Roof shall have all easement rights reasonably necessary to perform the obligations contained herein over the Homes sharing the Party Roof.

33. Zero Lot Line Homes.

33.1 Easement for Zero Lot Line Wall Maintenance. Maintenance of a Zero Lot Line Wall shall be the obligation of the Owner of the Zero Lot Line Wall. Developer hereby grants to each Owner of a Zero Lot Line Wall a maintenance easement over the Home adjacent to the Zero Lot Line Wall for the maintenance of the Zero Lot Line Wall and any wing wall attached thereto and for ingress and egress to the Zero Lot Line Wall and wing wall. The easement shall be four (4) feet in width, shall be immediately contiguous to the Zero Lot Line Wall, and shall run the length of the Home on which the easement exists. No improvements of any kind shall be constructed in the easement area which would block access to the Zero Lot Line Wall and wing wall, if any, or which would in any way interfere with the ability of an Owner of a Zero Lot Line Wall to maintain the Zero Lot Line Wall and wing wall. Notwithstanding the foregoing, Developer may construct a connecting wall across the easement area; provided, however, that the Owner of a Zero Lot Line Wall shall have access at all reasonable times to the easement area. In the event that there is any question about when access under the easement created by this Section is reasonable, Association's determination shall be final. In the event that the Owner of a Zero Lot Line Wall damages the adjacent Home subject to the foregoing maintenance easement, the Owner of the Zero Lot Line Wall shall be responsible for repairing such damage in a timely manner and in accordance with the standards established by the ACC. In the absence of specific standards, the repair shall be accomplished as soon as reasonably possible, and at the sole expense of the Owner causing the damage. In the event that an Owner shall fail to make the repairs as required herein, or if Association has the reasonable belief that such repairs will not be made in a timely manner, then Association shall have the right at reasonable times to enter the damaged Home to effect such repair, and the cost thereof shall be charged to the Owner of the Zero Lot Line Wall as an Individual Assessment, which shall be the maintenance responsibility of Owner of the Zero Lot Line Wall.

33.2 Adjacent Owner Paint Obligation. Notwithstanding the foregoing, the Owner of any Home immediately adjacent to a Zero Lot Line Wall shall have the responsibility for painting the exterior surface of the wall facing such Home. This maintenance obligation does

not extend to the top of the wall which faces skyward, which shall be the maintenance obligation of the Owner of the Zero Lot Line Wall.

33.3 No Structural Change. No Owner shall cut a window or any opening in a Zero Lot Line Wall nor shall any Owner make any structural changes in a Zero Lot Line Wall, including, but not limited to, change of paint color, without the express written approval of the ACC.

33.4 Damage by Owner of Adjacent Home. In the event that a Zero Lot Line Wall is damaged by the Owner of an adjacent Home, the Owner of the adjacent Home shall be responsible for repairing such damage in a timely manner and in accordance with the standards established by the ACC. In the absence of specific standards, the repair shall be accomplished as soon as reasonably possible, and at the sole expense of the Owner causing the damage. In the event that an Owner shall fail to make the repairs as required herein, or if Association has the reasonable belief that such repairs will not be made in a timely manner, then Association shall have the right at reasonable times to enter the adjacent Home to effect such repair, and the cost thereof shall be charged to the adjacent Owner as an Individual Assessment.

33.5 Construction Easement. Developer reserves an easement over all zero lot line Homes for all construction purposes. By way of example, Developer and Developer's construction crews may be required to enter onto a completed zero lot line Home in order to complete construction of an adjacent Home. This easement shall permit all ingress and egress necessary to complete Homes adjacent to zero lot line Homes, and shall be construed as broadly as possible.

#### 34. Owners Liability.

34.1 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 that adversely affects the loop irrigation system. 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.

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

34.2.1 Fail to perform its responsibilities as set forth herein or otherwise breach the provisions of the Master Declaration including, without limitation, any provision(s) herein benefiting the SFWMD; or

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

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

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

34.2.5 Impede Developer or Club Owner from proceeding with or completing the development of Solivita 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, the 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, remove 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, collections and bankruptcy, incurred shall be assessed against the Owner as an Individual Assessment.

34.3 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 Master 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:

34.3.1 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

34.3.2 Commence an action to recover damages; and/or

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

34.4 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 pre-trial and at all levels of proceedings including appeals, collections and bankruptcy, shall be assessed against the Owner, as an Individual Assessment, and shall be immediately due and payable without further notice.

34.5 No Waiver. The failure to enforce any right, provision, covenant or condition in this Master Declaration, shall not constitute a waiver of the right to enforce such right, provision, covenant or condition in the future.

34.6 Rights Cumulative. All rights, remedies, and privileges granted to SFWMD, Developer, Club Owner, PCDD, PWCDD, Association, and/or the ACC pursuant to any terms, provisions, covenants or conditions of this Master 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.

34.7 Enforcement By or Against Other Persons. In addition to the foregoing, this Master 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 Master 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 Master Declaration or the Community Standards.

34.8 Fines. Association may suspend, for reasonable periods of time, the rights of an Owner or an Owner's Lessees, 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, Lessee, guest or invitee, for failure to comply with any provision of this Master Declaration including, without limitation, those provisions benefiting the SFWMD.

34.8.1 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.

34.8.2 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, Lessee, 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.

34.8.3 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, Lessee, guest or invitee, as applicable, by not later than twenty-one (21) days after the meeting of the Violations Committee. The Owner, Lessee, guest or invitee shall have a right to be represented by counsel and to cross-examine witnesses.

34.8.4 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, Lessee, 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 of Directors.

### 35. Additional Rights of Developer.

35.1 Sales Office and Administrative Offices. For so long as Developer and its assigns owns any property in Solivita, is affected by this Master Declaration, or maintains a sales office or administrative office within Solivita, Developer shall have the perpetual right to take such action reasonably necessary to transact any business necessary to consummate the development

of Solivita and sales and re-sales of Homes and/or other properties owned by Developer or others outside of Solivita. 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 Solivita, 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 and 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 Solivita 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 Master Declaration, Developer may assign its rights hereunder to each Builder. The rights reserved hereunder shall extend beyond the Community Completion Date.

35.2 Modification. The development and marketing of Solivita will continue as deemed appropriate in Developer's sole discretion, and nothing in this Master 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 Solivita to, as an example and not a limitation, amend a Plat and/or the Development 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, joinders and instruments which Developer deems necessary or convenient, in its sole and absolute discretion, to accomplish the same.

35.3 Promotional Events. Developer, Builder, and its assigns shall have the right, at any time, to hold marketing, and/or promotional events within Solivita 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 Solivita and Homes in advertisements and other media by making reference to Solivita, including, but not limited to, pictures or drawings of Solivita, the Club, Common Areas, Lots and Homes constructed in Solivita. All logos, trademarks, and designs used in connection with Solivita are the property of Developer and/or its affiliates, 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 Master Declaration, Developer may assign its rights hereunder, to each Builder.

35.4 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, Builders and the like of Homes, or other properties owned by Developer outside of Solivita.

35.5 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.

35.6 Management. Developer may manage the Common Areas by contract with Association. Developer may contract with a third party ("Manager") for management of Association and the Common Areas.

35.7 Commercial Uses. Developer may designate portions of Solivita for commercial purposes including, but not limited to, bed and breakfast facilities and shopping centers.

35.8 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 Solivita 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 a Lot so long as such easement is outside the footprint of the foundation of any residential improvement constructed on such portion of Solivita. 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.

35.9 Right to Enforce. Developer has the right, but not the obligation, to enforce the provisions of this Master Declaration and the Community Standards and to recover all costs relating thereto, including attorneys' fees and paraprofessional fees pre-trial and at all levels of proceedings, including appeals, collections and bankruptcy. Such right shall include the right of Developer 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.

35.10 Additional Development. If Developer withdraws portions of Solivita from the operation of this Master 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 Master 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 Lessees of such other forms of housing or improvements, upon their creation, may share in the use of all or some of the Common Areas and/or Club and other facilities and/or

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

35.11 Representations. Developer makes no representations concerning development within or outside the boundaries of Solivita including, but not limited to, the number, design, boundaries, configuration and arrangements, prices of all Lots or Homes or Club and buildings in all other proposed forms of ownership and/or other improvements on Solivita or in Solivita or adjacent or near Solivita, 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 other than any representations or contractual obligations set forth in a purchase and sale agreement respecting a Home.

### 36. Telecommunications Services.

36.1 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 Solivita. 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 Solivita as agreed, from time to time, between the Telecommunications Provider and Developer.

36.2 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 the Solivita pursuant to an agreement between Association and such Telecommunications Provider, a perpetual right, privilege, easement and right-of-way across, over, under and upon Solivita 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 Solivita 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 the Solivita, then the cost of the Telecommunications Services may be Operating Costs and shall be assessed as a part of the Assessments.

36.3 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 Wells Fargo Bank 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 provided in any agreement between a Telecommunications Provider and Association.

37. Non-Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE ASSOCIATION DOCUMENTS, ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF SOLIVITA OR ANY TRANSPORTATION SERVICES PROVIDED PURSUANT TO THE CLUB PLAN, IF ANY, 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:

37.1.1 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 SOLIVITA HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF SOLIVITA AND THE VALUE THEREOF; AND

37.1.2 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, POLK COUNTY, OR PREVENTS TORTIOUS ACTIVITIES; AND

37.1.3 THE PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH 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 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 SOLIVITA (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).

38. 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, OR THE CLUB PLAN, 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.

39. 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 MASTER DECLARATION LEGALLY AND FACTUALLY WAS EXECUTED IN POLK COUNTY, FLORIDA. DEVELOPER HAS AN OFFICE IN POLK COUNTY, FLORIDA AND EACH HOME IS LOCATED IN POLK COUNTY, FLORIDA. ACCORDINGLY, AN IRREBUTTABLE PRESUMPTION EXISTS THAT THE ONLY APPROPRIATE VENUE FOR THE RESOLUTION OF ANY DISPUTE LIES IN POLK COUNTY, FLORIDA, AS DETERMINED BY DEVELOPER AT THE TIME, IF EVER, THE NEED TO RESOLVE A DISPUTE ARISES. IN ADDITION TO THE FOREGOING, EACH OWNER AND DEVELOPER AGREE THAT THE VENUE FOR RESOLUTION OF ANY DISPUTE LIES IN POLK COUNTY, FLORIDA, IF EVER THE NEED TO RESOLVE A DISPUTE ARISES.

40. 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 MASTER DECLARATION AND THE CLUB PLAN. 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 MASTER 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 MASTER DECLARATION IS INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR DEVELOPER TO SUBJECT SOLIVITA TO THIS MASTER 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 MASTER 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.

41. Construction Activities. ALL OWNERS, OCCUPANTS AND USERS OF SOLIVITA ARE HEREBY PLACED ON NOTICE THAT DEVELOPER AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES AND/OR ANY OTHER PARTIES MAY BE, FROM TIME TO TIME, CONDUCTING BLASTING, EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO SOLIVITA. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF SOLIVITA, 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 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 SOLIVITA 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 SOLIVITA HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING.

42. 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.

43. Assignment of Powers. All or any part of the rights, exemptions and powers and reservations of Developer or Club Owner, as the case may be, 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.

44. Senior Housing Restrictions.

44.1 General. The Homes within Solivita are intended for the housing of persons fifty-five (55) years of age or older. The provisions of this Section 44 are intended to be consistent and are set forth in order to comply with the Federal Fair Housing Amendments Act, 42 U.S.C. §3601, et seq. (1988), and the exemption therefrom provided by the Housing for Older Persons Act of 1995, 42 U.S.C. §3607(b)(2)(c), (as may be amended from time to time, the "Act"). Developer or the Association shall have the power to amend this Section 44 without the consent of the Owners in order to make this Section 44 consistent with the Act, the regulations adopted pursuant thereto, and any judicial decisions arising thereunder or otherwise relating thereto, and any local ordinances regarding age restrictions, in order to maintain the intent and enforceability of this Section. The Association must ensure that at least 80% of the Homes shall be occupied by at least one person fifty-five (55) years of age or older per Home.

44.2 Restrictions on Occupancy.

44.2.1 Each occupied Home within Solivita shall at all times have as a permanent occupant therein at least one person who is fifty-five (55) years of age or older (the "Qualifying Occupant"); provided, in the event of the death of a person who was the sole Qualifying Occupant of a Home, the spouse of such Qualifying Occupant may continue to occupy the Home as long as the provisions of the Act and the regulations adopted thereunder are not violated by such occupancy.

44.2.2 No persons who have yet to attain eighteen (18) years of age shall be permitted to reside in any Home within Solivita except as provided herein. Children under eighteen (18) years of age may be permitted to visit and temporarily reside in a home provided that such temporary residence shall not exceed thirty (30) days in any one calendar year. Only an Owner and his or her Immediate Family Members who are eighteen (18) years of age or older may permanently reside in a residence.

44.2.3 Any Owner may request in writing that the Board of Directors make an exception to the requirements of this Section 44 with respect to his or her Home, and the Board may, but shall not be obligated to, grant exceptions in its sole discretion, provided that the requirements for exemption from the Act still would be met.

44.2.4 Notwithstanding any provision of this Master Declaration to the contrary, the Board of Directors shall not allow any exception to the requirements of this Section 44 if the granting of such exception is, in the sole opinion of the Board of Directors, likely to result in less than eighty percent (80%) of the Homes being occupied by at least one person of the age of fifty-five (55) years or older. Further, the Board of Directors shall adopt such policies and procedures as it shall reasonably determine to be necessary to ensure that at least eighty



percent (80%) of the Homes shall be occupied by at least one person of the age of fifty-five (55) years or older.

44.3 Sale, Lease or Transfer. Nothing in this Section 44 is intended to restrict the ownership of or transfer of title to any Home; provided no Owner may occupy his or her Home unless the requirements of this Section 44 are met nor shall any Owner permit occupancy of the Home in violation of this Section 44. Owners shall be responsible for including the statement that the Homes within Solivita are intended for occupancy by persons fifty-five (55) years of age or older, as set forth above, in conspicuous type in any lease, purchase and sale agreement, transfer documents or other occupancy agreement relating to such Owner's Home, which agreements or contracts shall be in writing and signed by the Lessee or purchaser. Without limiting the foregoing, Association has the right to withhold approval of any transfer or change in occupancy of a Home that will not result in occupancy of the Home by at least one person fifty-five (55) years of age or older. Every lease of a Home shall provide that failure to comply with the requirements and restrictions of this Section shall constitute a default under the lease.

44.4 Change in Occupancy; Notification of Association. In the event of any proposed change in occupancy of any Home, as a result of a transfer of title, a lease or sublease, an assignment, a birth or death, change in marital status, vacancy, change in location of permanent residence, or otherwise, the Owner of such Home shall immediately notify the Board in writing and provide to the Board the names and ages of all current and proposed occupants of the Home and such other information as the Board may reasonably require to verify the age of each occupant. No voluntary change in occupancy shall occur without the prior approval of Association as provided in Association's Rules and Regulations. In the event an Owner fails to notify the Board and provide all required information and obtain Association approval: (i) prior to a voluntary change in occupancy, or (ii) within ten (10) days after an involuntary change in occupancy, the Association shall be authorized to levy monetary fines against the Owner and the Home for each day after the change in occupancy occurs until the Association receives the required notice and information, regardless of whether the occupant continues to meet the requirements of this Section 44, in addition to all other remedies available to the Association under this Master Declaration. Any such fines shall be imposed in accordance with the requirements of this Master Declaration.

44.5 Monitoring Age Compliance by Association and Maintaining Age Records. Association shall be responsible for maintaining age records on all occupants of Homes. The Board shall publish and adhere to policies, procedures and rules to monitor and maintain compliance with this Section 44 and the Act, including policies regarding verification of compliance with the Act through surveys and affidavits. Association shall develop procedures for determining the occupancy of each Home. Association may require occupants of Homes to produce copies of birth certificates, driver's licenses, passports, immigration cards, military identifications or other official documents containing birth date of comparable reliability. The Board shall adopt policies, procedures and rules to monitor and maintain compliance with this Section 44, including policies regarding visitors, updating of age records, granting of exemptions, and enforcement. The Association shall periodically distribute such policies, procedures and rules to Owners and make copies available to Owners and their tenants and mortgagees upon reasonable request.

44.6 Enforcement of Provisions. Association shall have the power and authority to enforce this Section 44 through all of the rights and remedies available to it pursuant to this Master Declaration and in any other legal manner available, as the Board deems appropriate, including, without limitation, taking action to evict the occupants of any Home which do not comply with the requirements and restrictions of this Section. EACH OWNER HEREBY APPOINTS ASSOCIATION AS ITS ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS, EVICT OR OTHERWISE REMOVE THE OCCUPANTS OF HIS OR HER HOME AS NECESSARY TO ENFORCE COMPLIANCE WITH THIS SECTION. Each Owner shall fully and truthfully respond to any and all requests by Association for information regarding the occupancy of the Home which in the judgment of the Board are reasonably necessary to monitor compliance with this Section 44.

44.7 Hold Harmless by Owners. Each Owner shall be responsible for ensuring compliance of his or her Home with the requirements and restrictions of this Section and the rules of the Master Declaration adopted hereunder. EACH OWNER, BY ACCEPTANCE OF TITLE TO A LOT OR HOME, AGREES TO INDEMNIFY, DEFEND AND HOLD THE ASSOCIATION AND THE DEVELOPER HARMLESS FROM ANY AND ALL CLAIMS, EXPENSES, DAMAGES AND CAUSES OF ACTION WHICH MAY ARISE FROM THE FAILURE OF SUCH OWNER TO COMPLY WITH THIS SECTION 44.

45. General Provisions.

45.1 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. The Board shall have no duty to sue any party and the Board is permitted to apply a rule of reasonableness when determining whether to bring against any party. The Board shall not approve any contract with a contingency payment without the approval of the members.

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

45.3 Execution of Documents. Developer's plan of development for Solivita (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 such 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 special 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. Such 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 Lot, to execute or otherwise join in any petition and/or other documents required in connection with the creation, expansion, contraction or

termination of a special taxing district or community development district relating to Solivita or any portion(s) thereof.

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

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

45.6 Title Documents. Each Owner by acceptance of a deed to a Home acknowledges that such Home may be subject to the title documents and Plats and all amendments thereto recorded in the Public Records of Polk County, Florida which affect Solivita (collectively, the "**Title Documents**").

Developer's plan of development for Solivita 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:

45.6.1 to execute or otherwise join in any documents required in connection with the amendment, modification, or termination of the Title Documents; and

45.6.2 that such Owner has waived its right to object to or comment on 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 Master Declaration recorded by Developer in the Public Records, from time to time, and in the sole and absolute discretion of Developer.

45.7 Affirmative Obligation of Association. In the event that Association believes that Developer has failed in any respect to meet Developer's obligations under this Master Declaration or has failed to comply with any of Developer's obligations under law or the Common Areas is 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. This Section shall not be amended, except by Developer.

46. Plan of Development. Developer reserves the right to change all plans and site plans for Solivita. Subject to the Title Documents, Developer may wish and has the right to develop Solivita and adjacent property owned by Developer into residences, comprised of single detached estate homes, villas, coach homes, Paired Residences, townhomes, zero lot line homes, patio homes, multi-family homes, condominiums, rental apartments, and other forms of residential dwellings, as well as commercial development, which may include shopping centers, stores, office buildings, showrooms, industrial facilities, technological facilities, and professional offices. The existence at any point in time of walls, landscape screens, or berms is not a guaranty or promise that such items will remain or form part of Solivita as finally developed.

IN WITNESS WHEREOF, the undersigned, being Developer hereunder, has hereunto to set its hand and seal this 13<sup>th</sup> day of December, 2013.

WITNESSES:

**AVATAR PROPERTIES INC.,**  
a Florida corporation

Tami Delgado  
Print Name: Tami Delgado

By: Anthony S. Iorio  
Name: Anthony S. Iorio  
Title: Vice President

Kaye Burchenson  
Print Name: Kaye Burchenson

STATE OF FLORIDA )  
 ) SS.:  
COUNTY OF Polk )

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of December, 2013 by Anthony S. Iorio as Vice President of Avatar Properties Inc., a Florida corporation, who is personally known to me or who produced as identification, on behalf of the corporation.

My commission expires: 7/26/2016

Kaye Burcheson  
NOTARY PUBLIC, State of Florida  
Print Name: Kaye Burcheson



KAYE BURCHENSON  
MY COMMISSION # EE 220083  
EXPIRES: July 26, 2016  
Bonded Thru Budget Notary Services

**JOINDER**  
**SOLIVITA COMMUNITY ASSOCIATION, INC.**

SOLIVITA COMMUNITY ASSOCIATION, INC. does hereby join in the Amended and Restated Master Declaration for Solivita™ (the "Master 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 agrees that this Joinder is for convenience only and does not apply to the effectiveness of the Master Declaration as Association has no right to approve the Master Declaration.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 13<sup>th</sup> day of December, 2013.

**WITNESSES:**

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

Tami Delgado  
Print Name: Tami Delgado

Kaye Burchenson  
Print Name: Kaye Burchenson

By: Anthony S. Torio  
Name: Anthony S. Torio  
Title: President

{SEAL}

STATE OF FLORIDA                    )  
  ) SS.:  
COUNTY OF Polk                    )

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of December 2013 by Anthony S. Torio as President of SOLIVITA COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation, who is personally known to me or who produced \_\_\_\_\_ as identification, on behalf of the corporation.

My commission expires: 7/26/2016

Kaye Burchenson  
NOTARY PUBLIC, State of Florida  
Print Name: Kaye Burchenson



**EXHIBIT 1**  
**LEGAL DESCRIPTION OF SOLIVITA COMMUNITY**

All of the following plats as recorded in the Public Records of Polk County, Florida:

1. Solivita Phase 1, according to the plat thereof, as recorded in Plat Book 112 at Page 1;
2. Solivita Phase 1D, according to the plat thereof, as recorded in Plat Book 122 at Page 9;
3. Solivita Phase 1E, according to the plat thereof, as recorded in Plat Book 128 at Page 27;
4. Solivita Phase 1H, according to the plat thereof, as recorded in Plat Book 153 at Page 14;
5. Solivita Phase 2A, according to the plat thereof, as recorded in Plat Book 115 at Page 9;
6. Solivita Phase 2B, according to the plat thereof, as recorded in Plat Book 115 at Page 34;
7. Solivita Phase 2C, according to the plat thereof, as recorded in Plat Book 118 at Page 12;
8. Solivita Phase 2D, according to the plat thereof, as recorded in Plat Book 118 at Page 17;
9. Solivita Phase 3A, according to the plat thereof, as recorded in Plat Book 127 at Page 10;
10. Solivita Phase 3B, according to the plat thereof, as recorded in Plat Book 131 at Page 36;
11. Solivita Phase 4A, according to the plat thereof, as recorded in Plat Book 120 at Page 13;
12. Solivita Phase 4B, according to the plat thereof, as recorded in Plat Book 121 at Page 2;
13. Solivita Phase 4C Section 1, according to the plat thereof, as recorded in Plat Book 124 at Page 15;
14. Solivita Phase 4C Section 2, according to the plat thereof, as recorded in Plat Book 124 at Page 33;
15. Solivita Phase 5F, according to the plat thereof, as recorded in Plat Book 145 at Page 1;
16. Solivita Phase 5F – Unit 1, according to the plat thereof, as recorded in Plat Book 154 at Page 1;
17. Solivita Phase 6A, according to the plat thereof, as recorded in Plat Book 131 at Page 30;
18. Solivita Phase 6B, according to the plat thereof, as recorded in Plat Book 133 at Page 14;
19. Solivita Phase 7A, according to the plat thereof, as recorded in Plat Book 134 at Page 20;

20. Solivita Phase 7B1, according to the plat thereof, as recorded in Plat Book 136 at Page 14;
21. Solivita Phase 7B2, according to the plat thereof, as recorded in Plat Book 136 at Page 39;
22. Solivita Phase 7C, according to the plat thereof, as recorded in Plat Book 136 at Page 3;
23. Solivita Phase 7D, according to the plat thereof, as recorded in Plat Book 137 at Page 9;
24. Solivita Phase 7G 1, according to the plat thereof, as recorded in Plat Book 143 at Page 13; and
25. Solivita Phase 7G Unit 1, according to the plat thereof, as recorded in Plat Book 153 at Page 36.



**EXHIBIT 2**  
**LEGAL DESCRIPTION OF THE COURTYARDS AT MONTELENA**

All of the plat of Solivita Phase 5F, according to the plat thereof, as recorded in Plat Book 145 at Page 1, of the Public Records of Polk County, Florida.

**EXHIBIT 3**  
**AMENDED AND RESTATED ARTICLES OF INCORPORATION**



AMENDED AND RESTATED ARTICLES OF INCORPORATION

OF

SOLIVITA COMMUNITY ASSOCIATION, INC.

2013 DEC 13 PM 12:05  
FILED  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

To the Department of State  
State of Florida

Pursuant to the provisions of the Florida Not for Profit Corporation Act, the corporation hereinafter named (the "Corporation"), does hereby amend and restate its Articles of Incorporation.

1. The name of the Corporation is SOLIVITA COMMUNITY ASSOCIATION, INC.
2. The text of the Second Amended and Restated Articles of Incorporation of the Corporation is annexed hereto and made a part hereof.

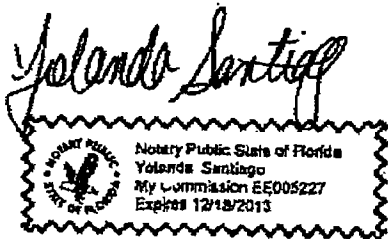
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CERTIFICATE

It is hereby certified that:

1. The name under which the original articles of incorporation of the Corporation were filed with the Secretary of State of the State of Florida is: Solivita Community Association, Inc.
2. The date of filing of the Corporation's original articles of incorporation is September 21, 1999.
3. These Second Amended and Restated Articles of Incorporation (a) amend and restate the provisions of the Articles of Incorporation of the Corporation and (b) were duly adopted by the members of the Board of Directors of the Corporation on November 26, 2013.
4. There are no members of the Corporation who are entitled to vote on this amendment and restatement of the articles of incorporation of the Corporation.

Executed on November 26<sup>th</sup>, 2013.



SOLIVITA COMMUNITY ASSOCIATION,  
a Florida corporation not for profit

By: Anthony S. Norjo  
Name: Anthony S. Norjo  
Title: President

**SECOND AMENDED AND RESTATED  
ARTICLES OF INCORPORATION**

**OF**

**SOLIVITA COMMUNITY ASSOCIATION, INC.**

**(a FLORIDA CORPORATION NOT-FOR-PROFIT)**

**SECOND AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
SOLIVITA COMMUNITY ASSOCIATION, INC.  
(a Florida Corporation Not For Profit)**

FILED

2013 DEC 13 PM 12:05

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

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 SOLIVITA COMMUNITY ASSOCIATION, INC. (the "Association").
2. Principal Office. The initial principal office of the Association is at the offices of Avatar Properties Inc. dba AV Homes, which is located at 395 Village Drive, Kissimmee, FL 34759.
3. Registered Office - Registered Agent. The street address of the Registered Office of the Association is 395 Village Drive, Poinciana, FL 34759. The name of the registered agent of the Association is Laura Ziff.
4. Definitions. A declaration entitled Amended and Restated Master Solivita Declaration™ (as amended and amended and restated from time to time, the "Declaration") has been recorded among the Public Records of Polk County, Florida, and shall govern all of the operations of a community to be known as Solivita. All initially capitalized terms not defined herein shall have the meanings set forth in the Declaration.
5. Purpose of the Association. The Association is formed to:
  - 5.1 Provide for the ownership, operation, maintenance and preservation of the Common Areas and improvements thereon.
  - 5.2 Perform the duties delegated to it in the Declaration.
  - 5.3 Administer the interests of the Association and the Owners.
  - 5.4 Promote the health, safety and welfare of the Owners.
6. Not-for-Profit. The Association is a Florida corporation not for profit and does not contemplate pecuniary gain to, or profit for, its members.
7. Powers of the Association. The Association shall, subject to the limitations and reservations set forth in applicable law, the Declaration and the Club Plan, have all powers, privileges, and duties allowed by law and/or which are reasonably necessary to discharge its obligations, including, without limitation, the following:
  - 7.1 To perform all the duties and obligations of the Association as set forth in the Declaration, these Articles of Incorporation, and the By-Laws.

7.2 To enforce, by legal action or otherwise, the provisions of the Declaration, these Second Amended and Restated Articles of Incorporation, the By-Laws, and the rules, covenants, conditions, restrictions, regulations, and/or agreements governing or binding the Association.

7.3 To operate and maintain the portion of the Surface Water Management System, if any, contained within or affecting the Common Areas, as required by the Declaration.

7.4 To fix, levy, collect and enforce payment by any lawful means, of all Assessments payable pursuant to the terms of the Declaration, these Second Amended and Restated Articles of Incorporation, and the By-Laws.

7.5 To pay all Association Expenses including, without limitation, all licenses, taxes or governmental charges levied or imposed against the Common Areas or other property of the Association.

7.6 To do all acts and make all payments required by the Club Plan.

7.7 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 the Association, except as limited by the Declaration.

7.8 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.

7.9 To dedicate, grant, license, lease, 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, subject only to requirements set forth in the Declaration, if any.

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

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

7.12 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 that, as a homeowners' association, operates a community may, now or hereafter, have or exercise, including all powers under Chapters 617 and 720, Florida Statutes, both as they exist as of the date of this Amendment and both as may be amended from time to time.

7.13 To employ personnel and retain independent contractors to contract for management of the Association, Solivita and the Common Areas provided in the Declaration, and to delegate in such contract all or any part of the powers and duties of the Association.

7.14 To contract for services to be provided to, or for the benefit of, the Association Club Owner, Owners, the Common Areas, and Solivita, as provided in the Declaration including,

without limitation, Telecommunication Services, maintenance, garbage pick-up, and utility services. The foregoing rights shall not be deemed to impose any obligation on the Association to provide such services. Neither the Board of Directors of the Association nor any manager or management company hired or retained by the Board shall approve any contract with a contingency payment or payment provisions without the approval of the Members.

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

7.16 To enter into agreements and/or contracts with the South Florida Water Management District ("SFWMD") under which the Association shall perform certain maintenance, management and/or other agreed-upon services for the SFWMD with respect to the Surface Water Management System.

8. Association Lawsuits. The Board shall have no duty to bring suit against any party, and the Board is permitted to apply a rule of reasonableness when determining whether to bring suit against any party.

9. Members' Voting Rights. Each Owner and Developer shall be a Member of the Association. The Owners and the Developer shall have the voting rights set forth in the By-Laws.

10. Board of Directors. The affairs of the Association shall be managed by a Board of odd number with not less than three (3) nor more than five (5) members. The current number of ~~directors~~ shall be three (3) Board members and have been appointed as stated in the By-Laws. The election of Directors by Members other than Developer shall be as required by law, and thereafter at the Annual Members Meeting. Directors shall be elected for a term expiring on the date of the next Annual Meeting. The names and addresses of the current members of the Board, who shall hold office until their successors are appointed or elected or otherwise removed, are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Dan Young	395 Village Drive Poinciana, FL 34759
Anthony Iorio	395 Village Drive Poinciana, FL 34759
David Smith	395 Village Drive Poinciana, FL 34759

11. Dissolution. In the event of a dissolution of the Association other than incident to a merger or consolidation, any Owner may petition the Circuit Court having jurisdiction over Solivita for the appointment of a receiver to manage the affairs of the dissolved Association and to manage the Common Areas in the place and stead of the Association, and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association its properties. In addition, if the 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.

12. Duration. The Association's existence shall be perpetual.

13. Amendment(s).

13.1 General Restrictions on Amendment(s). Notwithstanding any other provision herein to the contrary, no amendment to this Second Amended and Restated Articles of Incorporation shall affect the rights of the Developer unless such amendment receives the prior written consent of Developer, which consent may be withheld for any reason whatsoever. No amendment shall be effective until it is recorded among the Public Records.

13.2 Amendment(s) Prior to and Including the Turnover Date. Prior to the Turnover Date, the Developer shall have the right to amend these Second Amended and Restated Articles of Incorporation as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Developer's right to amend under this Section 13.2 is to be construed as broadly as possible. In the event that the Association shall desire to amend these Second Amended and Restated Articles of Incorporation prior to the Turnover Date, the Association must first obtain Developer's prior written consent to any proposed amendment. After receiving the Developer's written consent to the proposed amendment, an amendment identical to that approved by the Developer may be adopted by the Association pursuant to the requirements for amendment after the Turnover Date. After approval of the amendment by the Board, Developer shall join in such identical amendment so that its consent to the same will be reflected in the Public Records.

13.3 Amendment(s) After the Turnover Date. After the Turnover Date, but subject to the general restrictions of amendments set forth above, these Second Amended and Restated Articles of Incorporation may be amended with the approval of two-thirds percent (66-2/3%) of the Board and (ii) seventy-five percent (75%) of the votes present (in person and by proxy) at a duly called meeting of the Members in which there is a quorum. Notwithstanding the foregoing, these Second Amended and Restated Articles of Incorporation may be amended after the Turnover Date by a 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.

14. Limitations.

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

14.2 Rights of the Developer and the Club Owner. There shall be no amendment to these Second Amended and Restated Articles of Incorporation which shall abridge, reduce, amend, affect or modify the rights of the Developer and the Club Owner.

14.3 By-Laws. These Second Amended and Restated Articles of Incorporation shall not be amended in a manner that conflicts with the By-Laws adopted by the Association.

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

<b>Anthony Iorio</b>	-	<b>President</b>
<b>Dan Young</b>	-	<b>Vice President</b>
<b>David Smith</b>	-	<b>Secretary &amp; Treasurer</b>

16. Indemnification of Officers and Directors. Membership shall be established effective immediately upon becoming an Owner; provided, however, that such new Member's rights shall not become effective until the new Member presents to the Association a recorded copy of the deed of conveyance or other muniment of title conveying the title to the Home so conveyed, and such membership shall pass with title to the Home in question as an appurtenance thereto with no such membership or rights arising therefrom being transferable in any manner except as an appurtenance to such Home. Each and every Member shall be entitled to the benefits of membership and shall be bound to abide by the provisions of these Second Amended and Restated Articles of Incorporation, the Declaration and the By-Laws of the Association, as amended from time to time.

17. Transactions in Which Directors or Officers are Interested Parties. No contract or transaction between the Association and any one (1) or more of its Directors and/or Officers or the Developer or the Club Owner, or between the Association and any other corporation, partnership, association or other organization in which one (1) or more of its Officers and/or Directors is an officer, director, or employee, or is otherwise affiliated or holds an interest in such entity (whether or not legally recognized), 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 Officer's or Director's vote is counted for such purpose. No Director or Officer shall incur liability by reason of the fact that such Director or Officer may be interested in any such contract or transaction. Interested Directors or Officers 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 authorizes the contract or transaction. Notwithstanding anything to the contrary in this Section 17, no such contract or transaction shall violate Section 720.303(12), Florida Statutes, which, among other things, prohibits the direct receipt by any director, officer or committee member of any homeowners' association of any salary or other compensation for the performance of his or her duties as a director, officer or committee member.

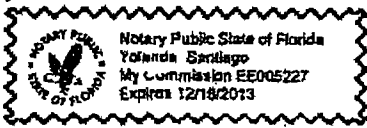
18. Severability. Invalidation of any of the provisions of these Second Amended and Restated Articles of Incorporation by judgment or court order shall in no way affect any other provision, and the remainder of these Second Amended and Restated Articles of Incorporation shall thereafter remain in full force and effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned has executed these Second Amended and Restated Articles of Incorporation as of the 26<sup>th</sup> day of November, 2013.

SOLIVITA COMMUNITY ASSOCIATION,  
a Florida corporation not for profit

*Yolanda Santiago*



By: *Anthony S. Iorio*  
Name: Anthony S. Iorio  
Title: President

ACCEPTED AND ACKNOWLEDGED BY REGISTERED AGENT:

*Laura Ziff*  
Laura Ziff, Registered Agent

**EXHIBIT 4**  
**AMENDED AND RESTATED BY-LAWS**

**AMENDED AND RESTATED  
BY-LAWS  
OF  
SOLIVITA COMMUNITY ASSOCIATION, INC.**

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**AMENDED AND RESTATED BY-LAWS  
OF  
SOLIVITA COMMUNITY ASSOCIATION, INC.**

1. Name and Location. The name of the corporation is SOLIVITA COMMUNITY ASSOCIATION, INC. (the "Association"). The principal office of the corporation shall be located at 395 Village Drive, Kissimmee, FL 34759, or such other location determined by the Board of Directors (the "Board") from time to time.

2. Definitions. The definitions contained in the Amended and Restated Master Declaration for Solivita™ ("Declaration") relating to the residential community known as Solivita, recorded, or to be recorded, in the Public Records of Polk County, Florida, are incorporated herein by reference and made a part hereof. 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.

"By-Laws" shall mean these Amended and Restated By-Laws, together with all amendments and modifications to the By-Laws.

"Declaration" shall mean the Declaration as modified from time to time.

"Developer" shall mean Avatar Properties Inc. dba AV Homes and any of its designees, successors and assigns who receive a written assignment of all some of the rights of Developer hereunder. Such assignment need not be recorded in the Public Records in order to be effective. In the event of such a partial assignment, the assignee shall not be deemed Developer, but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis.

"Member" shall mean a Member of the 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 the Association pursuant to Section 720.303(4), 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. Developer and each Owner shall be a Member. No person who holds an interest in a Home only as security for the performance of an obligation shall be a Member. Membership shall be appurtenant to, and may not be separated from, ownership of any Home. There shall be one 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, the Association shall have no obligation to review the trust agreement with respect to such trust. The 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 Member of the Home for all the 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 of the Home for all the 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 the 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 the Association, in the form of an attorney opinion letter or affidavit reasonably acceptable to the Association, the identification of the person who should be treated as the Member with respect to the Home for all the 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 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 shall not be exercised while such conflict is ongoing.

In the event that any other form of trust ownership is presented to the Association, the decision of the Board as to who may exercise the Voting Interest with respect to any Home shall be final. The 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. If a Home is owned by a corporation, the corporation shall designate a person, an officer, employee, or agent of such corporation, who shall be treated as the Member who will be entitled to 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 of such limited partnership 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 is entitled to 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 of such general partnership 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 shall not be exercised while such conflict is ongoing.

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 shall not be exercised while such conflict is ongoing.

3.1.6 Liability of the Association. The Association may act in reliance upon any writing, or instrument or signature, whether original or facsimile, which the 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 the Association acts in good faith, the 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 the 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 the Association. A copy of the notice shall be mailed to each Member entitled to vote, postage prepaid, not less than fourteen (14) 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 Solivita or in the Club at least two (2) days before the meeting. The notice shall be addressed to the member's address last appearing on the books of the 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 (a) included in a newsletter sent to each Member by the Association or (b) conspicuously posted and repeatedly broadcast on a closed-circuit cable television system servicing the 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 Section 720.306(8), 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 the Association shall be managed initially by a Board of Directors (the "Board") consisting of no less than three (3) persons. After the Turnover Date, the Board shall consist of either three (3) or five (5) persons, as determined by the Board at least sixty (60) days in advance of any Annual Member Meeting. Board members appointed by Developer need not be Members of the Association. Board members elected by the other Members must be Members of the 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 staggered terms of one (1) or two (2) years, as follows. If the Board has three (3) members, the two (2) Board members receiving the most votes shall serve for a term of two (2) years. The other Board member shall serve for a term of one (1) year. If the Board has five (5) members, the three (3) Board members receiving the most votes shall serve for a term of two (2) years. The remaining two (2) Board members shall serve for terms of one (1) year. Directors appointed by Developer shall serve for such term determined by Developer.

4.3 Vacancies; 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 the Association, provided, however, any Director may be reimbursed for actual expenses incurred as a Director.

4.5 Appointment and Election of Directors. Until the Turnover Date, Developer shall have the unrestricted power to appoint all Directors of the Association. From and after the Turnover Date (or such earlier date determined by Developer in its sole and absolute discretion), the Members shall elect all Directors of the Association at or in conjunction with the Annual Members Meeting.

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

## 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; provided, however, that a regular meeting of the Board must be held at least annually. Meetings shall be held at such place, hour, and date as may be fixed, from time to time, by resolution of the Board. A regular meeting of the Board shall also be held immediately following the Annual Members Meeting.

5.2 Special Meetings. Special meetings of the Board shall be held when called by the President, by any two (2) Directors, or by at least twenty percent (20%) of the total Voting Interests of the Association. 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 the Association as shall be reasonably required to appropriately respond to the emergency situation, including the expenditures of the Association funds in the minimum amount as may be reasonably 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 or in the Club at least 48 hours in advance, except in the 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 (a) given in any newsletter distributed to the Members or (b) conspicuously posted and repeatedly broadcast on a closed-circuit cable television system servicing the Association. For the purposes of giving notice, the area for notices to be posted within the Common Areas or the Club shall be deemed a conspicuous place. Notices of any meetings of the Board at which Assessments against Homes and/or amendments regarding rules regarding parcel use are to be considered shall (x) be provided in the manner described in this Section 5.7 not less than fourteen (14) days in advance and (y) contain a statement (as applicable) that (i) Assessments shall be considered and a statement of the nature of such Assessments and/or (ii) that amendments regarding rules regarding parcel use shall be considered.

## 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 the Articles have the powers reasonably necessary to manage, operate, maintain and discharge the duties of the Association, including, without limitation, the power to cause the Association to do the following:

6.1.1 General. Exercise all powers, duties and authority vested in or delegated to the Association by law and in these By-Laws, the Articles, and the Declaration and the Club Plan, including, without limitation, levy Assessments, and, subject to Section 720.3055, Florida Statutes, enter into contracts, including, without limitation, and further subject to Section 720.309, Florida Statutes, with Telecommunications Providers for Telecommunications Services.

6.1.2 Rules and Regulations. Adopt, publish, promulgate and enforce rules and regulations governing Solivita 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 and its tenants, guests and invitees and family members during any period in which such Member shall be in default in the payment of any Assessment or charge levied, or collected, by the 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 the 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 the Association and/or its officers to fix their compensation, if any; and require of them such security or fidelity bond as it may deem expedient. Nothing in these By-Laws should be considered to prohibit the employment of any Member, officer or Director of the Association in any capacity whatsoever; provided, however, that such employment must not violate Florida Statutes; specifically, and without limiting the generality of this proviso, no such employment shall violate Section 720.303(12), Florida Statutes, which, among other things, prohibits the direct receipt by any director, officer or committee member of a homeowners' association of any salary or other compensation for the performance of his or her duties as a director, officer or committee member.

6.1.6 Common Areas. Acquire, sell, operate, lease, manage and otherwise trade and deal with property, real and personal, including the Common Areas and the Club, each as provided in the Declaration, and with any other matters involving the Association or its Members, on behalf of the Association or the discharge of its duties, as may be necessary or convenient for the operation and management of the Association and in accomplishing the purposes set forth in the Declaration. The Board may finance any acquisition on such terms approved by the Board.

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 Areas, Solivita and/or the Club, and to alter, add to, relocate or improve the Common Areas, Solivita and/or the Club (to the extent permitted by the Club Owner) as provided in the Declaration and the Club Plan.

6.2 Duties. It shall be the duty of the Board to do the following:

6.2.1 Minutes. Cause to be kept minutes of all its acts and corporate affairs.

6.2.2 Supervision of Officers, Agents and Employees. Supervise all officers, agents and employees of the Association.

6.2.3 Annual Budget. Prepare an annual budget, as required by Section 720.303(6), Florida Statutes.

6.2.4 Financial Reports. Prepare financial reports required by the Florida Statutes.

6.2.5 Voting. Exercise all powers to vote, except where the Declaration, Articles, or these By-Laws specifically require a vote of the Members.

6.2.6 Roster. Prepare a roster of Owners and the assessments applicable thereto which shall be kept in the office of the Association fully and shall be open to inspection by any Member at reasonable times.

6.2.7 Official Records. Maintain the Official Records of the Association, as required by Section 720.303(4), Florida Statutes.

6.2.8 Other Duties. Do all other things required by the Florida Statutes.

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

6.4 Limitations.

6.4.1 Right of Developer to Disapprove Actions Prior to Turnover Date. Until the Turnover Date, Developer shall have and is hereby granted a right, in Developer's sole discretion, to disapprove or veto any such action, policy, or program proposed or authorized by the Association, the Board, the ACC, any committee of the Association, or by 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 the Association, the Board, the ACC or any committee of the Association. Prior to the Turnover Date, no action authorized by the Association, the Board, the ACC or any committee shall become effective, nor shall any action, policy or program be implemented until and unless:

6.4.1.1 Notice. Developer shall have been given written notice, in accordance with Sections 3.4 and/or 5.7 of these By-Laws, as applicable, of all meetings of the Association, the Board, the ACC or any committee, which notice includes a summary of such proposed action, policy or program and which notice is delivered by professional courier with receipt at the address Developer has registered with the Secretary of the Association, as such address may change from time to time.

6.4.1.2 Opportunity to be Heard. Developer shall be given the opportunity at all such meetings to join in or to have its representatives or agents join in discussion from the floor of any proposed action, policy or program to be implemented by the Association, the Board, the ACC or any committee.

No action, policy or program subject to the right of disapproval set forth in these By-Laws shall become effective or be implemented until and unless the requirements of this Section 6.4 have been met.

Developer, its representatives or agents shall make its concerns, thoughts and suggestions known to the Board and/or the members of the subject committee. Developer, acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within ten (10) days following the meeting at which such action was proposed. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, the Board or the Association. Developer shall not use its right to disapprove to reduce the level of services which the Association is



obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations. As long as Developer owns any property within Solivita, this Section 6.4 may not be amended by any party or entity without the prior written approval of Developer.

7. Obligations of the Association. The Association, subject to the provisions of the Declaration, the Articles, these By-Laws and the Club Plan, shall discharge such duties as necessary to operate the Association and pursuant to the Declaration, including, without limitation, the following:

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

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

7.3 Assessment and Fines. Fix and collect the amount of the Assessments against, or due from, each Owner including, without limitation, fines, lien enforcement, and other necessary legal proceedings, and pay, or cause to be paid, all obligations of the Association or where the Association has agreed to do so, of the Members.

7.4 Enforcement.

7.4.1 Issue, or to cause an appropriate officer 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 the 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;

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

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

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

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

8. Officers and Their Duties.

8.1 Officers. The officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, as well as such other officers as may be deemed necessary or appropriate by the Board.

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 the 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 the 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 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 the 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 the Association and the Board; keep the corporate seal of the Association and affix it on all papers required to be sealed; serve notice of meetings of the Board and of the Association; keep the official records of the Association required pursuant to Section 720.303(4), Florida Statutes, including, without limitation, appropriate current records showing the names of the Members of the 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 the Association and shall disburse such funds as directed by the Board; sign, or cause to be signed, all checks, and promissory notes of the Association; cause to be kept proper books of account and accounting records required pursuant to Section 720.303, Florida Statutes; cause to be prepared in accordance with generally accepted accounting

principles of all financial reports required by the Florida Statutes; and perform such duties as required by the Board.

9. Committees.

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

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

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

11. Corporate Seal. The 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 unless such amendment receives the prior written consent of Developer, which may be withheld for any reason whatsoever. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to these By-Laws, then the prior written consent of such entity or agency must also be obtained. No amendment shall be effective until it is recorded in the Public Records.

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 Member, person or entity whatsoever. Developer's right to amend under this provision is to be construed as broadly as possible. In the event that the Association shall desire to amend these By-Laws prior to and including the Turnover Date, the 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 the 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 in the Public Records.

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 (66 2/3%) of the Board and (ii) seventy-five percent (75%) of the votes present (in person or by proxy) at a duly noticed meeting of the Members at which there is a quorum. 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 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 the 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, it shall be deemed to refer to the Florida Statutes as they exist on the date these By-Laws are recorded and as may be amended from time to time, it being the intent of the Association to be governed by all current provisions of the Florida Statutes, as amended from time to time.

15.2 Severability. Invalidation 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 5**  
**CLUB PLAN**



**INSTR # 2013235601**  
BK 9142 Pgs 1678-1725 PG(s)48  
RECORDED 12/27/2013 11:56:10 AM  
STACY M. BUTTERFIELD,  
CLERK OF COURT POLK COUNTY  
RECORDING FEES \$409.50  
RECORDED BY robep1eh

THIS INSTRUMENT PREPARED BY:

Melisa Boross, Esq.  
AV Homes, Inc.  
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Suite 225  
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AV HOMES  
395 VILLAGE DR  
KISSIMMEE, FL 34759 R

**AMENDED AND RESTATED SOLIVITA™ CLUB PLAN**

WPB\_ACTIVE 5697415.4  
12/12/13

CERTIFICATION ON LAST PAGE  
STACY M. BUTTERFIELD  
CLERK OF THE CIRCUIT COURT

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## AMENDED AND RESTATED SOLIVITA™ CLUB PLAN

THIS AMENDED AND RESTATED SOLIVITA™ CLUB PLAN (this "Club Plan") is made by Avatar Properties Inc., a Florida corporation ("Club Owner").

### RECITALS:

A. Club Owner is the Developer of the community known as Solivita™ as currently legally described on Exhibit A attached hereto and made a part hereof.

B. Club owner recorded that certain Solivita Club Plan on August 10, 2000 in Official Records Book 4510 at Page 1529, of the Public Records of Polk County, Florida (the "Original Club Plan"). The Original Club Plan was thereafter amended by Club Owner as follows:

1. First Amendment to Solivita Club Plan recorded in Official Records Book 4804 at Page 2005;
2. Second Amendment to Solivita Club Plan recorded in Official Records Book 4824 at Page 1091;
3. Third Amendment to Solivita Club Plan recorded in Official Records Book 7665 at Page 40; and
4. Fourth Amendment to Solivita Club Plan recorded in Official Records Book 8287 at Page 1178

(collectively, the "Original Club Plan Amendments").

C. The Original Club Plan was also recorded as an exhibit to the following declarations (as amended, the "Initial Declarations"):

1. Solivita Declaration recorded in Official Records Book 4510 at Page 1576 in the Public Records of Polk County, Florida. Club Owner thereafter recorded a number of amendments and then recorded that certain Amended and Restated Solivita Declaration in Official Records Book 7191 at Page 1224. Club Owner thereafter amended the Amended and Restated Solivita Declaration by the following instruments:

- i. First Amendment to Amended and Restated Solivita Declaration recorded in Official Records Book 7364 at Page 1475 in the Public Records of Polk County, Florida.
- ii. Second Amendment to Amended and Restated Solivita Declaration recorded in Official Records Book 7393 at Page 400 in the Public Records of Polk County, Florida.

iii. Third Amendment to Amended and Restated Solivita Declaration recorded in Official Records Book 8068 at Page 1802 in the Public Records of Polk County, Florida.

iv. Fourth Amendment to Amended and Restated Solivita Declaration recorded in Official Records Book 8631 at Page 2212 in the Public Records of Polk County, Florida.

2. Declaration for Solivita West recorded in Official Records Book 6774, at Page 294 in the Public Records of Polk County, Florida, and thereafter amended by the following instruments:

i. First Amendment to Declaration for Solivita West recorded in Official Records Book 7393 at Page 407 in the Public Records of Polk County, Florida.

ii. Second Amendment to Declaration for Solivita West recorded in Official Records Book 8068 at Page 1799 in the Public Records of Polk County, Florida.

iii. Third Amendment to Declaration for Solivita West recorded in Official Records Book 8631 at Page 2215 in the Public Records of Polk County, Florida.

D. The Initial Declarations were subsequently replaced by that certain Amended and Restated Master Declaration for Solivita™ recorded immediately after this Club Plan (the "Master Declaration"). All references in the Master Declaration to the Club Plan are references to this document.

E. The Original Club Plan was also supplemented by the following Membership Fee Schedules (collectively, the "Original Membership Fee Schedules"):

1. Solivita Club Membership Fee Schedule Solivita Phase 1, recorded in Official Records Book 4514 at Page 1753;

2. Solivita Club Membership Fee Schedule Solivita Phase 1D, recorded in Official Records Book 5444 at Page 1086;

3. Solivita Club Membership Fee Schedule Solivita Phase 1E, recorded in Official Records Book 6049 at Page 1090;

4. Solivita Club Membership Fee Schedule Solivita Phase 1H, being recorded immediately prior to this Club Plan.

5. Solivita Club Membership Fee Schedule Solivita Phase IIA, recorded in Official Records Book 4804 at Page 2008;

6. Solivita Club Membership Fee Schedule Solivita Phase IIB, recorded in Official Records Book 4824 at Page 1094;
7. Solivita Club Membership Fee Schedule Solivita Phase IIC and IID, recorded in Official Records Book 5123 at Page 1942;
8. Solivita Club Membership Fee Schedule Solivita Phase IIIA, recorded in Official Records Book 5941 at Page 461;
9. Solivita Club Membership Fee Schedule Solivita Phase IIIB and VIA, recorded in Official Records Book 6358 at Page 115;
10. Solivita Club Membership Fee Schedule Solivita Phase IVA, recorded in Official Records Book 5148 at Page 1041;
11. Solivita Club Membership Fee Schedule Solivita Phase IVB, recorded in Official Records Book 5295 at Page 1527;
12. Solivita Club Membership Fee Schedule Solivita Phase IVC Section 1, recorded in Official Records Book 5700 at Page 2132;
13. Solivita Club Membership Fee Schedule Solivita Phase IVC Section 2, recorded in Official Records Book 5720 at Page 1894;
14. Solivita Club Membership Fee Schedule Solivita Phase 5F, recorded in Official Records Book 7717 at Page 618;
15. Solivita Club Membership Fee Schedule Solivita Phase 5F – Unit 1, recorded in Official Records Book 9088 at Page 1377;
16. Solivita Club Membership Fee Schedule Solivita Phase VIB, recorded in Official Records Book 6467 at Page 146;
17. Solivita Club Membership Fee Schedule Solivita Phases 7A, 7B1, 7B2, 7C and 7D, recorded in Official Records Book 6914 at Page 842;
18. Solivita Club Membership Fee Schedule Solivita Phase 7G-1, recorded in Official Records Book 7871 at Page 124; and
19. Solivita Club Membership Fee Schedule Solivita Phase 7G – Unit 1, recorded in Official Records Book 9088 at Page 1372.

F. This Club Plan replaces entirely the Original Club Plan, the Original Club Plan Amendments and the Original Membership Fee Schedules.

G. This Club Plan governs the Solivita Club.

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

NOW, THEREFORE, Club Owner, in consideration of the promises and mutual covenants contained in this Club Plan, hereby declares that this Club Plan shall apply to every portion of Solivita.

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

2. This Club Plan. This Club Plan completely supersedes and replaces entirely the Original Club Plan, the Original Club Plan Amendments, the Original Club Plans attached to the Initial Declarations and the Original Membership Fee Schedules.

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

“Adjacent Facilities” shall have the meaning set forth in Section 12 herein.

“Assessments” shall have the meaning set forth in the Declaration.

“Association” shall mean the Solivita Community Association, Inc., its successors and assigns.

“Avatar” shall mean Avatar Properties Inc., and its successors or assigns.

“Board” shall mean the Board of Directors of Association.

“Budget” shall have the meaning set forth in Section 10 hereof.

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

“Capital Contribution” shall have the meaning set forth in Section 9 hereof.

“Club” shall mean the Solivita Club, the real property comprising the Club and all facilities constructed thereon subject to additions 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 (*i.e.*, satellite pool facilities).

“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.

“Club Expenses” shall mean all costs (as such term is used in its broadest sense) of owning (including Club Owner’s debt service and depreciation), operating, managing, maintaining, insuring the Club, whether direct or indirect including, but not limited to trash

collection, utility 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, casualty and business interruption insurance (with such deductibles as Club Owner deems appropriate); real property taxes, personal property taxes and taxing and community development district assessments; 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 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 SUBJECT TO CHANGE AT ANY TIME.

“Club Manager” shall mean the entity operating and managing the Club from time to time. Club Owner may be Club Manager.

“Club Membership Fee” shall mean the fee to be paid to Club Owner by each Owner pursuant to the provisions of Section 8.2 hereof.

“Club Membership Fee Schedule” shall have the meaning set forth in Section 8.2 hereof.

“Club Owner” shall mean the owner of the real property 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 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 Properties Inc. is Club Owner. Club Owner may change from time to time (e.g., Club Owner 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 or partner 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 Plan, together with all amendments and modifications hereto.

“Club Property” shall include any real property designated by Club Owner as part of the Club Property by amendment to this Club Plan.

“Common Areas” shall have the meaning set forth in the Declaration.

“Community Completion Date” shall have the meaning set forth in the Declaration.

“Developer” shall have the meaning set forth in the Declaration.

“Declaration” shall mean the Master Declaration, as such Master 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 Solivita 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.

“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.

“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 Solivita. An Owner and Lessee shall be jointly and severally liable for all Club Dues.

“Member” shall mean each resident of a Home (up to two (2) persons) designated by the Owner or Owners of a Home to have the privileges of a Member. There shall not be more than two (2) persons designated as a Member for each Home, regardless of the number of persons holding title to a Home. Each Member shall be obligated to provide Club Owner with proof of age and residency upon Club Owner’s request for the same. Once an Owner leases a Home, only the Lessee (or those persons occupying the Home) 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. Notwithstanding the foregoing, Club Owner may provide access to the Club for contract purchasers upon the signing of a membership agreement and payment of Club Dues. Club Owner shall establish qualification requirements, fees and dues for a contract purchaser to have use of the Club Facilities prior to becoming an Owner of a Home. Once the purchaser obtains title to the Home, then such purchaser shall be deemed an Owner and Member hereunder.

“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. For example, an Owner of a Multi-Family Rental Building is an Owner with respect to each Home within such Multi-Family Rental Building.

“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.

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

“Solivita Club Rules and Regulations” shall have the meaning set forth in Section 17 hereof.

“Special Use Fees” shall have the meaning set forth in Section 8.9 hereof.

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

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

4.1 Term. The terms of this Club Plan shall be covenants running with Solivita in perpetuity.

4.2 Covenant Running with the Land. Every portion of Solivita which can be improved with a Home shall be burdened with the payment of Club Dues. This Club Plan including, without limitation, the obligation to pay Club Dues, shall run with the land. Every Owner, by acceptance of a Deed to any Home, shall automatically assume and agree to pay all Club Dues which shall be due and payable as of the date of such Deed and which shall become due and payable thereafter on account of the membership in the Club pertaining to the property belonging to such Owner. 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. Club Owner shall have the right to record a notice in accordance with Florida law preserving this Club Plan from extinguishment.

4.3 Obligation to Reference in Deeds. The grantor of any portion of Solivita hereby agrees to include in any Deed a statement that such Deed is subject to the terms of this Club Plan.



4.4 Value. By acceptance of a Deed, each grantee of any portion of Solivita upon which a Home may be (or has been) constructed hereby joins in the execution of this Club Plan for the purpose of binding himself, his successors in title and assigns to the provisions hereof and expressly acknowledges that the automatic membership in the Club granted to Owners and Lessees renders ownership of Solivita and any part thereof more valuable than it would be otherwise.

4.5 Material Consideration. All persons who shall become Owners of any portion of Solivita acknowledge that the provisions and enforceability of this Club Plan were a material consideration in the initial conveyance by Developer of such real property to the Owner (or his predecessor in title) and that Developer would not have made such conveyance had this Club Plan not been included and enforceable as provided for herein. 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 does not pay Club Fees in excess of the amounts provided herein.

4.6 Best Interests. It is in the best interest of each Owner, for Solivita as a whole, and for property values therein, to provide for the Club to be located within Solivita.

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

4.8 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.

4.9 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.

## 5. Club Facilities.

5.1 Club Property. Club Owner presently owns all of the real property comprising the Club Property. The Club Property may be expanded 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.

5.2 Club Facilities. Club Owner has constructed 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. Club Owner has the paramount right to unilaterally, and without the joinder of any party whomsoever, add to, alter, modify and amend the Club Facilities at any time subject to the provisions hereof.

5.3 Construction of the Club. Club Owner has constructed the Club Facilities at its sole cost and expense. Club Owner shall be the sole 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:

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

5.3.2 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;

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

5.3.4 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 Solivita;

5.3.5 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 of portions of Solivita including, without limitation, the sale of Parcels and Homes;

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

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

5.3.8 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

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

5.4 Changes. Club Owner reserves the absolute right to, from time to time, alter or change the Club, including construction of additional Club Facilities and/or the removal or modification thereof, at any time.

5.5 Commercial Space. Club Owner anticipates that portions of the Club Facilities may include a sales office, medical offices, assisted living facilities, retail space and/or other commercial space as Club Owner may deem appropriate in Club Owner's sole and absolute discretion. Club Owner may permit 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.

6. Persons Entitled to Use the Club.

6.1 Rights of Members. Each Member 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 up to two (2) persons residing in the Home who will be the Members 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.

6.2 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 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.

6.3 Subordination. This Club Plan and the rights of Members to use the Club is 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.

7. Ownership and Control of the Club.

7.1 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.

7.2 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.

7.3 Ambiguities. In the event that there is any ambiguity or question regarding the provisions of this Club Plan, Club Owner's reasonable determination of such matter shall be conclusive and binding.

7.4 Change In Terms of Offer. Club Owner has provided that some Owners pay Club Membership Fees on a different basis than other Owners. 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 the Club Membership Fee Schedule applicable to such Home.

7.5 Offer to Sell. Club Owner, in its sole discretion, may offer Association the option to purchase the Club (the "Purchase Option") on such price and terms that Club Owner determines. The 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, if at all, by written notice (the "Option Notice") delivered to Club Owner within ten (10) days of receipt of any Purchase Option and signed by a majority of the Board in the form attached hereto as Exhibit B delivered to Club Owner within such time period by personal delivery or professional overnight delivery.

8. 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 pay all Club Dues which are set forth herein. Club Owner presently intends to collect Club Dues 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.

8.1 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 Solivita 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.

8.2 Club Membership Fee. Each Owner of any Home within Solivita 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 applicable to a particular Home (the "Club Membership Fee Schedule"). The current list of Club Membership Fee Schedules is attached hereto as Exhibit C. Club Owner may change the Club Membership

Fee Schedule for any land within Solivita owned by Club Owner. Any new Membership Fee Schedules established by Club Owner shall be added to this Club Plan by a recorded amendment. Club Membership Fees change for all Homes subject to a particular Membership Fee Schedule on January 1 of the year regardless of the month during the previous year that (i) an Owner acquired the Home or (ii) a Builder obtained a Certificate of Occupancy on a Home. Accordingly, if an Owner acquires title to a Home on November 1, 2014, he or she will pay the Club Membership Fees applicable each month in 2014 from November 1, 2014 through December 31, 2014 and such Club Membership Fee for such Home shall increase on January 1, 2015 as provided in the applicable Club Membership Fee Schedule.

8.3 Taxes. In addition to the Club Membership Fee, each Owner shall pay all applicable sales, use or similar taxes now or hereafter imposed on the Club Membership Fee. Currently, sales tax is payable on the entire amount of Club Dues.

8.4 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.

8.5 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.

8.6 Individual Homes (Single Family Residences). Owners of individual Homes shall pay Club Dues for one membership per month per Home. If an Owner owns more than one Home, Club Dues are payable for each and every Home owned by such Owner.

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

8.8 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 Solivita, Club Owner agrees to pay the difference, if any, between actual Club Expenses and Club Dues paid by Owners and Builders, if any.

8.9 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, or performances held in the Club Facilities. 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 Solivita Club Rules and Regulations as to entitlement of the tickets as Club Owner deems necessary.

8.10 Additional Club Dues. If an Owner, his 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.

8.11 Commencement of First Charges. The obligation to pay Club Dues on any particular Home, 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.

8.12 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.

8.13 Obligation to Pay Real Estate Taxes and Other Expenses on Homes. Each Owner shall pay all taxes 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, 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.

8.14 Club Budgets. The budget for each year prepared by Club Owner is not a contractual statement or guaranty of actual Club Dues. Budgets may not take inflation into account. 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.

9. Club Contribution Fund. There shall be collected from each Owner purchasing a Home from Developer or a Builder at the time of closing a working capital contribution ("Capital Contribution") in the current amount of One Hundred and Fifty Dollars (\$150). Each Owner's Capital Contribution shall be transferred to Club Owner at that time. There shall be collected from each Builder purchasing a Parcel from Developer at the time of closing a Capital Contribution applicable to the Parcel based on One Hundred and Fifty Dollars (\$150) times the number of Homes which can be built on such Parcel. Each Builder's Capital Contribution shall be transferred to Club Owner at that time. Capital 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. Capital 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 (i) waive contributions to the Club Contribution Fund in its sole and absolute discretion and (ii) change the amount of Capital Contribution by amendment to this Club Plan.

10. Determination of Club Expenses.

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

10.2 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.

10.3 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.

10.4 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.

10.5 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.

10.6 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.

11. Creation of the Lien and Personal Obligation.

11.1 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 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 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 the Original Club Plan was 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 at all levels 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 lease to the contrary. Such lien may be enforced by Club Owner or the Club Manager. The lien created by this Section is superior to the lien of Association for Assessments and the claim of Club Owner for Club Dues is paramount to all claims of Association.

11.2 Right to Designate Collection Agent. Club Owner's right to designate who shall collect Club Expenses, Special Use Fees, and/or Club Membership Fees shall be perpetual.

11.3 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, if such Lender is the acquirer of title, such Lender, its successors and assigns of such first mortgage, 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 Lender) as a part of the Club Expenses. Any sale or transfer pursuant to a foreclosure shall not relieve the Owner or any acquirer other than the Lender 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.

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

11.5 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. 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, 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, 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.

11.6 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.

11.7 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.

12. Adjacent Facilities. Adjacent to the Club are other amenities, such as a golf course and club facilities. The Adjacent Facilities may be owned by Club Owner and/or third parties. Club Owner, at its sole discretion, may make such Adjacent Facilities available to Members on an interim basis. The use of Adjacent Facilities may be provided to Members on a fee basis (*i.e.* Club Owner may charge use fees) or the costs of using the Adjacent Facilities may be included as part of Club Expenses. Club Owner reserves the right to determine whether Adjacent Facilities will be available to Members and the method of cost allocation for the use thereof.

13. Operations.

13.1 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.

13.2 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, may file liens for unpaid Club Dues against Homes, may enforce the Solivita Club Rules and Regulations, and prepare the Budget for the Club.

14. Paramount Right of Association. Association shall have the right to post all notices of its Board and member meetings and all notices required by the Florida Statutes at a designated location within the Club Facilities visible to all Club Members without charge.

15. Attorneys' Fees. If at any time Club Owner must enforce any provision hereof, Club Owner shall be entitled to recover all of its reasonable costs and attorneys' and paraprofessional fees at all levels, including appeals, collections and bankruptcy.

16. Rights to Pay and Receive Reimbursement. Club Owner and/or Association shall have the right, but not the obligation to pay any Club Dues, or Special Use Fees 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 with regard to the amounts due. Further, Club Owner and/or Association shall have the right, but not the obligation, to loan funds and pay insurance premiums, taxes or other items of costs on behalf of an Owner to protect its lien. The party advancing such funds shall be entitled to immediate reimbursement, on demand, from the Owner for such amounts so paid, plus interest thereon at the highest rate permitted by law, plus any costs of collection including, but not limited to, reasonable attorneys' and paraprofessional fees at all levels including appeals, collections and bankruptcy.

17. General Restrictions. Club Owner has adopted the following general restrictions governing the use of the Club. Each Member and other person entitled to use the Club shall comply with following general restrictions:

17.1 Minors. The Club Facilities are specifically designed to meet the requirements of the Federal Fair Housing Act, 42 U.S.C. § 3601, *et. seq.* and the Florida Fair Housing Act, Chapter 760, Florida Statutes. Only Owners of Homes within Solivita that are subject to a recorded restriction requiring that eighty percent (80%) of such occupied Homes be occupied by at least one (1) person fifty-five (55) years of age or older (or such reduced age as may be time to time permitted by law) may use the Club Facilities pursuant to this Club Plan. Accordingly, persons under the age of eighteen (18) are not permitted in the Club Facilities except to the extent permitted by the Solivita Club Rules and Regulations. Club Owner reserves the right to allow Members to bring any guests within the Club Facilities under the age of eighteen (18) at any time by so providing in the Solivita Club Rules and Regulations. All guests of Members shall be required to present identification and proof of age before entering the Club Facilities. Each Owner recognizes the right of Club Owner and/or Developer to build recreational facilities within Solivita which shall be open to all persons, regardless of age, and that these facilities may or may not be subject to the Club Plan.

17.2 Responsibility for Personal Property and Persons. Each Member assumes sole responsibility for the health, safety and welfare of such Member, his or her family and guests, and the personal property of all of the foregoing, and each Member shall not allow any of the foregoing to damage the Club or interfere with the rights of other Members hereunder.

17.3 Cars and Personal Property. The Club is not responsible for any loss or damage to any private property used, placed or stored on the Club Facilities. Without limiting the foregoing, any person parking a car within the Parking Areas assumes all risk of loss with respect to his or her car in the Parking Areas. Further, any person entering the Club Facilities assumes all risk of loss with respect to his or her equipment, jewelry or other possessions stored in the fitness center lockers, on bicycles, or within cars and wallets, books and clothing left in the pool areas.

17.4 Activities. Any Member, guest or other person who, in any manner, makes use of, or accepts the use of, any apparatus, appliance, facility, privilege or service whatsoever owned, leased or operated by the Club, or who engages in any contest, game, function, exercise, competition or other activity operated, organized, arranged or sponsored by the Club, either on or off the Club Facilities, shall do so at their own risk. Every Member shall be liable for any property damage and/or personal injury at the Club, or at any activity or function operated, organized, arranged or sponsored by the Club, caused by any Member or guest. No Member may use the Club Facilities for any club, society, party, religious, political, charitable, fraternal, civil, fund-raising or other purposes without the prior written consent of Club Owner, which consent may be withheld for any reason.

17.5 Property Belonging to the Club. Property or furniture belonging to the Club shall not be removed from the room in which it is placed or from the Club Facilities.

17.6 Indemnification of Club Owner. In addition, each Member and guest agrees to indemnify and hold harmless Club Owner and Club Manager, their officers, partners, agents, employees, affiliates, directors and attorneys (collectively, "Indemnified Parties") against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever ("Losses") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to such Member's membership, including, without limitation, use of the Club Facilities by Members and their guests, or the interpretation of this Club Plan, and/or the Solivita Club Rules and Regulations and/or from any act or omission of the Club or of any of the Indemnified Parties. Losses shall include the deductible payable under any of the Club's insurance policies.

17.7 Attorneys' Fees. Should any Member bring suit against Club Owner or Club Manager or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, the Member shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorneys' fees and paraprofessional fees at trial and upon appeal.

17.8 Unrecorded Rules. Club Owner may adopt rules and regulations ("Solivita Club Rules and Regulations") from time to time. Such Solivita Club Rules and Regulations may not be recorded; therefore, each Owner and Lessee should request a copy of unrecorded Solivita Club Rules and Regulations from the Club and become familiar with the same. Such Solivita Club Rules and Regulations are in addition to the general restrictions set forth in this Section.

17.9 Waiver of Solivita Club Rules and Regulations. Club Owner may waive the application of any Solivita Club Rules and Regulations to one or more Owners, Lessees, guests, invitees, employees or agents in Club Owner's sole and absolute discretion. A waiver may be revoked at any time upon notice to affected Lessees and Owners.

18. Violation of the Solivita Club Rules and Regulations.

18.1 Basis For Suspension. The membership rights of a Member may be suspended by Club Owner if, in the sole judgment of Club Owner:

18.1.1 such person is not an Owner or a Lessee;

18.1.2 the Member violates one or more of these Solivita Club Rules and Regulations;

18.1.3 a guest or other person for whom a Member is responsible violates one or more of these Solivita Club Rules and Regulations;

18.1.4 an Owner fails to pay Club Dues in a proper and timely manner; or

18.1.5 a Member and/or guest has injured, harmed or threatened to injure or harm any person within the Club Facilities, or harmed, destroyed or stolen any personal property within the Club Facilities, whether belonging to a third party or to Club Owner.

18.2 Types of Suspension. Club Owner may restrict or suspend, for cause or causes described in the preceding Section, any Member's privileges to use any or all of the Club Facilities. By way of example, and not as a limitation, Club Owner may suspend the membership of a Lessee if such Lessee's Owner fails to pay Club Dues due in connection with a leased Home. In addition, Club Manager may suspend some membership rights while allowing a Member to continue to exercise other membership rights. For example, Club Manager may suspend the rights of a particular Member or Club Manager may prohibit a Member from using a portion of the Club Facilities. No Member whose membership privileges have been fully or partially suspended shall, on account of any such restriction or suspension, be entitled to any refund or abatement of Club Dues or any other fees. During the restriction or suspension, Club Dues shall continue to accrue and be payable each month. Under no circumstance will a Member be reinstated until all Club Dues and other amounts due to the Club are paid in full.

19. Destruction. In the event of the damage by partial or total destruction by fire, windstorm, or any other casualty for which insurance shall be payable, any insurance proceeds shall be paid to Club Owner. If Club Owner elects, in Club Owner's sole and absolute discretion, to reconstruct the Club Facilities, the insurance proceeds shall be available for the purpose of reconstruction or repair of the Club; provided, however, Club Owner shall have the right to change the design or facilities comprising the Club in its sole and absolute discretion. There shall be no abatement in payments of Club Dues, including the Club Membership Fee, during casualty or reconstruction. The reconstruction or repair, when completed, shall, to the extent legally possible, restore the Club Facilities substantially to the condition in which they existed before the damage or destruction took place. After all reconstruction or repairs have been made, if there are any insurance proceeds left over, then and in that event, the excess shall be the sole property of Club Owner. If Club Owner elects not to reconstruct the Club Facilities, Club Owner shall terminate this Club Plan and the provisions of the Declaration relating to the Club by document recorded in the Public Records.

20. Risk of Loss. Club Owner shall not be liable for, and the Members assume all risks that may occur by reason of, any condition or occurrence, including, but not limited to, damage to the Club on account of casualty, water or the bursting or leaking of any pipes or waste water about the Club, or from any act of negligence of any other person, or fire, or hurricane, or other act of God, or from any cause whatsoever, occurring after the date of the recording of this

Club Plan. Neither Association nor any Owner shall be entitled to cancel this Club Plan or any abatement in Club Dues on account of any such occurrence. By way of example, if the Club is destroyed in whole or part by a casualty, Owners shall remain liable to pay all Club Dues notwithstanding that the Club is not available for use.

21. Eminent Domain. If, during the operation of this Club Plan, an eminent domain proceeding is commenced affecting the Club, then in that event, the following conditions shall apply:

21.1 Complete Taking. If the whole or any material part of the Club is taken under the power of eminent domain, Club Owner may terminate this Club Plan and the provisions of the Declaration relating to the Club by written notice given to Association, which notice shall be recorded in the Public Records. Should such notice be given, this Club Plan and the provisions in the Declaration relating to the Club shall terminate. All damages awarded in relation to the taking shall be the sole property of Club Owner.

21.2 Partial Taking. Should a portion of the Club be taken in an eminent domain proceeding which requires the partial demolition of any of the improvements located on the Club so that Club Owner determines the taking is not a complete taking, then, in such event, Club Owner shall have the option, to the extent legally possible, to utilize a portion of the proceeds of such taking for the restoration, repair, or remodeling of the remaining improvements to the Club, or to terminate this Club Plan as provided in Section 21.1 hereof. All damages awarded in relation to the taking shall be the sole property of Club Owner, and Club Owner shall determine what portion of such damages, if any, shall be applied to restoration, repair, or remodeling.

22. Additional Indemnification of Club Owner. Association and each Owner covenant and agree jointly and severally to indemnify, defend and hold harmless Developer and Club Owner, their respective officers, directors, shareholders, and any related persons or corporations and their employees, attorneys, agents, officers and directors from and against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life, or damage to property, sustained on or about the Common Areas, Club Property, or other property serving Association, and improvements thereon, or resulting from or arising out of activities or operations of Association or Owners, and from and against all costs, expenses, court costs, counsel fees, paraprofessional fees (including, but not limited to, all trial and appellate levels and whether or not suit be instituted), expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders, judgments or decrees which may be entered relating thereto. In addition Association shall, and does hereby, indemnify and save harmless Club Owner from and against any and all claims, suits, actions, damages and/or causes of action arising for any personal injury, loss of life and/or damage to property sustained in or about the Club, by reason or as a result of Association's operations, and from and against any orders, judgments, and/or decrees which may be entered thereon, and from and against all costs, counsel fees, paraprofessional fee, expenses and liabilities incurred in and about the defense of any such claim and the investigation thereof. Association shall immediately give Club Owner notice in writing that the same are about to be incurred and Club Owner shall have the option to make the necessary investigation and employ, at the expense of Association, counsel of Club Owner's own

selection for the defense of any such claims and expenses, etc. The indemnifications provided in this Section shall survive termination of this Club Plan. The costs and expense of fulfilling this covenant of indemnification shall be Association Expenses to the extent such matters are not covered by insurance maintained by Association.

23. Remedies. The specific remedies of Club Owner under the terms of this Club Plan are cumulative and are not intended to be exclusive of any other remedies or means of redress to which it may be lawfully entitled in case of any breach or threatened breach of any provisions of this Club Plan. In addition to the other remedies provided in this Club Plan, Club Owner shall be entitled to enjoin, without bond, the violation or attempted or threatened violation of any of the provisions of this Club Plan or obtain specific performance of any such provisions.

24. Estoppel. Association shall, from time to time, upon not less than ten (10) days' prior written notice from Club Owner, execute, acknowledge and deliver a written statement: (a) certifying that this Club Plan is unmodified and in full force and effect (or, if modified, stating the nature of such modification, listing the instruments of modification, and certifying that this Club Plan, as so modified, is in full force and effect); and (b) acknowledging that there are not, to Association's knowledge, any uncured defaults by Club Owner with respect to this Club Plan. Any such statement may be conclusively relied upon by any prospective purchaser of Club Owner's interest or mortgagee of Club Owner's interest or assignee of any mortgage upon Club Owner's interest in the Club. Association's failure to deliver such statement within such time shall be conclusive evidence: (1) that this Club Plan is in full force and effect, without modification except as may be represented, in good faith, by Club Owner; and (2) that there are no uncured defaults by Club Owner under the Club Plan.

25. No Waiver. The failure of Club Owner in one or more instances to insist upon strict performance or observance of one or more provisions of the Club Plan or conditions hereof or to exercise any remedy, privilege or option herein conferred upon or reserved to Club Owner, shall not operate or be construed as a relinquishment or waiver of such covenant or condition or of the right to enforce the same or to exercise such privilege, option or remedy, but the same shall continue in full force and effect. The receipt by Club Owner of any payment required to be made by any Owner, or any part thereof, shall not be a waiver of any other payment then due, nor shall such receipt, though with knowledge of the breach of any covenant or condition hereof, operate as, or be deemed to be a waiver of such breach. No waiver of Club Owner shall be effective unless made by Club Owner in writing.

26. Franchises and Concessions. Club Owner may grant franchises or concessions to commercial concerns on all or part of the Club and shall be entitled to all income derived therefrom.

27. Resolution of Disputes. ASSOCIATION AND, BY ACCEPTANCE OF A DEED, EACH OWNER AND BUILDER, AGREE THAT THIS CLUB PLAN IS A VERY COMPLEX DOCUMENT. ACCORDINGLY, ASSOCIATION AND EACH OWNER AND BUILDER AGREE THAT JUSTICE WILL BEST BE SERVED IF ALL DISPUTES RESPECTING THIS CLUB PLAN ARE HEARD BY A JUDGE, AND NOT A JURY. 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 THIS CLUB PLAN, INCLUDING ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT, VALIDATION, PROTECTION, ENFORCEMENT ACTION OR OMISSION OF ANY PARTY, SHALL BE HEARD IN A COURT PROCEEDING BY A JUDGE, AND NOT A JURY. CLUB OWNER HEREBY SUGGESTS THAT EACH OWNER UNDERSTAND THE LEGAL CONSEQUENCES OF ACCEPTING A DEED TO A HOME.

28. 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 CLUB PLAN LEGALLY AND FACTUALLY WAS EXECUTED IN POLK COUNTY, FLORIDA. CLUB OWNER HAS AN OFFICE IN POLK COUNTY, FLORIDA AND EACH HOME IS LOCATED IN POLK COUNTY, FLORIDA. ACCORDINGLY, AN IRREFUTABLE PRESUMPTION EXISTS THAT THE ONLY APPROPRIATE VENUE FOR THE RESOLUTION OF ANY DISPUTE LIES IN POLK COUNTY, FLORIDA. IN ADDITION TO THE FOREGOING, EACH OWNER, BUILDER AND CLUB OWNER AGREE THAT THE VENUE FOR RESOLUTION OF ANY DISPUTE LIES IN POLK COUNTY, FLORIDA.

29. Release. BEFORE ACCEPTING A DEED TO A HOME, EACH OWNER HAS AN OBLIGATION TO RETAIN AN ATTORNEY IN ORDER TO CONFIRM THE VALIDITY OF THIS CLUB PLAN. BY ACCEPTANCE OF A DEED TO A HOME, EACH OWNER ACKNOWLEDGES THAT HE HAS SOUGHT (OR HAD TITLE OPTION TO SEEK) AND RECEIVED (OR DECLINED TO OBTAIN) SUCH AN OPINION OR HAS MADE AN AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. CLUB OWNER IS RELYING ON EACH OWNER CONFIRMING IN ADVANCE OF ACQUIRING A HOME THAT THIS CLUB PLAN IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO CLUB OWNER. ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EACH OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THIS CLUB PLAN IS INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR CLUB OWNER TO SUBJECT THE CLUB PROPERTY TO THIS CLUB PLAN, EACH OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE CLUB OWNER, 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 CLUB OWNER, 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 CLUB PLAN, 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.

30. Amendment. Notwithstanding any other provision herein to the contrary, no amendment to this Club Plan 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. No amendment shall alter the provisions of this Club Plan benefitting Lenders without the prior approval of the Lender(s) enjoying the benefit of such provisions. No amendment shall be effective until it is recorded in the Public Records. Club Owner shall have the right to amend this Club Plan as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Club Owner's right to amend under this provision is to be construed as broadly as possible. By way of example, Club Owner may terminate this Club Plan (and all rights and obligations hereunder) in the event of partial or full destruction of the Club. Further, Club Owner may elect, in Club Owner's sole and absolute discretion, to subject property outside of Solivita to this Club Plan by amendment recorded in the Public Records. Likewise, Club Owner may elect, in Club Owner's sole and absolute discretion, to remove portions of Solivita from the benefit and encumbrance of this Club Plan by amendment recorded in the Public Records.

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

32. Notices. Any notice required to be sent to any person, firm, or entity under the provisions of this Club Plan shall be deemed to have been properly sent when mailed, postpaid, hand delivered, telefaxed, or delivered by professional carrier or overnight delivery to the last known address at the time of such mailing.

33. Florida Statutes. Whenever this Club Plan refers to the Florida Statutes, the reference shall be deemed to refer to the Florida Statutes as they exist on the date the Club Plan was recorded except to the extent provided otherwise as to any particular provision of the Florida Statutes.

34. Headings. The headings within this Club Plan are for convenience only and shall not be used to limit or interpret the terms hereof.





**EXHIBIT A**

**LEGAL DESCRIPTION OF SOLIVITA**

All of the following plats as recorded in the Public Records of Polk County, Florida:

All the lots within SOLIVITA - PHASE 1, according to the Plat thereof, as recorded in Plat Book 112, at Pages 1;

All the lots within SOLIVITA - PHASE 1D, according to the Plat thereof, as recorded in Plat Book 122, at Page 9;

All the lots within SOLIVITA - PHASE 1E, according to the Plat thereof, as recorded in Plat Book 128, at Page 27;

All the lots within SOLIVITA - PHASE 1H, according to the Plat thereof, as recorded in Plat Book 153, at Page 14;

All the lots within SOLIVITA - PHASE IIA, according to the Plat thereof, as recorded in Plat Book 115, at Page 9;

All the lots within SOLIVITA - PHASE IIB, according to the Plat thereof, as recorded in Plat Book 115, at Page 34;

All the lots within SOLIVITA - PHASE IIC, according to the Plat thereof, as recorded in Plat Book 118, at Page 12;

All the lots within SOLIVITA - PHASE IID, according to the Plat thereof, as recorded in Plat Book 118, at Page 17;

All the lots within SOLIVITA - PHASE IIIA, according to the Plat thereof, as recorded in Plat Book 127, at Page 10;

All the lots within SOLIVITA - PHASE IIIB, according to the Plat thereof, as recorded in Plat Book 131, at Page 36;

All the lots within SOLIVITA - PHASE IVA, according to the Plat thereof, as recorded in Plat Book 120, at Page 13;

All the lots within SOLIVITA - PHASE IVB, according to the Plat thereof, as recorded in Plat Book 121, at Page 2;

All the lots within SOLIVITA - PHASE IVC SECTION 1, according to the Plat thereof, as recorded in Plat Book 124, at Page 15;

All the lots within SOLIVITA - PHASE IVC SECTION 2, according to the Plat thereof, as recorded in Plat Book 124, at Page 33;

All the lots within SOLIVITA PHASE 5F, according to the Plat thereof, as recorded in Plat Book 145, at Page 1;

All the lots within SOLIVITA PHASE 5F - UNIT 1, according to the Plat thereof, as recorded in Plat Book 154, at Page 1;

All the lots within SOLIVITA - PHASE VIA, according to the Plat thereof, as recorded in Plat Book 131, at Page 30;

All the lots within SOLIVITA - PHASE VIB, according to the Plat thereof, as recorded in Plat Book 133, at Page 14;

All the lots within SOLIVITA PHASE 7A, according to the Plat thereof, as recorded in Plat Book 134, at Page 20;

All the lots within SOLIVITA PHASE 7B1, according to the Plat thereof, as recorded in Plat Book 136, at Page 14;

All the lots within SOLIVITA PHASE 7B2, according to the Plat thereof, as recorded in Plat Book 136, at Page 39;

All the lots within SOLIVITA PHASE 7C, according to the Plat thereof, as recorded in Plat Book 136, at Page 3;

All the lots within SOLIVITA PHASE 7D, according to the Plat thereof, as recorded in Plat Book 137, at Page 9;

All the lots within SOLIVITA PHASE 7G-1, according to the Plat thereof, as recorded in Plat Book 143, at Page 13; and

All the lots within SOLIVITA PHASE 7G – UNIT 1, according to the Plat thereof, as recorded in Plat Book 153, at Pages 36 through 39.

**EXHIBIT B TO CLUB PLAN**

**OPTION NOTICE**

**IRREVOCABLE OPTION NOTICE**

The Board of Directors of Solivita Community Association, Inc., (the "Board") hereby provides Club Owner (as defined in that certain Amended and Restated Solivita Club Plan recorded in Official Records Book \_\_\_\_\_ at Page \_\_\_\_\_ of the Public Records of Polk County, Florida) with notice of its intent to purchase the Club (as defined in the Club Plan) pursuant to the Purchase Option offered by Club Owner dated \_\_\_\_\_, 20\_\_\_. Attached hereto as Schedule 1 is a resolution executed by the majority of the Board approving this Irrevocable Option Notice.

The undersigned Board has executed this Irrevocable Option Notice on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Director

\_\_\_\_\_  
Name: \_\_\_\_\_  
Director

\_\_\_\_\_  
Name: \_\_\_\_\_  
Director

**Schedule 1 Of Exhibit B**

**SOLIVITA COMMUNITY ASSOCIATION, INC.,  
(THE "ASSOCIATION")**

**ACTION BY THE BOARD OF DIRECTORS OF ASSOCIATION  
AT A MEETING HELD \_\_\_\_\_, 20\_\_.**

The undersigned constituting the majority of the Board of Directors of Association do hereby consent to and approve the following actions:

WHEREAS, the Board of Directors hereby acknowledges and agrees that it is in the best interest of Association to purchase the Club (as defined in that certain Amended and Restated Club Plan recorded in Official Records Book \_\_\_\_\_ at Page \_\_\_\_\_ of the Public Records of Polk County, Florida; and

WHEREAS, the Board of Directors hereby agrees to provide Club Owner (as defined in the Club Plan) with the Option Notice (as defined in the Club Plan) in order to evidence its intent to purchase the Club (as defined in the Club Plan) pursuant to the terms of the Club Plan;

NOW THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves the purchase of the Club and the giving of the Option Notice to Club Owner.

Effective: \_\_\_\_\_

\_\_\_\_\_  
Name: \_\_\_\_\_  
Director

\_\_\_\_\_  
Name: \_\_\_\_\_  
Director

\_\_\_\_\_  
Name: \_\_\_\_\_  
Director

EXHIBIT C  
MEMBERSHIP FEE SCHEDULES

**CLUB MEMBERSHIP FEES PER PLAT**

**Club Membership Fee Schedule for Homes within:**

**Solivita - Phase I**, recorded in Plat Book 112 at Page 1, according to the plat thereof, as recorded in the Public Records of Polk County, Florida;

**Solivita - Phase IIA**, recorded in Plat Book 115 at Page 9, according to the plat thereof, as recorded in the Public Records of Polk County, Florida; and

**Solivita - Phase IIB**, recorded in Plat Book 115 at Page 34, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$62
January 1 through December 31, 2014	\$63
January 1 through December 31, 2015	\$64
January 1 through December 31, 2016	\$65
January 1 through December 31, 2017	\$66
January 1 through December 31, 2018	\$67
January 1 through December 31, 2019	\$68
January 1 through December 31, 2020	\$69
January 1 through December 31, 2021	\$70
January 1 through December 31, 2022	\$71
January 1 through December 31, 2023	\$72
January 1 through December 31, 2024	\$73
January 1 through December 31, 2025	\$74
January 1 through December 31, 2026	\$75
January 1 through December 31, 2027	\$76
January 1 through December 31, 2028	\$77
January 1 through December 31, 2029	\$78
For all months thereafter	\$79

**Club Membership Fee Schedule for Homes within:**

**Solivita - Phase 1D**, recorded in Plat Book 122 at Page 9, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$71
January 1 through December 31, 2014	\$72
January 1 through December 31, 2015	\$73
January 1 through December 31, 2016	\$74
January 1 through December 31, 2017	\$75
January 1 through December 31, 2018	\$76
January 1 through December 31, 2019	\$77
January 1 through December 31, 2020	\$78
January 1 through December 31, 2021	\$79
January 1 through December 31, 2022	\$80
January 1 through December 31, 2023	\$81
January 1 through December 31, 2024	\$82
January 1 through December 31, 2025	\$83
January 1 through December 31, 2026	\$84
January 1 through December 31, 2027	\$85
January 1 through December 31, 2028	\$86
January 1 through December 31, 2029	\$87
January 1 through December 31, 2030	\$88
January 1 through December 31, 2031	\$89
For all months thereafter	\$90

<b>Club Membership Fee Schedule for Homes within:</b>	
<b>Solivita - Phase 1E, recorded in Plat Book 128 at Page 27, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.</b>	
<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$71
January 1 through December 31, 2014	\$72
January 1 through December 31, 2015	\$73
January 1 through December 31, 2016	\$74
January 1 through December 31, 2017	\$75
January 1 through December 31, 2018	\$76
January 1 through December 31, 2019	\$77
January 1 through December 31, 2020	\$78
January 1 through December 31, 2021	\$79
January 1 through December 31, 2022	\$80
January 1 through December 31, 2023	\$81
January 1 through December 31, 2024	\$82
January 1 through December 31, 2025	\$83
January 1 through December 31, 2026	\$84
January 1 through December 31, 2027	\$85
January 1 through December 31, 2028	\$86
January 1 through December 31, 2029	\$87
January 1 through December 31, 2030	\$88
January 1 through December 31, 2031	\$89
January 1 through December 31, 2032	\$90
January 1 through December 31, 2033	\$91
For all months thereafter	\$92



<b>Club Membership Fee Schedule for Homes within:</b>	
<b>Solivita Phase IH, recorded in Plat Book 153 at Page 14, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.</b>	
<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
January 1 through December 31, 2033	\$102
January 1 through December 31, 2034	\$103
January 1 through December 31, 2035	\$104
January 1 through December 31, 2036	\$105
January 1 through December 31, 2037	\$106
January 1 through December 31, 2038	\$107
January 1 through December 31, 2039	\$108
January 1 through December 31, 2040	\$109
January 1 through December 31, 2041	\$110
January 1 through December 31, 2042	\$111
For all months thereafter	\$112

**Club Membership Fee Schedule for Homes within:**

**Solivita - Phase IIC**, recorded in Plat Book 118 at Page 12, according to the plat thereof, as recorded in the Public Records of Polk County, Florida; and

**Solivita - Phase IID**, recorded in Plat Book 118 at Page 17, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$72
January 1 through December 31, 2014	\$73
January 1 through December 31, 2015	\$74
January 1 through December 31, 2016	\$75
January 1 through December 31, 2017	\$76
January 1 through December 31, 2018	\$77
January 1 through December 31, 2019	\$78
January 1 through December 31, 2020	\$79
January 1 through December 31, 2021	\$80
January 1 through December 31, 2022	\$81
January 1 through December 31, 2023	\$82
January 1 through December 31, 2024	\$83
January 1 through December 31, 2025	\$84
January 1 through December 31, 2026	\$85
January 1 through December 31, 2027	\$86
January 1 through December 31, 2028	\$87
January 1 through December 31, 2029	\$88
January 1 through December 31, 2030	\$89
January 1 through December 31, 2031	\$90
For all months thereafter	\$91

<b>Club Membership Fee Schedule for Homes within:</b>	
<b>Solivita - Phase IIIA, recorded in Plat Book 127 at Page 10, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.</b>	
<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
For all months thereafter	\$102

**Club Membership Fee Schedule for Homes within:**

**Solivita - Phase IIIB**, recorded in Plat Book 131 at Page 36, according to the plat thereof, as recorded in the Public Records of Polk County, Florida; and

**Solivita – Phase VIA**, recorded in Plat Book 131 at Page 30, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
January 1 through December 31, 2033	\$102
For all months thereafter	\$103

**Club Membership Fee Schedule for Homes within:**

**Solivita - Phase IVA**, recorded in Plat Book 120 at Page 13, according to the plat thereof, as recorded in the Public Records of Polk County, Florida; and  
**Solivita - Phase IVB**, recorded in Plat Book 121 at Page 2, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$72
January 1 through December 31, 2014	\$73
January 1 through December 31, 2015	\$74
January 1 through December 31, 2016	\$75
January 1 through December 31, 2017	\$76
January 1 through December 31, 2018	\$77
January 1 through December 31, 2019	\$78
January 1 through December 31, 2020	\$79
January 1 through December 31, 2021	\$80
January 1 through December 31, 2022	\$81
January 1 through December 31, 2023	\$82
January 1 through December 31, 2024	\$83
January 1 through December 31, 2025	\$84
January 1 through December 31, 2026	\$85
January 1 through December 31, 2027	\$86
January 1 through December 31, 2028	\$87
January 1 through December 31, 2029	\$88
January 1 through December 31, 2030	\$89
January 1 through December 31, 2031	\$90
For all months thereafter	\$91

**Club Membership Fee Schedule for Homes within:**

**Solivita - Phase IVC Section 1**, recorded in Plat Book 124 at Page 15, according to the plat thereof, as recorded in the Public Records of Polk County, Florida; and  
**Solivita - Phase IVC Section 2**, recorded in Plat Book 124 at Page 33, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
For all months thereafter	\$102

**Club Membership Fee Schedule for Homes within:**

Solivita Phase 5F, recorded in Plat Book 145 at Page 1, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$81
January 1 through December 31, 2014	\$82
January 1 through December 31, 2015	\$83
January 1 through December 31, 2016	\$84
January 1 through December 31, 2017	\$85
January 1 through December 31, 2018	\$86
January 1 through December 31, 2019	\$87
January 1 through December 31, 2020	\$88
January 1 through December 31, 2021	\$89
January 1 through December 31, 2022	\$90
January 1 through December 31, 2023	\$91
January 1 through December 31, 2024	\$92
January 1 through December 31, 2025	\$93
January 1 through December 31, 2026	\$94
January 1 through December 31, 2027	\$95
January 1 through December 31, 2028	\$96
January 1 through December 31, 2029	\$97
January 1 through December 31, 2030	\$98
January 1 through December 31, 2031	\$99
January 1 through December 31, 2032	\$100
January 1 through December 31, 2033	\$101
January 1 through December 31, 2034	\$102
January 1 through December 31, 2035	\$103
January 1 through December 31, 2036	\$104
For all months thereafter	\$105

**Club Membership Fee Schedule for Homes within:**

**Solivita Phase 5F – Unit 1**, recorded in Plat Book 154 at Page 1, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$81
January 1 through December 31, 2014	\$82
January 1 through December 31, 2015	\$83
January 1 through December 31, 2016	\$84
January 1 through December 31, 2017	\$85
January 1 through December 31, 2018	\$86
January 1 through December 31, 2019	\$87
January 1 through December 31, 2020	\$88
January 1 through December 31, 2021	\$89
January 1 through December 31, 2022	\$90
January 1 through December 31, 2023	\$91
January 1 through December 31, 2024	\$92
January 1 through December 31, 2025	\$93
January 1 through December 31, 2026	\$94
January 1 through December 31, 2027	\$95
January 1 through December 31, 2028	\$96
January 1 through December 31, 2029	\$97
January 1 through December 31, 2030	\$98
January 1 through December 31, 2031	\$99
January 1 through December 31, 2032	\$100
January 1 through December 31, 2033	\$101
January 1 through December 31, 2034	\$102
January 1 through December 31, 2035	\$103
January 1 through December 31, 2036	\$104
January 1 through December 31, 2037	\$105
January 1 through December 31, 2038	\$106
January 1 through December 31, 2039	\$107
January 1 through December 31, 2040	\$108
January 1 through December 31, 2041	\$109
January 1 through December 31, 2042	\$110
For all months thereafter	\$111



**Club Membership Fee Schedule for Homes within:**

**Solivita - Phase VIB**, recorded in Plat Book 133 at Page 14, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
January 1 through December 31, 2033	\$102
For all months thereafter	\$103

**Club Membership Fee Schedule for Homes within:**

Solivita Phase 7A, recorded in Plat Book 134 at Page 20, according to the plat thereof, as recorded in the Public Records of Polk County, Florida;  
 Solivita Phase 7B1, recorded in Plat Book 136 at Page 14, according to the plat thereof, as recorded in the Public Records of Polk County, Florida;  
 Solivita Phase 7B2, recorded in Plat Book 136 at Page 39, according to the plat thereof, as recorded in the Public Records of Polk County, Florida;  
 Solivita Phase 7C, recorded in Plat Book 136 at Page 3, according to the plat thereof, as recorded in the Public Records of Polk County, Florida; and  
 Solivita - Phase 7D, recorded in Plat Book 137 at Page 9, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
January 1 through December 31, 2033	\$102
January 1 through December 31, 2034	\$103
For all months thereafter	\$104

<b>Club Membership Fee Schedule for Homes within:</b>	
Solivita Phase 7G- 1, recorded in Plat Book 143 at Page 13, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.	
<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
January 1 through December 31, 2033	\$102
January 1 through December 31, 2034	\$103
January 1 through December 31, 2035	\$104
January 1 through December 31, 2036	\$105
January 1 through December 31, 2037	\$106
January 1 through December 31, 2038	\$107
For all months thereafter	\$108

**Club Membership Fee Schedule for Homes within:**

Solivita Phase 7G- Unit 1, recorded in Plat Book 153 at Page 36, according to the plat thereof, as recorded in the Public Records of Polk County, Florida.

<b>TIME PERIOD CLUB MEMBERSHIP FEE IS IN EFFECT</b>	<b>CLUB MEMBERSHIP FEE PER MONTH PER HOME</b>
January 1 through December 31, 2013	\$82
January 1 through December 31, 2014	\$83
January 1 through December 31, 2015	\$84
January 1 through December 31, 2016	\$85
January 1 through December 31, 2017	\$86
January 1 through December 31, 2018	\$87
January 1 through December 31, 2019	\$88
January 1 through December 31, 2020	\$89
January 1 through December 31, 2021	\$90
January 1 through December 31, 2022	\$91
January 1 through December 31, 2023	\$92
January 1 through December 31, 2024	\$93
January 1 through December 31, 2025	\$94
January 1 through December 31, 2026	\$95
January 1 through December 31, 2027	\$96
January 1 through December 31, 2028	\$97
January 1 through December 31, 2029	\$98
January 1 through December 31, 2030	\$99
January 1 through December 31, 2031	\$100
January 1 through December 31, 2032	\$101
January 1 through December 31, 2033	\$102
January 1 through December 31, 2034	\$103
January 1 through December 31, 2035	\$104
January 1 through December 31, 2036	\$105
January 1 through December 31, 2037	\$106
January 1 through December 31, 2038	\$107
January 1 through December 31, 2039	\$108
January 1 through December 31, 2040	\$109
January 1 through December 31, 2041	\$110
January 1 through December 31, 2042	\$111
For all months thereafter	\$112

**JOINDER**

SOLIVITA COMMUNITY ASSOCIATION, INC. does hereby join in the document to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 13<sup>th</sup> day of December, 2013.

WITNESSES:

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

Tami Delgado  
Print Name: Tami Delgado

Anthony S. Torio  
Name: Anthony S. Torio  
Title: President

Kaye Burchenson  
Print Name: KAYE Burchenson

[SEAL]

STATE OF FLORIDA )  
COUNTY OF Polk ) SS.:

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of December 2013 by Anthony S. Torio as President of SOLIVITA COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation, who is personally known to me or who produced \_\_\_\_\_ as identification, on behalf of the corporation.

My commission expires:

Kaye Burchenson  
NOTARY PUBLIC, State of Florida  
Print name: Kaye Burchenson



WPB\_ACTIVE 5697415.4  
12/12/13



I hereby certify that the foregoing is a true copy of the record in my office this day, Dec 27, 2013. Redacted \_\_\_ Unredacted/law ~~\_\_\_~~  
Stacy M. Butterfield, Clerk of Court Polk County, Florida  
By [Signature] Deputy Clerk

**EXHIBIT 6**  
**LIST OF TITLE DOCUMENTS**

1. Matters as contained on the Plat of Solivita Phase 1, according to the plat thereof, as recorded in Plat Book 112 at Page 1.
2. Matters as contained on the Plat of Solivita Phase 1D, according to the plat thereof, as recorded in Plat Book 122 at Page 9.
3. Matters as contained on the Plat of Solivita Phase 1E, according to the plat thereof, as recorded in Plat Book 128 at Page 27.
4. Matters as contained on the Plat of Solivita Phase 1H, according to the plat thereof, as recorded in Plat Book 153 at Page 14.
5. Matters as contained on the Plat of Solivita Phase 2A, according to the plat thereof, as recorded in Plat Book 115 at Page 9.
6. Matters as contained on the Plat of Solivita Phase 2B, according to the plat thereof, as recorded in Plat Book 115 at Page 34.
7. Matters as contained on the Plat of Solivita Phase 2C, according to the plat thereof, as recorded in Plat Book 118 at Page 12.
8. Matters as contained on the Plat of Solivita Phase 2D, according to the plat thereof, as recorded in Plat Book 118 at Page 17.
9. Matters as contained on the Plat of Solivita Phase 3A, according to the plat thereof, as recorded in Plat Book 127 at Page 10.
10. Matters as contained on the Plat of Solivita Phase 3B, according to the plat thereof, as recorded in Plat Book 131 at Page 36.
11. Matters as contained on the Plat of Solivita Phase 4A, according to the plat thereof, as recorded in Plat Book 120 at Page 13.
12. Matters as contained on the Plat of Solivita Phase 4B, according to the plat thereof, as recorded in Plat Book 121 at Page 2.
13. Matters as contained on the Plat of Solivita Phase 4C Section 1, according to the plat thereof, as recorded in Plat Book 124 at Page 15.
14. Matters as contained on the Plat of Solivita Phase 4C Section 2, according to the plat thereof, as recorded in Plat Book 124 at Page 33.
15. Matters as contained on the Plat of Solivita Phase 5F, according to the plat thereof, as recorded in Plat Book 145 at Page 1.

16. Matters as contained on the Plat of Solivita Phase 5F - Unit 1, according to the plat thereof, as recorded in Plat Book 154 at Page 1.
17. Matters as contained on the Plat of Solivita Phase 6A, according to the plat thereof, as recorded in Plat Book 131 at Page 30.
18. Matters as contained on the Plat of Solivita Phase 6B, according to the plat thereof, as recorded in Plat Book 133 at Page 14.
19. Matters as contained on the Plat of Solivita Phase 7A, according to the plat thereof, as recorded in Plat Book 134 at Page 20.
20. Matters as contained on the Plat of Solivita Phase 7B1, according to the plat thereof, as recorded in Plat Book 136 at Page 14.
21. Matters as contained on the Plat of Solivita Phase 7B2, according to the plat thereof, as recorded in Plat Book 136 at Page 39.
22. Matters as contained on the Plat of Solivita Phase 7C, according to the plat thereof, as recorded in Plat Book 136 at Page 3.
23. Matters as contained on the Plat of Solivita Phase 7D, according to the plat thereof, as recorded in Plat Book 137 at Page 9.
24. Matters as contained on the Plat of Solivita Phase 7G 1, according to the plat thereof, as recorded in Plat Book 143 at Page 13.
25. Matters as contained on the Plat of Solivita Phase 7G Unit 1, according to the plat thereof, as recorded in Plat Book 153 at Page 36.
26. Notice of Establishment of the Poinciana Community Development District recorded in Official Records Book 4359 at Page 1193.
27. Declaration of Consent to Jurisdiction of Community Development District and to Imposition of Special Assessments recorded in Official Records Book 4446 at Page 1706.
28. Notice of Imposition of Non Ad-Valorem Special Assessments and Requirement to Submit Site Plans for Lands within the Poinciana Community Development District recorded in Official Records Book 4480 at Page 732.
29. Solivita Club Plan recorded in Official Records Book 4510 at Page 1529 as amended by the following: a) First Amendment to Solivita Club Plan recorded in Official Records Book 4804 at Page 2005; b) Second Amendment to Solivita Club Plan recorded in Official Records Book 4824 at Page 1091; c) Third Amendment to Solivita Club Plan recorded in Official Records Book 7665 at Page 40; and d) Fourth Amendment to Solivita Club Plan recorded in Official Records Book 8287 at Page 1178.

30. Declaration of Restrictions recorded in Official Records Book 4524 at Page 2074.
31. Deed of Conservation Easement recorded in Official Records Book 4628 at Page 531.
32. Resolution No. 03-74 Vacating Plat recorded in Official Records Book 5442 at Page 2092.
33. Resolution No. 05-50 Vacating Plat recorded in Official Records Book 6127 at Page 2029.
34. Conservation Easement recorded in Official Records Book 6322 at Page 1324.
35. Communication Easement recorded in Official Records Book 6591 at Page 2042.
36. Easement for Cable Television and Communications Services recorded in Official Records Book 6629 at Page 592.
37. Deed of Conservation Easement recorded in Official Records Book 6850 at Page 681.
38. Notice of Establishment of the Poinciana West Community Development District recorded in Official Records Book 7007 at Page 1995.
39. Master Deed Restrictions recorded in Official Records Book 7173 at Page 1324.
40. Poinciana West Community Development District's Notice of Series 2007 Special Assessments recorded in Official Records Book 7461 at Page 510.
41. Declaration of Consent to Jurisdiction of Poinciana West Community Development District and to Imposition of Special Assessments recorded in Official Records Book 7461 at Page 1033.
42. Disclosure of Public Financing and Maintenance of Improvements to Real Property undertaken by the Poinciana Community Development District recorded in Official Records Book 7536 at Page 1282.
43. Notice of Boundary Amendment of the Poinciana Community Development District recorded in Official Records Book 7661 at Page 1139.
44. Utility Easement between Avatar Properties Inc. and Poinciana West Community Development District recorded in Official Records Book 8929 at Page 1170.
45. Solivita Club Membership Fee Schedule Solivita Phase 1, recorded in Official Records Book 4514 at Page 1753.
46. Solivita Club Membership Fee Schedule Solivita Phase 1D, recorded in Official Records Book 5444 at Page 1086.
47. Solivita Club Membership Fee Schedule Solivita Phase 1E, recorded in Official Records Book 6049 at Page 1090.



48. Solivita Club Membership Fee Schedule Solivita Phase 1H, being recorded contemporaneously hereto.
49. Solivita Club Membership Fee Schedule Solivita Phase 2A, recorded in Official Records Book 4804 at Page 2008.
50. Solivita Club Membership Fee Schedule Solivita Phase 2B, recorded in Official Records Book 4824 at Page 1094.
51. Solivita Club Membership Fee Schedule Solivita Phase 2C and 2D, recorded in Official Records Book 5123 at Page 1942.
52. Solivita Club Membership Fee Schedule Solivita Phase 3A, recorded in Official Records Book 5941 at Page 461.
53. Solivita Club Membership Fee Schedule Solivita Phase 3B and 6A, recorded in Official Records Book 6358 at Page 115.
54. Solivita Club Membership Fee Schedule Solivita Phase 4A, recorded in Official Records Book 5148 at Page 1041.
55. Solivita Club Membership Fee Schedule Solivita Phase 4B, recorded in Official Records Book 5295 at Page 1527.
56. Solivita Club Membership Fee Schedule Solivita Phase 4C Section 1, recorded in Official Records Book 5700 at Page 2132.
57. Solivita Club Membership Fee Schedule Solivita Phase 4C Section 2, recorded in Official Records Book 5720 at Page 1894.
58. Solivita Club Membership Fee Schedule Solivita Phase 5F, recorded in Official Records Book 7717 at Page 618.
59. Solivita Club Membership Fee Schedule Solivita Phase 5F – Unit 1, recorded in Official Records Book 9088 at Page 1377.
60. Solivita Club Membership Fee Schedule Solivita Phase 6B, recorded in Official Records Book 6467 at Page 146.
61. Solivita Club Membership Fee Schedule Solivita Phases 7A, 7B1, 7B2, 7C and 7D 4C, recorded in Official Records Book 6914 at Page 842.
62. Solivita Club Membership Fee Schedule Solivita Phase 7G-1, recorded in Official Records Book 7871 at Page 124.
63. Solivita Club Membership Fee Schedule Solivita Phase 7G - Unit 1, recorded in Official Records Book 9088 at Page 1372.

All documents recorded in the Public Records of Polk County, Florida.



**EXHIBIT C**

Contract No.: **2018**  
CBCA.: \_\_\_\_\_

Check One <input checked="" type="checkbox"/>
<input type="checkbox"/> CASH
<input checked="" type="checkbox"/> CONV
<input type="checkbox"/> OTHER

AV Homes  
395 Village Drive  
Poinciana, Florida 34759  
Telephone: (863) 427-7000

Check One <input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> Owner Occupied
<input type="checkbox"/> Second Home

**SOLIVITA WEST**  
**PURCHASE AND SALE AGREEMENT**

THIS IS A LEGALLY BINDING AGREEMENT, IF NOT FULLY UNDERSTOOD SEEK COMPETENT LEGAL ADVICE. NO WARRANTIES OR REPRESENTATIONS, OTHER THAN THOSE SPECIFIED IN THIS AGREEMENT, ARE EXPRESSED OR IMPLIED. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF SELLER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS AGREEMENT AND THE DOCUMENT BOOK PROVIDED TO BUYER, IF ANY.

THIS PURCHASE AND SALE AGREEMENT ("**Agreement**") is made and entered into as of **December 12, 2013** by and between Avatar Properties Inc. d/b/a AV Homes ("**Seller**"), and the buyer(s) named below (collectively, "**Buyer**"):

<b>BUYER(S):</b>	
1. <u>Norman L. Gundel</u>	
2. <u>Lynn S. Gundel</u>	
3. _____	
4. _____	
<b>Buyer Address:</b> [REDACTED]	
By providing your telephone and fax numbers and your email address, you hereby consent to receiving telephonic, fax and email communications, including advertisements, made or sent by or on behalf of Seller, and/or its affiliates.	
Home Telephone: [REDACTED]	Email Address: [REDACTED]
Mobile Telephone: [REDACTED]	[REDACTED]
Business Telephone:	Fax Number:
Additional Business Telephone:	

1. **Purchase and Sale.** Buyer agrees to buy and Seller agrees to sell to Buyer (on the terms and conditions set forth below) Model constructed or to be constructed on the following described property.

Lot **333**, of Block **7B**, of the **Solivita Royal Palm - 7B 65'** Subdivision/Plat in / **0-0**, County (the "**County**"), Florida.

Plan: **2108** Elevation **B - Tile Roof** Garage Preference: **Right**



Address: **419 Fountain Valley Lane, Poinciana, FL 34759**

The residence, the above-described property, and improvements constructed or to be constructed thereon, and all appurtenances thereto are collectively referred to in this Agreement as the "**Home**" and are located within the Community (as defined and described in the Community Addendum attached hereto). The lot on which the Home is located will be referred to in this Agreement as the "**Lot**."

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2. **Purchase Price and Payments.** The total purchase price ("**Total Purchase Price**") for the Home being purchased hereunder, exclusive of any Closing Costs as described in Section 14 and elsewhere herein, will be as set forth on Addendum No. 1 to this Agreement, which is attached hereto and incorporated herein.

Buyer shall make the following payments:

Payment	Due Date	Amount Due
Initial Deposit (check, money order or wire)	Upon signing of Agreement	\$ [REDACTED]
Additional Deposit (check, money order or wire)	12/17/2013	\$ [REDACTED]
Second Additional Deposit (check, money order, or wire)		\$ [REDACTED]
Nonrefundable deposit for options, extras and/or upgrades		\$ [REDACTED]
Total Deposit		\$ [REDACTED]
<b>BALANCE OF TOTAL PURCHASE PRICE, LESS ALL DEPOSITS, DUE BY CASHIER'S CHECK OR FEDERAL WIRE ONLY IN U.S. FUNDS FROM A FINANCIAL INSTITUTION LOCATED IN THE UNITED STATES (BANK CHECK OR OFFICIAL CHECK WILL NOT BE ACCEPTED)</b>	Upon Closing Date (as defined in Section 9 herein)	
Initial  Initial  Buyer(s) Buyer(s)		

*To be completed*

In the event Buyer's Deposit exceeds ten percent (10%) of the Total Purchase Price, the following provision shall be applicable, subject to and without limiting the unconditional nature of the obligations and provisions of Section 8 of this Agreement:

Buyer acknowledges, understands, and agrees that (i) Seller may not apply for or obtain all permits necessary to construct the Home within thirty (30) days from the execution of the Agreement, provided however that Seller shall apply for or obtain such permits within three hundred sixty five (365) days after the date Buyer executes this Agreement, and (ii) Seller may not commence work on the Home within ninety (90) days of the issuance of such permits (the "**Permit Issuance Date**"), provided however that Seller shall commence work no later than two hundred seventy (270) days from the Permit Issuance Date. Buyer acknowledges and agrees that the foregoing shall constitute an extension of the time limitations set forth in Section 489.126, Florida Statutes. Notwithstanding the foregoing, the time periods set forth in this paragraph may be delayed by any event recognized by the law of the state in which the Home is located as a defense to a contract action for non-performance or a delay in performance, and such dates shall be extended by the delay period.

It is understood and agreed that, in addition to the Total Purchase Price, Buyer shall pay all costs and fees listed under Section 14 below. Any funds paid by Buyer under the terms of this Agreement to Seller through a check are accepted by Seller subject to collection. Buyer acknowledges that Seller shall have the right to deposit such checks without such action being deemed acceptance of this Agreement. If any such checks are not paid by the bank after acceptance of this Agreement, Seller shall have the right to cancel this Agreement. Notwithstanding the foregoing, in the event any check delivered by Buyer is returned due to a stop payment or insufficient funds, Buyer shall have seven (7) days from the receipt of Seller's notice informing Buyer about the returned check to deliver a cashier's check to replace the returned check and pay Seller the face amount of the check, plus a service charge in an amount equal to five percent (5%) of the face value of the check but not more than the maximum amount allowable by law. Furthermore, in the event such failure is in connection with the payment for options, extras or upgrades, Seller may, at Seller's option, install standard options selected by Seller in place of the options selected by Buyer.

3. **Financing and Sale of Other Residence.**

3.1 **Financing.** Buyer represents and warrants that this Agreement and Buyer's obligations under this Agreement are not and will not be subject to or contingent upon Buyer securing financing for the acquisition of the Home. Buyer understands and agrees that Buyer will be obligated to pay "all cash" at Closing. Buyer agrees to provide to Seller within five (5) calendar days from the Buyer's

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execution of this Agreement financial statements or other written irrefutable verification of Buyer's ability to purchase the Property with cash. If Buyer fails to provide the required financial statements or other written irrefutable verification or if Buyer does not (in Seller's sole judgment, based on the documentation provided by Buyer to Seller) have the financial ability to purchase the Property with cash, then Buyer shall be deemed to be in default under this Agreement and Seller may terminate this Agreement by written notice to Buyer, and Seller shall refund any Deposit paid by Buyer to Buyer within thirty (30) days of such termination. Buyer will be solely responsible for making Buyer's own financial arrangements. Seller agrees to cooperate, without cost to Seller, with any lender Buyer chooses and to coordinate Closing with such lender, if, and only if, such lender meets Seller's Closing schedule and pays Seller the proceeds of such lender's loan at Closing. In the event that the lender does not pay Seller these proceeds at Closing, Buyer will not be allowed to take possession of the Home until Seller actually receives the funds and such funds have cleared.

3.2 Sale of Other Residence. Buyer represents and warrants that this Agreement is not and will not be subject to or contingent upon Buyer selling and/or closing on the sale of Buyer's present residence or other property. Failure to close on the purchase of the Home will constitute a default by Buyer and the remedies available to Seller for Buyer's default under this Agreement shall apply.

4. Notice. State law requires that the following statement be disclosed to buyers of residential homes:

**THE BUYER OF A ONE-FAMILY OR TWO-FAMILY RESIDENTIAL DWELLING UNIT HAS THE RIGHT TO HAVE ALL DEPOSIT FUNDS (UP TO TEN PERCENT (10%) OF THE PURCHASE PRICE) DEPOSITED IN AN ESCROW ACCOUNT. THIS RIGHT MAY BE WAIVED, IN WRITING, BY BUYER.**

**WAIVER:**

Buyer Initials [Signature]

I/We hereby waive my/our rights under Section 501.1375 of the Florida Statutes to have all deposit funds, up to ten percent (10%) of the Total Purchase Price, deposited in an escrow account.

**NON-WAIVER:**

Buyer Initials  / /

Buyer is electing to have all deposit funds, up to ten percent (10%) of the Total Purchase Price, deposited in an escrow account to be held and maintained in accordance with Section 501.1375(5) of the Florida Statutes.

Seller hereby advises Buyer that, unless Buyer waives the escrow account requirement referenced above, Seller may either acquire a surety bond or master surety bond in the manner provided by law, or borrow funds in the amount of the escrowed deposits and will charge Buyer interest at the rate paid by Seller, less the interest accrued on the escrow account. Buyer is further advised that once construction of the Home has commenced, Seller will use the deposits in excess of ten percent (10%) of the Total Purchase Price in the actual construction and development of the Home.

5. Credit Information Authorization. Buyer authorizes any lender to whom Buyer has applied or is in the process of applying for a mortgage loan in connection with this transaction ("Lender"), to disclose to Seller the information contained in any loan application, verifications of deposit, income and employment, and credit reports or credit related documentation on Buyer. Buyer authorizes Seller to order one or more credit reports from a consumer reporting agency to be used in connection with this transaction. The cost of such report(s) is (are) to be paid by Buyer. Buyer authorizes Seller to forward all copies of all or any portion of such report(s) without interpretation to Lender who (at the request of Buyer) will evaluate a potential extension of credit to Buyer, in connection with this transaction. Buyer authorizes the Lender, and any credit bureau or other person or entity utilized or engaged by Lender, to obtain one or more consumer reports regarding Buyer and to investigate any information, reference, statement, or data, provided to Lender by the Buyer or by any other person or entity, pertaining to Buyer's credit and financial status. Buyer shall indemnify, defend and hold harmless Seller, its officers, directors, shareholders, members, employees, agents, contractors, subcontractors and suppliers ("Indemnified Parties"), Lender, and any credit bureau or other person or entity utilized or engaged by Lender or Seller from and against any deficiencies, losses, liabilities, claims, damages, expenses, obligations, penalties, actions, judgments, awards, suits, costs or disbursements of any kind or nature whatsoever, including attorney's fees and expenses ("Claims") arising from an investigation of Buyer's credit and financial status.

6. Construction Financing. Seller may borrow construction money from Seller's own lender to construct the Community and/or the improvements on the Lot. Buyer acknowledges that any lender advancing construction funds will have a first mortgage on the Home until Closing. At that time, Seller

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may use all of the Closing proceeds to release the Home from the lien of the construction mortgage. This Agreement and the Deposit hereunder will not give Buyer any lien or claim against the Home, and Buyer's rights hereunder shall at all times from the date hereof be subordinate to those of any lender holding a mortgage, whether or not such mortgage secures the advancement of construction funds and even if such mortgage is placed of record and encumbers the Home after the date of Buyer's execution of this Agreement.

7. Seller's Construction Specifications.

7.1 Generally. Seller reserves the right (i) to position the Home on the Lot in the location it deems, in its sole and absolute discretion, acceptable, notwithstanding whether such lot is a standard sized, oversized, corner or pie-shaped lot, provided such positioning of the Home complies with applicable governmental regulations, (ii) to make variations to the site plan based upon constraints applicable to the Lot, and/or (iii) in the case of a paired or townhome residence, to situate the Home next to either a one or two-story residence regardless of the height of the paired or townhome residence shown in a price list or sales materials. The materials, equipment and fixtures included in and to be used in constructing the Home will be substantially the same as or similar in quality, as determined by Seller in its discretion, to those described in the applicable plans and specifications and in the model (except as to extras, options and/or upgrades), if a model has been constructed. Seller has the absolute right to make modifications to the plans and specifications. Without limiting the generality of the foregoing, Buyer specifically agrees that changes in the dimensions of rooms, balconies, patios, entrances and terraces, if applicable, and changes in the locations of windows, doors, walls, partitions, utility lead-ins and outlets (including, but not limited to, electrical, cable television, and telephone), air-conditioning components, lighting fixtures and electrical panel boxes may be made by Seller without prior notice to Buyer. Such changes may also include, but are not limited to, changes in the building location, setbacks and facing, the building's external configuration, its structural components, its finishes and the landscaping associated therewith. It is widely observed construction industry practice for pre-construction plans and specifications for any home, building or adjacent paired residence to be changed and adjusted from time to time in order to accommodate on-going, "in the field" construction factors and/or market demands. These changes and adjustments are essential in order to permit all components of the Home to be integrated into a well-functioning and aesthetically pleasing product in an expeditious manner. Based on the foregoing, Buyer acknowledges that such changes may occur and agrees that it is reasonable and to Buyer's benefit, to allow Seller the flexibility to make such changes to the Home and to any adjacent paired or townhome residence. Buyer further understands and acknowledges that many of the Homes to be constructed within the Community require floor plans which are opposite (*i.e.*, flipped) mirror images of the model floor plan and that Seller's agents and/or representatives have fully explained and reviewed this fact with Buyer and Buyer fully understands and accepts the floor plan configuration for the Home and improvements to be constructed within the Home. Buyer further understands and agrees that the following items (which may be seen in models or shown in illustrations) may not be included with the sale of the Home: wall coverings, paint colors, accent light fixtures, wall ornaments, drapes, blinds, bedspreads, furniture, furnishings, wet bars, monitoring systems, certain built-in fixtures, special floor coverings, wood trim, upgraded items and/or any other items of this nature which may be added or deleted from time to time. This list of items (which is not all-inclusive) is provided as an illustration of the type of items built-in or placed upon models or shown in illustrations strictly for purposes of decoration and example only. If Buyer is in doubt about what items are included and what items are not included, it is Buyer's responsibility to ask Seller for clarification. In addition, notwithstanding anything to the contrary contained in this Agreement, Seller does not guarantee that any particular vehicle will be able to fit into a garage, if any. Buyer should consult the floor plans for their particular home with respect to the size of the garage. Notwithstanding the foregoing, nothing contained herein shall relieve Seller from its unconditional obligation to Complete (as defined in Section 8) Buyer's Home, useable for the purposes for which it is being sold, by the Required Completion Date. By initialing below Buyer acknowledges having received a features list and a floor plan.

Buyer Initials *[Handwritten Signature]*

7.2 Variations. Buyer further understands and agrees that certain of the finishing items, such as tile, marble, carpet, cabinets, stone, brickwork, wood, paint, stain and mien are subject to size and color variations, grain and quality variations, and may vary in accordance with price, availability and changes by manufacturers from those shown in the model, if any, or in illustrations or brochures or those included in the specifications. Furthermore, if circumstances arise that, in Seller's opinion, warrant changes of suppliers, manufacturers, brand names or items, Seller reserves the right to substitute equipment, materials, appliances, etc., which, in Seller's opinion, are considered to be of quality substantially similar or equal, or of better quality, subject to their availability. Buyer also understands that Seller has the right to substitute or change materials and/or stain colors utilized in wood decor, if any. Buyer further acknowledges and agrees that (i) the plans and specifications on file for the Home and Community, with applicable governmental authorities may not be identical to Seller's plans and

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specifications, and (ii) because of the day to day nature of the changes described in Section 7.1 and this Section 7.2, the plans and specifications on file with the applicable governmental authorities may not include some or any of these changes (there being no legal requirement to file all changes with such authorities). As a result of the foregoing, Buyer and Seller both acknowledge and agree that: **the Home and the Community, may not be constructed in accordance with the plans and specifications on file with the applicable governmental authorities. Without limiting the generality of Section 16 of this Agreement, Seller disclaims and Buyer waives any and all express or implied warranties that construction will be accomplished in compliance with such plans and specifications. Seller has not given and Buyer has not relied on or bargained for any such warranties. Notwithstanding the foregoing, in no event shall any disclaimer or waiver of warranty relieve Seller of its unconditional obligation to Complete the Home by the Required Completion Date.**

7.3 **Buyer Selections.** Seller will provide Buyer, when available, with a checklist of color and/or material choices for those items for which Buyer will have a choice, if any (in Seller's sole discretion). Buyer agrees to complete and return the color and/or material selections so that the same are received by Seller no later than TWENTY-ONE (21) days after the date of Buyer's execution of this Agreement. If Buyer fails to complete and return the color and/or material selections prior to the time specified above, Buyer understands that all choices will be made by Seller in Seller's sole and absolute discretion and Buyer will have no reason to object to those choices. Colors of all items and materials not included in that checklist will be selected by Seller. The color and/or material choices chosen by Buyer shall be final and shall not be permitted to be changed by Buyer. Buyer agrees that Buyer's sole remedy regarding selections/materials is contained in Section 15.2 hereof. Dimensions of the Home may differ from those reflected in brochures, advertisements, artists' renderings and marketing floor plans. Actual dimensions may vary upon completion of the Home. The square footages shown in print ads, marketing materials and/or sales brochures are measured from outside surfaces of each exterior wall and include interior walls. **Buyer hereby acknowledges that Buyer has been informed by Seller that there will be a \$500.00 fee applicable to each lot transfer, elevation, model or garage preference change made by Buyer after execution of this Agreement by Buyer. Additionally, Buyer understands that if Buyer changes the Lot to a different phase or changes the model of the Home, the pricing in effect at the time of the change will be applicable thereto. Buyer's ability to change the Lot or the model of the Home is subject to prior approval by Seller, at Seller's sole discretion.**

7.4 **Trees and Foliage.** The Community contains numerous native trees of various sizes and varieties. Buyer understands and agrees that trees and landscaping which are located within the Community may be removed during the construction and development process. While Seller has taken care during the planning and construction of the Community to save trees, future development and construction will require the removal of additional trees, shrubs and other foliage and, therefore, Seller does not guarantee the preservation of any trees, shrubs, ground cover or other foliage in the Community or Buyer's Lot, and cannot be responsible for short or long-term damages to foliage due to construction or development activities. Seller makes no representation or warranty that trees on the Lot being purchased or any other lot or common area in the Community will not be removed. Seller does not guarantee or warrant the location, replacement, or survival of any trees and/or landscaping which are left or planted on any portions of the Community. Any loss of trees, shrubs, annuals or other landscaping shall in no way obligate Seller to replace them prior to the Completion Date.

8. **Completion Date.** It is anticipated that the Home will be ready for use and occupancy and have all necessary and customary access roads and utilities extended to the Home, including, water, sewer, electric, and telephone ("**Complete**") by 6/18/2014 (the "**Estimated Completion Date**"). The Estimated Completion Date is Seller's present estimate and is neither a representation nor a warranty that the Home will be Complete by such date. The Home may be Completed prior to or after the Estimated Completion Date, solely depending upon Seller's construction schedule and other factors. The Estimated Completion Date is not a guaranteed date and Buyer shall have no recourse against Seller for failure to achieve such date. Buyer acknowledges and agrees that Buyer has not relied and will not rely upon the Estimated Completion Date for any purpose whatsoever including, without limitation, relocation of residence, storage of personal property, or lock-in financing. Buyer agrees that Seller shall not be liable for any additional costs, expenses or damages whatsoever should the Home not be Complete by the Estimated Completion Date. Notwithstanding the foregoing, Seller is unconditionally obligated to Complete the Home on or before the date that is two (2) years from the date the Buyer first signs this Agreement (the "**Required Completion Date**"), subject only to time extensions caused by any event recognized by the law of the state in which the Home is located as a defense to a contract action for non-performance or a delay in performance. The issuance of a temporary or permanent certificate of occupancy or use from the proper governmental agency authorizing use of the Home for the purposes for which it was sold shall be conclusive evidence of Completion. If construction is

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delayed by events recognized by the law of the state in which the Home is located as a defense to a contract action for non-performance or a delay in performance, then the Required Completion Date shall be extended by the delay period. It is the express intent of the parties that the parties' rights and obligations under this Agreement be construed in the manner necessary for Seller's obligation to Complete Buyer's Home within two (2) years to be sufficiently unconditional in nature so as to exempt the transaction from the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.) pursuant to the statutory Improved Lot Exemption, 15 U.S.C. 1702(a)(2).

9. Inspection Prior to Closing.

9.1 Buyer will be given a reasonable opportunity to inspect the Home with Seller's representative prior to Closing on a date and time scheduled by Seller. At that time Buyer will sign a "New Home Orientation List" stating any defects in workmanship or materials or incomplete items which Buyer discovers, but which items do not impact the Completion of the Home. Any such incomplete or defective items not so listed which are apparent or visible shall be deemed accepted by Buyer and any claim related thereto forever waived. If any item listed is actually defective in workmanship or materials in Seller's opinion (in accordance with construction standards prevalent for a similar home in the County where the Community is located), Seller will be obligated to correct those defects at Seller's cost within a reasonable period of time after Closing, but Seller's obligation to correct will not be a ground for deferring the Closing, nor for any setoff, nor for imposing any condition on Closing as long as the Home is Complete. By way of example, a failure to install screening shall not delay Closing. Buyer shall have no right to require escrows or hold backs of Closing funds, and none will be permitted. If Buyer fails to take advantage of the pre-closing inspection on the time and date scheduled by Seller, Buyer shall be deemed to have waived his/her rights to submit a New Home Orientation List to Seller.

9.2 Buyer acknowledges that all matters pertaining to the initial construction of the Home will be performed by Seller and Seller's representatives. Any items pertaining to the construction of the Home should solely be addressed by Seller and/or Seller's representatives in the sales office for the Community; accordingly Buyer agrees not to discuss any construction related issues with any other party including, but not limited to, workmen at the Home and Seller's representatives in the construction office. Buyer acknowledges and agrees that for reasons of safety and to comply with liability and insurance requirements imposed upon Seller, neither Buyer nor any agent of Buyer shall, until after the Closing, be permitted to enter upon the Home without Seller's prior written approval. Buyer agrees not to interfere with or interrupt any workmen at the Home. Any personal inspections shall be made at times designated by Seller and upon written permission of Seller, and shall not be allowed under any condition prior to the formal inspection described above and only with Seller's representative. Seller shall not be liable or responsible for any injury, loss or damage resulting from any violation of this Section or any visit to the construction site by Buyer or Buyer's agents or representatives. In addition, Buyer agrees to indemnify and hold Seller harmless from and against any and all injury, loss or damage (including, without limitation, reasonable attorney's fees, paraprofessional fees and court costs at pre-trial and all levels of proceedings, including appeals) arising out of or in connection with any violation of this Section or any visit to the construction site by Buyer or Buyer's agent or representatives. The foregoing indemnity shall survive the Closing and any termination of this Agreement prior to Closing. Buyer may not order any work on the Home, other than options, upgrades and/or extras that Seller has agreed in writing to provide, until after the Closing. Buyer recognizes that Seller is under no obligation to agree to provide options, extras and/or upgrades. Without limiting the applicability of this Section to all obligations, representations and covenants of Buyer hereunder, Buyer specifically acknowledges that any breach by Buyer of the terms and conditions contained within this Section shall be deemed to be a "material breach" and shall entitle Seller to declare this Agreement to be in default in accordance with the provisions of Section 15 hereof. Seller's failure to promptly take any action with respect to Buyer's breach of the terms and conditions contained herein shall not be deemed a waiver of any of Seller's rights or remedies hereunder. Without limiting Seller's rights and Buyer's obligations contained within this Section and elsewhere in this Agreement, should Seller fail to provide any item or option, extra and/or upgrade or should any defects in workmanship or materials be discovered before or after the Closing, Buyer agrees that Buyer's sole remedies are contained in Section 15.2 of this Agreement. Such items shall not impact the Complete status of the Home.

10. Damage to Home. If, between the Effective Date and the Closing, the Home is damaged by fire, natural disaster, acts of terrorism or other casualty, the following shall apply:

10.1 Seller assumes the risk of loss to the Home until Closing for events or acts such as fire, natural disaster, acts of terrorism or other casualty (each a, "Casualty") and should such Casualties occur, this Agreement shall continue in full force and effect and Buyer shall not have the right to reject title or receive a credit against or abatement in the Total Purchase Price. Seller shall be entitled to a

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reasonable period of time within which to complete such repairs or replacement. For each Casualty that is recognized by the law of the state which the Home is located as a defense to a contract action for non-performance or an excuse or delay in performance, the Required Completion Date shall be extended by such time period without impacting Seller's unconditional obligation to Complete Buyer's Home within the required time frame necessary to comply with the Improved Lot Exemption of the Interstate Land Sales Full Disclosure Act (15 U.S.C.1702(a)(2)). Any proceeds received from insurance or in satisfaction of any claim or action in connection with such loss or damage shall belong entirely to Seller. If such proceeds shall be paid to Buyer, Buyer agrees that such funds are the property of Seller and Buyer shall promptly upon receipt thereof turn the same over to Seller. Notwithstanding the foregoing, to the extent that any insurable or non-insurable event occurs that would constitute a complete excuse to performance of contract under Florida law, Seller will be excused of such performance as provided under Florida law.

10.2 Risk of loss to the Home by fire, natural disaster, acts of terrorism or other casualty from and after Closing is assumed by Buyer. Buyer should be aware that the Home, however well constructed, may be subject to damage or destruction by naturally occurring events such as hurricanes and sinkholes. While Seller has no knowledge of sinkholes or naturally occurring gases such as radon in the immediate vicinity of the Home, all risks associated with all natural occurrences shall be borne by Buyer from and after Closing.

11. Documents. Buyer acknowledges receipt of the Document Book (as defined in the Community Addendum attached hereto) containing important documents regarding the Community. Buyer agrees to comply with the provisions and requirements set forth in the Document Book. Buyer should be aware that the Document Book does not include all of the documents affecting the Home and the Community (collectively, the "Documents"), however, all of the provisions of each of the Documents and the explanations, disclaimers and limitations set forth therein are incorporated by reference into this Agreement. The Community Addendum attached hereto, if any, sets forth additional information respecting lien rights and homeowners' association restrictions affecting the Home. Notwithstanding any other provision herein to the contrary, in the event that this Agreement is terminated for any reason whatsoever, Buyer shall return the Document Book to Seller in the same condition originally received (ordinary wear and tear excepted). If the Document Book is not returned upon termination of this Agreement, Seller shall be entitled to deduct \$125.00 from any portion of the Deposit to be refunded to Buyer as a result of the termination, to defray Seller's costs and expenses resulting from the preparation, printing and delivery of the Document Book.

12. Closing Date. Without limiting Seller's unconditional obligation to Complete the Home by the Required Completion Date, Buyer acknowledges and agrees that Seller has the right in its sole discretion to schedule the date, time and place for the closing of the transaction contemplated by this Agreement (the "Closing") and that Buyer shall close on such Closing date. Prior to the Closing, a temporary or permanent certificate of completion or occupancy or use covering the Home shall be issued by the proper governmental agency. Seller reserves the right to schedule the Closing on an earlier or later date than the Estimated Completion Date. Buyer will be given at least ten (10) days' notice of the Closing date, time and place. Seller is authorized to postpone or advance the date of the Closing at its sole discretion. Seller must, however, give Buyer reasonable notice of the new Closing date. Any notice of Closing may be given verbally, by telephone, telegraph, telex, telefax, mail, email or other means of communication at Seller's option. An affidavit of one of Seller's representatives that such notice was given will be conclusive for purposes of proving that notice was given. All notices will be given to Buyer at the address or by use of the telephone number(s), telefax number or email address specified on Page 1 of this Agreement unless Seller has received written notice from Buyer of any change therein prior to the date notice of Closing is given. The fact that Buyer fails to receive the notice of Closing because Buyer has failed to advise Seller of any changes of address or phone number, or because Buyer has failed to pick up a letter when Buyer has been advised of an attempted delivery or for any other reason, shall not relieve Buyer of Buyer's obligation to close on the scheduled date, unless Seller otherwise agrees in writing to postpone the Closing date. If Seller agrees in writing to reschedule the Closing at Buyer's request or because Buyer (if a corporation) has failed to produce all corporate documents requested by Seller, or for any other reason (except for delay required by Seller), Seller may impose a late charge equal to Two Hundred Dollars (\$200.00) per day for every day that the scheduled Closing is delayed from the original Closing date through the date that the transaction closes and prorations shall be as of the original Closing date. Buyer agrees that the late charge is appropriate in order to cover Seller's administrative and other expenses resulting from a delay in Closing and that the amount of liquidated damages is fixed and agreed to by the parties as a reasonable estimate of the damages that Seller shall suffer and is not in the nature of a penalty. Seller is not required to agree to reschedule Closing, but Seller may reschedule Closing in Seller's sole discretion.

13. Closing. Title to the Home to be delivered to Buyer at Closing will be marketable and insurable,

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subject only to minor encroachments to easements that do not substantially interfere with an easement holder's interest in the Lot and those matters herein below set forth. In connection therewith:

13.1. Title to the Home shall be subject to the following: (1) zoning, building codes, bulkhead laws, ordinances, regulations, rights or interests vested in the United States of America or the State of Florida; (2) real estate taxes and other taxes for the year of conveyance and subsequent years including taxes or assessments of any special taxing or community development district (including assessments relating to capital improvements and bonds); (3) the general printed exceptions contained in an ALTA Owner's Title Insurance Policy; (4) utility easements, sewer agreements, telephone agreements, cable agreements, telecommunication agreements, monitoring agreements, restrictions and reservations common to any plat affecting title to the Home; (5) the Documents; (6) any laws and restrictions, covenants, conditions, limitations, reservations, agreements or easements recorded in the Public Records of the County (for example, property use limitations and obligations, easements (right-of-way) and agreements relating to telephone, gas or electric lines, water and sewer lines and drainage, provided they do not prevent use of the Home for single-family residential purposes); (7) any acts done or suffered by Buyer and any mortgage obtained by Buyer for the purchase of the Home and (8) Master Deed Restrictions referenced in Section 15.2.2.5 of this Agreement. It is Buyer's responsibility to review and become familiar with each of the foregoing title matters, some of which are covenants running with the land. If any title defects are discovered by Buyer after Closing, Buyer's sole remedy shall be to make a claim to Buyer's title insurer. Buyer agrees for Buyer and Buyer's heirs, personal representatives, successors and assigns to observe and be bound by all of the terms and conditions of the matters set forth above and those matters in the Documents recorded or to be recorded in the Public Records. Title to the Home will be deemed marketable if an owner's title insurance policy is issued with standard exceptions.

13.2 Seller shall convey title to Buyer at Closing by delivery to Buyer of a Special Warranty Deed (the "Deed") describing the Home which Deed shall convey title to Buyer subject to the Documents and all matters described in Section 13.1 above. Any such matters omitted from the Deed shall nevertheless be deemed to be included in the Deed. This Section shall expressly survive Closing and the delivery of the Deed. The acceptance of the Deed by Buyer shall be deemed to be full performance and discharge of every agreement and obligation on the part of Seller to be performed pursuant to this Agreement, except those which are herein specifically deemed to survive Closing or which survive by operation of law, if any.

13.3. Seller shall provide an affidavit complying with the Foreign Investment in Real Property Tax Act of 1980, as amended, upon the written request of Buyer.

13.4 If Seller cannot provide marketable and insurable title as described above, such failure shall not be an event of default and Seller will have a reasonable period of time (at least one hundred twenty (120) days) from the date of the scheduled Closing to attempt to correct any defects in title; provided, however, Seller shall not be obligated to incur any expense to clear title to the Home. If Seller cannot or elects not to correct the title defects, Seller shall so notify Buyer within such period, and Buyer may thereafter elect (by written notice from Buyer to Seller) one of the following two (2) options: (1) to accept title in the condition offered (with defects) and pay the balance of the Total Purchase Price for the Home (without set off or deduction therefor), thereby waiving any claim with respect to such title defects and Buyer will not make any claims against Seller because of the title defects; or (2) to terminate this Agreement and receive a full refund of all monies deposited hereunder. If all monies deposited hereunder are refunded, Buyer agrees to accept it as full payment of Seller's liability hereunder, whereupon this Agreement shall be terminated and Seller shall thereafter be relieved and released of all further liability hereunder. Buyer shall not thereafter have any rights to make any additional claims against Seller. In the event Buyer does not notify Seller in writing within five (5) business days from the receipt of Seller's notice (time being strictly of the essence) as to which option Buyer elects, Buyer shall be conclusively presumed to have elected option (2) set forth above. Notwithstanding the foregoing, in no event shall Seller's inability to provide marketable and insurable title relieve Seller of its unconditional obligation to Complete the Home by the Required Completion Date, it being the intent of this Agreement that Seller is obligated to Complete and shall so Complete the Home by the Required Completion Date.

13.5 Buyer shall be responsible for any pending and proposed liens, taxes, and/or assessments for public improvements. Seller will be responsible for public improvement liens which have been certified as of the date of Closing.

13.6 At Closing, Buyer agrees to pay to Seller the balance of the Total Purchase Price and any additional amounts Buyer owes under this Agreement by cashier's check or by federal

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wire in U.S. funds only from a financial institution located in the United States. Official check, bank check or personal check will not be accepted.

14. Closing Costs. BUYER UNDERSTANDS AND AGREES THAT IN ADDITION TO THE BALANCE OF THE TOTAL PURCHASE PRICE, BUYER SHALL PAY CERTAIN OTHER FEES AND CLOSING COSTS AT CLOSING. IN CONNECTION THEREWITH, WITHOUT LIMITATION, THE ITEMS LISTED BELOW WILL COLLECTIVELY BE REFERRED TO AS "CLOSING COSTS." The Closing Costs include, without limitation:

14.1 The premium for a policy of owner's title insurance, the cost of the documentary stamp taxes on the Deed, and the cost to record the Deed.

14.2 Customary Closing Costs of a buyer including, but not limited to items such as loan fees, loan closing costs and all other related sums, attorneys' fees, escrows for taxes and insurance, recording fees, documentary stamp taxes on the note, intangible taxes, credit reports and PMI insurance, if applicable, charged by Buyer's lender or otherwise customary for a buyer at Closing.

14.3 All other costs to close the Home including without limitation, recording costs, title search updates, settlement closing fees, title examination fees, and any other Closing expenses of Buyer.

14.4 All costs respecting the Home imposed by any governmental authority.

14.5 The cost of a survey of the Home.

14.6 Certified public improvement liens (liens which can be paid pursuant to written notice), if any, shall be assumed and paid by Seller; pending public improvement liens shall be paid and assumed by Buyer.

14.7 A pro rata share of waste fees and County interim service fees, if any.

14.8 A pro rata share of utility deposits and capacity fees (water and sewer) for the Home prepaid by Seller.

14.9 Any other expenses of an owner of the Home provided for or referenced in the Documents.

14.10 Any amounts reflected in the Community Addendum attached hereto and made a part hereof.

14.11 Current expenses of the Home (e.g., taxes, special assessments and current monthly assessments to one or more homeowners' associations) will be adjusted between Seller and Buyer as of the original Closing date. Buyer shall pay at Closing any capital contributions imposed by one or more homeowners associations having jurisdiction over the Home. Buyer shall reimburse Seller for any prepaid expenses of the Home such as utility deposits, insurance premiums, local interim service fees, cable fees, assessments and capital contributions made to one or more homeowners' associations paid by Seller in advance and/or for the month of Closing.

14.12 If real estate taxes for the year of Closing are assessed in the aggregate on the land comprising the portion of the Community including the Home rather than on a lot-by-lot basis, Seller will pay such taxes in full when due, but Buyer will reimburse Seller at the Closing Buyer's pro rata share of such taxes from the date of the Closing (if such taxes are then known) or the Home's allocable share (so prorated) of Seller's estimate of those taxes (if such taxes are not then known), subject to readjustment at either the request of Seller or Buyer within six (6) months from when the actual tax bill is known. If taxes for the year of Closing are assessed on a lot-by-lot basis but such taxes are not due on the date of the Closing, Buyer will be responsible for paying such tax bill in full when due but Seller will reimburse Buyer at the Closing, for Seller's pro rata share of such taxes (if the taxes are then known) or the Seller's estimate of those taxes (if such taxes are not then known) through the date of Closing, subject to readjustment at either the request of Seller or Buyer within six (6) months from when the actual bill is known. If the Closing takes place after Seller has paid the taxes for the year of the Closing, Buyer will reimburse Seller at the Closing for Buyer's pro rata share of those taxes from and after the date of Closing.

14.13 The cost of any modifications or changes which are incurred by Seller as a result of changes in building codes, governmental rules, regulations or requirements, or the enforcement of any

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of the same, after the Effective Date, shall be paid by Buyer at the time of Closing.

14.14 The cost of any obligation Buyer incurs not provided for in this Agreement.

15. Default.

15.1 Buyer's Default. Should Buyer fail to close on the title to the Home as herein provided, or fail to perform or observe any of the Buyer's obligations hereunder, Seller may, at its option, terminate this Agreement by notice to Buyer, which termination will be effective upon the giving of such notice. For any default by Buyer other than a default under Section 3.1 of this Agreement, Seller shall retain the portion of the Deposit equal to or less than fifteen percent (15%) of the Total Purchase Price as liquidated and agreed upon damages for Buyer's default, and not as a penalty, except that Seller may, in addition, keep, as liquidated damages, and not as a penalty, any and all payments made by Buyer to Seller for options, extras or upgrades for which Seller has made contractual commitments or incurred liability by placing orders or otherwise, and all rights and privileges hereunder shall thereafter terminate. The portion of the Deposit in excess of those amounts Seller is entitled to retain under the foregoing sentence shall be returned to Buyer. Seller has removed the Home from the market and has incurred substantial direct and indirect expenses relative to sales, models, advertising and similar items, and Buyer recognizes that no method could determine the precise damage resulting from Buyer's default and that such liquidated damages are a fair and reasonable remedy and shall not be considered a penalty. In the alternative, Seller shall have the right of specific performance. If Seller elects to terminate this Agreement and retain a portion of the Deposit equal to or less than fifteen percent (15%) of the Total Purchase Price and those deposits or payments for options, extras and/or upgrades for which Seller has made contractual commitments or incurred liability by placing orders or otherwise, as liquidated and agreed upon damages, and not as a penalty, such termination and retention of deposits shall be the Seller's sole remedy in the event of Buyer's default, and upon termination of the Agreement, neither party shall have any further obligation to the other. Any damage or loss that occurs to the Home while Buyer is in default will not affect Seller's right to retain those portions of the Deposits as liquidated damages to the extent provided herein.

15.2 Seller's Default.

15.2.1 Buyer's Remedies. Without limiting Seller's rights and Buyer's obligations contained in this Agreement, the following are Buyer's sole remedies under this Agreement:

15.2.1.1 Home Not Complete Remedy. If the Seller defaults on its obligation to Complete the Home by the Required Completion Date, Buyer will have the right to (i) terminate this Agreement, (ii) receive a full refund of all deposits actually paid under this Agreement (including interest earned on the deposits, if any) and (iii) pursue any and all remedies at law or in equity for Seller's default including without limitation, specific performance.

15.2.1.2 Selections/Construction Items Incomplete Remedy. If the Home is Complete by the Required Completion Date but Seller fails to provide any item of construction required to be provided or any option, extra and/or upgrade, Buyer's sole remedy therefore will be to collect an amount from the Seller equal to Seller's cost for such item and for Seller's cost of installation of such item had such item been installed at the appropriate time during construction.

15.2.1.3 Defects In Workmanship/Materials Remedy. Should any defects in workmanship or materials be discovered before or after the Closing, Buyer agrees that Buyer's sole remedy therefore is for Seller to repair or replace the defective item at Seller's sole and absolute discretion. Notwithstanding the foregoing, in no event shall Buyer's discovery of any defect in workmanship relieve Seller of its unconditional obligation to Complete the Home by the Required Completion Date. To the extent permitted by applicable law, Seller disclaims any liability for incidental or consequential damages that may arise from a defective item, provided that such disclaimer of liability shall not apply to Seller's unconditional obligation to Complete the Home by the Required Completion date and to such extent, Buyer shall have all remedies available at law or in equity for Seller's failure to so perform.

15.2.1.4 General Remedy. In the event of Seller's default not described in this Section 15, and to the extent allowed by law, Buyer may recover actual damages but shall not be entitled to special, consequential or punitive damages.

15.2.2 Post-Closing. Without limiting the applicability of Chapter 558, Florida Statutes, and Section 29 herein, the following shall apply post closing:

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15.2.2.1 Notice. As a condition precedent to seeking any action or remedy against Seller, to the extent Buyer has any claim, dispute and/or other matter in question between Buyer and Seller (whether contract, warranty, tort, statutory or otherwise) including, but not limited to: (a) any and all controversies, disputes or claims arising under, or related to, this Agreement, the Home, the Community, or any other dealings between Buyer and Seller; (b) any controversy, dispute or claim arising by virtue of any representations, promises or warranties alleged to have been made by Seller or Seller's representative; and/or (c) any personal injury or property damage alleged to have been sustained by Buyer on the Lot or in the Community (collectively, a "Claim"), Buyer shall notify Seller in writing (the "Notice"), with a copy to Seller's General Counsel, stating plainly and concisely:

15.2.2.1.1 the nature of the Claim, including the persons involved and Seller's role in the Claim;

15.2.2.1.2 the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

15.2.2.1.3 the proposed remedy; and

15.2.2.1.4 any evidence that depicts the nature and cause of the Claim and the nature and extent of repairs necessary to remedy the Claim, including expert reports, photographs, and videotapes.

The notices to be given pursuant to this Section shall be delivered to Seller and Seller's General Counsel in the same manner noted in Section 39 of this Agreement. Notices to Seller's General Counsel are to be sent to AV Homes, Attention: General Counsel, 8601 N. Scottsdale Rd, Suite 225, Scottsdale, Arizona 85253. Seller shall have an opportunity to cure, as described herein, to correct any alleged default or defect or to otherwise respond to Buyer in the event Seller determines that no default has occurred and/or defect exists.

15.2.2.2 Inspection. Seller shall be given a reasonable opportunity to inspect and have inspected the Home that is the subject of the Claim to determine the nature and cause of any alleged defect and the nature and extent of repairs necessary to remedy the Claim. Unless otherwise provided by law or agreed to by the parties, Seller shall have a minimum of thirty-five (35) days from receipt of the Notice to conduct any inspection.

15.2.2.3 Right to Cure. Seller shall have the right to repair, replace or pay the Buyer the reasonable cost of repairing or replacing any defective item. Unless otherwise provided by law or agreed to by the parties, Seller shall have a minimum of ninety (90) days from receipt of the Notice to cure as provided herein. Buyer shall have no right to bring any action against Seller until expiration of Seller's right to cure.

15.2.2.4 Time. The time periods provided for the inspection and cure by Seller shall be extended by any period of time that Buyer refuses to allow Seller to inspect the Home, cure and/or perform tests. Any inspection, test, repair or replacement performed on a business day between 9 a.m. and 5 p.m. shall be deemed to be reasonable hereunder.

15.2.2.5 Master Deed Restrictions. The provisions of this Section 15.2.2 shall be covenants running with the land and are referenced in the Master Deed Restrictions recorded or to be recorded in the Public Records of the County.


## 16. Warranties.

### 16.1 Limitation of Warranties.

16.1.1 Buyer acknowledges that at the time of execution of this Agreement, Seller has no reason to know of any particular purpose Buyer has in purchasing the Home and items of personal property located therein other than normal residential use. Buyer agrees that the only warranties which Seller is providing Buyer are those set forth in the Bonded Builders Home Buyers Warranty ("Bonded Builders Warranty"), incorporated herein by reference. A copy of the Bonded Builders Warranty Specimen Booklet is available for examination at Seller's offices and will be attached as an Exhibit to this Agreement upon Buyer's request. Validation of the Bonded Builders Warranty is not guaranteed, but is conditioned on the satisfactory completion of all required inspections, Seller's compliance with all the administrator's enrollment procedures, and Seller remaining a member in good standing of the warranty program. DURING THE TIME THAT THE BONDED BUILDERS WARRANTY REMAINS IN EFFECT, ANY IMPLIED WARRANTIES AVAILABLE TO YOU UNDER FEDERAL

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OR STATE LAW WITH RESPECT TO THE CENTRAL AIR CONDITIONING AND HEATING SYSTEM SHALL REMAIN AVAILABLE TO YOU. WITH RESPECT TO ALL OTHER COMPONENTS OF YOUR HOME, SELLER GIVES THE BONDED BUILDERS WARRANTY EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESSED OR IMPLIED. TO THE MAXIMUM EXTENT LAWFUL, AND EXCEPT FOR THE BONDED BUILDERS WARRANTY, WITH THE EXCEPTION OF ANY IMPLIED WARRANTIES AVAILABLE TO BUYER AS TO THE CENTRAL AIR CONDITIONING AND HEATING SYSTEM DURING THE TIME THAT THE BONDED BUILDERS WARRANTY REMAINS IN EFFECT, SELLER DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS, FITNESS FOR A PARTICULAR PURPOSE, HABITABILITY, INTENDED USE, WORKMANSHIP, OR CONSTRUCTION RESPECTING THE HOME, COMMON AREAS OF THE COMMUNITY, AND ALL FIXTURES OR ITEMS OF PERSONAL PROPERTY SOLD PURSUANT TO THIS AGREEMENT, OR ANY OTHER REAL OR PERSONAL PROPERTY WHATSOEVER CONVEYED IN CONNECTION WITH THE SALE OF THE HOME, OR LOCATED WITHIN THE COMMUNITY WHETHER ARISING FROM THIS AGREEMENT, USAGE, TRADE, IMPOSED BY STATUTE, COURSE OF DEALING, CASE LAW OR OTHERWISE. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL ANY DISCLAIMER OF WARRANTY RELIEVE SELLER OF ITS UNCONDITIONAL OBLIGATION TO COMPLETE THE HOME BY THE REQUIRED COMPLETION DATE.

Buyer Initials 

16.1.2 SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. THE BONDED BUILDERS WARRANTY IS THE ONLY EXPRESS WARRANTY GIVEN BY SELLER. SELLER DISCLAIMS ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. THE BONDED BUILDERS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL ANY DISCLAIMER OF WARRANTY RELIEVE SELLER OF ITS UNCONDITIONAL OBLIGATION TO COMPLETE THE HOME BY THE REQUIRED COMPLETION DATE.

16.1.3 Seller makes no representation or warranty concerning geological or environmental matters such as radon gas and specifically excludes such geological and environmental matters from any warranties given under this Agreement.

16.1.4 Normal swelling, expansion and contraction of materials and construction, and any cracks appearing as a result thereof or as a result of settlement of, in or on the Home shall not be deemed to be construction defects. Upon Closing, Seller shall deliver to Buyer all manufacturers' warranties, if any, covering the consumer products, if any, to be conveyed to Buyer hereunder, provided, however, SELLER SHALL NOT THEREBY BE DEEMED TO WARRANT ANY SUCH CONSUMER PRODUCT, NOR TO ADOPT ANY LIABILITY FOR ANY SUCH MANUFACTURERS' WARRANTY THEREOF.

16.1.5 Buyer acknowledges and agrees that Seller has made no representations or warranties regarding (i) the economic advantages or disadvantages of purchasing the Home, (ii) any potential increase in the value of the Home above the Purchase Price, or (iii) the purchase of the Home as an investment or for other economic purposes, and Buyer has and will rely on its own determination of such matters in purchasing the Home.

16.1.6 Buyer acknowledges and agrees that Seller has made no representations or warranties regarding the existence or quality of any views that will be visible from the Home when completed. Future development and construction activities can and will modify the view from the Home. Trees and other foliage may be added or removed from lots or common areas of the Community. Additional housing and other improvements will be added. Buyer understands and agrees that the view from the Home can and will only be determined upon completion of the Home and the Community, and that any views that can be anticipated from models, sketches or other materials attempting to show how the Home and Community will look upon completion may not be relied upon for such purpose and Buyer is not purchasing the Home in reliance on the Home having any particular view.

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16.1.7 Given the climate and humid conditions in Florida, mold, mildew, spores, fungi and/or other toxins may exist and/or develop within the Home. Buyer is hereby advised that certain mold, mildew, spores, fungi and/or other toxins may be, or if allowed to remain for a sufficient period may become, toxic and potentially pose a health risk. By Closing, Buyer shall be deemed to have assumed the risks associated with mold, mildew, spores, fungi and/or other toxins and to have released Seller from any and all claims and liability resulting from same. Without limiting the generality of the foregoing, Seller hereby disclaims any and all express or implied warranties as to design, construction, view, sound and/or odor transmission, furnishing and equipping of the Home, the existence of mold, mildew, spores, fungi and/or other toxins within the Home. Seller and/or Seller's sales personnel have not given and Buyer has not relied on or bargained for any such warranties.

16.2 No Warranties for Third Party Construction.

16.2.1 Seller does not warrant any of the work performed in the Home or on the Lot by third party contractors, not hired by Seller, prior to or after the Closing.

16.2.2 Seller shall not be liable for any defects in the work performed by third party contractors not hired by Seller, nor for any adverse impact to the Home, Lot or Community caused thereby.

16.2.3 Further, should Buyer elect to use a third party contractor that is a subcontractor of Seller, Buyer acknowledges that Seller makes no representations relative to the performance by such third party contractor.

16.2.4 In the event that after Closing Buyer makes or causes to be made any additions or alterations to the Home ("Post Closing Improvements"), Buyer shall do so at Buyer's sole risk and expense. Seller shall not be responsible or liable in any way whatsoever for any such Post-Closing Improvements and/or any damages caused to the Home by or from such Post-Closing Improvements. Buyer agrees that Post Closing Improvements may void, invalidate or otherwise limit coverage provided by the Bonded Builders Warranty.

17. Deposits. Any reference to Deposit or Deposits herein shall refer collectively to all amounts deposited with Seller under this Agreement, and under any addendum or amendment hereto, except for any deposits or payments made by Buyer for options, extras and/or upgrades. Any and all deposits or payments for options, extras, and/or upgrades for which Seller has made contractual commitments or incurred liability by placing an order or otherwise are non-refundable except (i) in the event of Seller's default, and/or (ii) Seller is unable to provide marketable and insurable title, as described in Section 13. All monies deposited under the terms of this Agreement, except for the balance due at Closing, shall be made by check drawn on a United States bank, subject to collection, money order or federal wire. All payments must be made in United States funds. If the Deposit is held in escrow, it shall be released to Seller upon written notice from Seller to the escrow agent that Buyer has defaulted under this Agreement.

18. RADON GAS. This disclosure is required by Section 404.056 of the Florida Statutes. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

19. Energy Rating. Pursuant to Section 553.996 of the Florida Statutes, Buyer may request that Seller cause a State Certified Energy Rater to perform an energy efficiency rating on the Home being purchased. Buyer hereby releases Seller from any responsibility or liability for the accuracy or level of the rating. Buyer understands and agrees that this Agreement is not contingent upon Buyer approving such rating, that the rating is solely for Buyer's own information and that Buyer will pay the total cost associated with obtaining of the rating. Buyer hereby acknowledges the receipt of a brochure from The Florida Energy Gauge Program regarding Florida's Building Energy Rating System (the "Energy Rating Brochure").

20. Selling Agent. Unless a Cooperating Broker Agreement indicating otherwise is attached hereto, Buyer represents to Seller that Buyer has not consulted, dealt or negotiated with a real estate broker, salesperson or agent other than Seller's sales personnel located at Seller's sales office. Buyer agrees that Seller is not responsible for the payment of a commission to a real estate broker, salesperson or agent other than Seller's sales personnel and Buyer agrees to indemnify and hold Seller harmless from and against any and all loss and liability, including attorney's and paraprofessional's fees and costs at pretrial and at all levels of proceedings, including appeals, resulting from or arising out of any representation or

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branch of a representation or warranty set forth in this Section 20.

Buyer Initials: 

21. Prevailing Party. In the event a dispute arises under the Agreement, then the parties agree to the following provisions:

21.1 Resolution of Disputes. BUYER ACKNOWLEDGES THAT THIS AGREEMENT IS A SOPHISTICATED LEGAL DOCUMENT. ACCORDINGLY, JUSTICE WILL BEST BE SERVED IF ISSUES REGARDING THIS AGREEMENT ARE HEARD BY A JUDGE IN A COURT PROCEEDING, AND NOT A JURY. EACH BUYER AGREES THAT ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION, WITH RESPECT TO ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM, OR CROSSCLAIM, WHETHER IN CONTRACT AND/OR IN TORT (REGARDLESS IF THE TORT ACTION IS PRESENTLY RECOGNIZED OR NOT), INCLUDING, BUT NOT LIMITED TO, THOSE FOR PERSONAL INJURIES, PAIN, SUFFERING AND WRONGFUL DEATH, BASED ON, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATED TO THIS AGREEMENT, THE DOCUMENTS (INCLUDING, WITHOUT LIMITATION, ANY DECLARATION), ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT, VALIDATION, PROTECTION, ENFORCEMENT ACTION OR OMISSION OF ANY PARTY SHALL BE HEARD BY A JUDGE IN A COURT PROCEEDING AND NOT A JURY. BUYER AND SELLER WAIVE THEIR RESPECTIVE RIGHT TO A JURY TRIAL. SELLER HEREBY SUGGESTS THAT EACH BUYER CONTACT AN ATTORNEY IF SUCH BUYER DOES NOT UNDERSTAND THE LEGAL CONSEQUENCES OF EXECUTING THIS AGREEMENT. NONE OF THE ACKNOWLEDGEMENTS, AGREEMENTS, OR WAIVERS, SET FORTH IN THIS SECTION 21.1 SHALL APPLY TO ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION, WITH RESPECT TO ANY ACTION, PROCEEDING OR CLAIM ARISING OUT OF THE FAILURE OF SELLER TO MEET ITS UNCONDITIONAL OBLIGATION TO COMPLETE THE HOME BY THE REQUIRED COMPLETION DATE.

21.2 Attorneys' Fees and Costs. In the event that any litigation is commenced in connection with the enforcement or interpretation of this Agreement, the Home or the application of laws or regulations to any aspect of this transaction, the prevailing party shall be entitled to recover its cost of suit, including reasonable attorneys' and paraprofessional fees, at pretrial and at all levels of proceedings, including appeals.

22. Pre-Paid Taxes, Fees and Charges. Unless otherwise provided herein, Buyer agrees that any taxes, fees or other charges paid by Seller 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 Seller in the event such refund is received by Buyer or a homeowners association in which Buyer is a member.

23. Easements and Reservation of Easement. Buyer acknowledges that easement(s) may be located beneath, across, and/or over the Lot or Home. An easement grants the right for others to use the easement property for the purposes specified in the grant of easement. A grant of easement also restricts Buyer's usage of the easement property including, by way of example and not limitation, restricting the placement, erection, or installation of improvements, structures, fences, and landscaping therein. Additionally, setbacks for houses, enclosures, and other structures may be established from the easement line, and not the property line. Furthermore, the location of easements upon the Lot or Home may necessitate changing the planned location of the air conditioning pad and compressor to an alternate location to avoid conflict with easement property. The Plat and the Documents set forth the easements which may be granted. Typical easements include, but are not limited to, utility, drainage, maintenance, lake maintenance access, lake maintenance, lift station, buffer, limited access, telephone, well site and drainage, conservation, maintenance, and overhang. The easements affecting the Lot or Home shall not preclude the use of the Lot or Home for residential purposes. Seller may not yet have granted all of the easements which will ultimately be located beneath, across, or over the Lot or Home and, accordingly, Seller shall be entitled to grant additional easements beneath, across, or over the Lot or Home after the execution of this Agreement without Buyer's consent. Buyer shall not be entitled to receive any compensation, terminate, or invalidate the Agreement if Seller grants additional easements. In addition, for the purpose of completing the construction and servicing of the Community, Home and surrounding areas, Seller hereby reserves an easement of ingress and egress for itself and its successors and assigns, and each of their respective agents, employees, materialmen and subcontractors, over, under and upon the Home for a period of six (6) months after Closing.

24. Setbacks. Buyer acknowledges that specific setback requirements have been established by the Documents and/or applicable building and/or development codes, as applied to or modified for the

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approved site plan for the Community, for the construction, erection, and installation of buildings, homes, and other improvements. Buyer agrees to purchase the Lot or Home subject to the established setbacks such that any improvements undertaken by Buyer subsequent to Closing of the Home are required to comply with such setback requirements. Seller has not made any representations or guarantees that future improvements to be undertaken by Buyer shall fit upon the Lot or Home within the setbacks. This determination is the sole responsibility of Buyer.

25. Construction Work and Sales Activities.

25.1 Construction Activities. Buyer acknowledges that some areas of the Community may be under development for an extended period of time. Incident to the development process, the quiet enjoyment of the Community may be unavoidably interfered with to some extent by the construction operations. Construction, development and sales activities will likely occur after Buyer has occupied Buyer's Home. Depending upon Buyer's sensitivities, this may result in some inconvenience to Buyer and Buyer's family and guests due to increased noise, dust, road closures, operation of the model homes and sales offices, and other activities. Construction activities can occur at various hours throughout the day, and sales activities can result in additional traffic and visitors throughout the Community, particularly before the Community is completely built out. Neither Seller nor any other builder that may be active in the Community can guarantee that Buyer will not be affected or impacted as a result of the overall construction and development of the Community.

25.2 Sales Activities. As long as Seller and/or the Developer under the Documents or its successors or assigns owns any portion of the Community, Seller and/or the Developer under the Documents and its agents may maintain sales and leasing offices and models within the Community to assist Seller and/or the Developer under the Documents in selling, reselling, and leasing properties in the Community and properties located outside the Community. As long as Seller, or any nominee of Seller and/or the Developer under the Documents, owns any land or home in the Community, Seller and/or its nominee and/or the Developer under the Documents shall have the right and privilege to maintain general sales offices in and about the Community, including model residences, and to have their employees present on the premises to show homes, use the common areas of the Community, Community facilities and/or property, and, without limitation, to do any and all other things necessary or appropriate by them to sell, resell, or lease homes and other properties owned by Seller and/or the Developer under the Documents, all without charge or contribution; provided, however, that such activities shall be carried on in such a manner as will not unreasonably interfere with the Buyer's enjoyment of the Home. Seller gives no guarantees or assurances on the active time of the Community model homes, if any. Homes across the street or next to the model homes, if any, may remain undeveloped until Seller determines that these homes are no longer needed for marketing purposes. These models, if any, are for use in sales activities and may contain options, layouts, amenities, designs and materials that are different than those in the Home. Moreover, after completing a model home, Seller may (and typically does) make changes to the design, layout, materials, field conditions, plans and specifications used to construct future homes and models. This Agreement governs changes in materials and specifications for the Home, and Seller reserves the right to make changes in materials and specifications provided substantially similar materials are substituted.

25.3 Buyer Acknowledgment. ALL BUYERS, OWNERS, OCCUPANTS AND USERS OF THE COMMUNITY ARE HEREBY PLACED ON NOTICE THAT SELLER AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES WILL BE, FROM TIME TO TIME, CONDUCTING CONSTRUCTION ACTIVITIES, EXCAVATION CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO THE COMMUNITY. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF THE COMMUNITY, EACH SUCH BUYER, 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 THE COMMUNITY 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) SELLER 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 SELLER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, (iv) ANY PURCHASE OR USE OF ANY PORTION

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OF THE COMMUNITY HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING AND (v) THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO SELLER TO SELL, CONVEY, AND/OR ALLOW THE USE OF THE HOME.

26. Prices. Seller reserves the right to establish prices for homes built in the Community. Seller may, in Seller's sole discretion, increase or decrease the price or price per square foot for any home, lot or option at any time, or offer incentives for sales of lots and homes. Once Buyer has signed a contract establishing a price for the Home, the prices for any subsequent changes or upgrades to the Home as requested by Buyer including, but not limited to, design, floor plan, options, materials or otherwise, are subject to change by Seller until a written and signed agreement on the price is reached by Seller and Buyer. Seller makes no representations or warranties that the price for the Home or options in the Home will be increased or decreased for other buyers of identical or similar homes or options. Seller also makes no representations or warranties that changes made or options, extras or upgrades chosen by Buyer will or will not increase or decrease the market value of the Home, and Buyer understands and agrees that such upgrades or options may not increase and decrease the market value of the Home. The Home is being sold for residential purposes and not as an investment.

27. Increases in Construction Costs and Fees. Buyer understands and agrees that the Home is being designed in accordance with and priced based on the State of Florida and/or County Building and Zoning Code (the "**Building Code**") in effect as of the Effective Date, as well as on all applicable impact fees, permitting fees, utility fees, soil treatment fees, assessments, contributions and other fees imposed by the various federal, state and local governmental authorities and public utilities (e.g., WASA, FP&L) as of the Effective Date. Any and all increases of the fees, or if new ones are enacted, shall be passed to Buyer at cost, and Buyer shall pay such increase at Closing. In the event of a modification to or application of or interpretation of the Building Code which requires or causes Seller to incur increases in costs, whether for additional or different required materials, for increased design, professional or inspection fees or otherwise, Seller may, at its option, pass on to Buyer such increases at Closing, and such increases shall be added to the Total Purchase Price of the Home. Further, the parties acknowledge that the Total Purchase Price set forth herein is based on the current cost of construction materials, appliances and labor prevailing in the County as of the date hereof. In the event of a force majeure (due to causes which are outside the control of the parties), which causes any of the costs or market prices of construction materials, appliances and/or labor to increase, in the aggregate, Seller's building costs up to, but not exceeding, three percent (3.0%) of the Total Purchase Price, such increase shall be added to and become a part of the Total Purchase Price, which shall be paid by Buyer to Seller at Closing. If the increase in cost is more than three percent (3.0%) of the Total Purchase Price, Buyer shall, within ten (10) days after notification, have the option of ratifying this Agreement at the new Total Purchase Price, which shall reflect the extra costs incurred as a direct result of the force majeure (the "**Force Majeure Increase**"). If Buyer is unwilling to accept the Force Majeure Increase, Seller may in its sole discretion, terminate this Agreement without any further liability or obligation, except to return to Buyer, within ten (10) days, all Deposits paid hereunder. In the event Seller, in its sole discretion, does not elect to terminate this Agreement, the parties shall proceed to Closing, based upon the original Total Purchase Price, as contemplated hereunder, plus the increase in the Total Purchase Price, not to exceed three percent (3.0%). Nothing contained herein shall affect Seller's unconditional obligation to Complete Buyer's Home by the Required Completion Date.

28. Florida Homeowners' Construction Recovery Fund. Pursuant to Section 489.1425 of the Florida Statutes, Seller provides the following notice: PAYMENT MAY BE AVAILABLE FROM THE FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND IF YOU LOSE MONEY ON A PROJECT PERFORMED UNDER CONTRACT, WHERE THE LOSS RESULTS FROM SPECIFIED VIOLATIONS OF FLORIDA LAW BY A LICENSED CONTRACTOR. FOR INFORMATION ABOUT THE RECOVERY FUND AND FILING A CLAIM, CONTACT THE FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD AT THE FOLLOWING TELEPHONE NUMBER AND ADDRESS: FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD, 1940 NORTH MONROE STREET, TALLAHASSEE, FLORIDA 32399, PHONE NUMBER: (850) 487-1395.

29. Chapter 558 Notice of Claim. In accordance with Florida law, Seller provides Buyer with the following notice: ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

If Buyer rejects any settlement offer made pursuant to such Florida law by Seller or other contractors, subcontractors, suppliers or design professionals hired by, through or under Seller or its affiliates (collectively, "**Protected Parties**"), and Buyer elects to proceed with an action against one or more Protected Parties, Buyer acknowledges that the dispute must be resolved as provided

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in this Agreement. Further, all other provisions of this Agreement respecting disputes remain in full force and effect.

30. OFAC. Executive Order 13224 requires all United States entities and persons to block assets and not transact business with entities, countries and persons (specifically designated nationals) set forth by the Office of Foreign Asset Control ("OFAC"). This requirement applies to Seller and all of its affiliates (collectively, the "Avatar Affiliates"). Accordingly, each of Seller and the Avatar Affiliates will check current OFAC lists and other publications in connection with each potential transaction, loan, or home sale. In order to check the OFAC list, Buyer must provide to Seller a government-issued photo identification card (this might include a driver's license, passport or resident alien card). To the extent Buyer (or any single person or entity constituting a part of Buyer) matches a name or entity on any such OFAC list or publication, the transactions with Buyer contemplated under or in connection with this Agreement will be immediately suspended, and Buyer shall be reported as instructed by the OFAC.

31. Energy Performance Level Display Card. At the written request of Buyer, Seller shall provide Buyer with an Energy Performance Level ("EPL") Display Card by way of Addendum to this Agreement pursuant to Section 553.9085 of the Florida Statutes.

32. Taxes.

32.1 Real Estate Taxes. When a new home is built, the full value of the home is typically not reflected in the real estate taxes until after construction has been completed. Seller is not responsible for communicating any information regarding real estate taxes (current or future) and cannot and will not predict what the taxes on the Home may be. Buyer should confirm any information provided concerning appraisals, tax valuation, tax rates, or other tax-related questions with Buyer's personal tax advisor and the local taxing authorities.

32.2 Property Tax Disclosure. Pursuant to Section 689.261 of the Florida Statutes, Seller provides the following notice: BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.

33. Disclosure Summary. Prior to execution of this Agreement, Seller provided a Disclosure Summary to Buyer. Buyer hereby acknowledges receipt of the Disclosure Summary and the reading thereof prior to execution of this Agreement. Such Disclosure Summary is incorporated herein by reference.

**IF THE DISCLOSURE SUMMARY REQUIRED BY SECTION 720.401, FLORIDA STATUTES, HAS NOT BEEN PROVIDED TO THE PROSPECTIVE PURCHASER (BUYER) BEFORE EXECUTING THIS CONTRACT FOR SALE (AGREEMENT), THIS CONTRACT (AGREEMENT) IS VOIDABLE BY BUYER BY DELIVERING TO SELLER OR SELLER'S AGENT OR REPRESENTATIVE WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN THREE (3) DAYS AFTER RECEIPT OF THE DISCLOSURE SUMMARY OR PRIOR TO CLOSING, WHICHEVER OCCURS FIRST. ANY PURPORTED WAIVER OF THIS VOIDABILITY RIGHT HAS NO EFFECT. BUYER'S RIGHT TO VOID THIS CONTRACT (AGREEMENT) SHALL TERMINATE AT CLOSING.**

**THE BUYER SHOULD NOT EXECUTE THIS AGREEMENT UNTIL THE BUYER HAS RECEIVED AND READ THE DISCLOSURE SUMMARY REQUIRED BY SECTION 720.401, FLORIDA STATUTES.**

34. Agreement Not to be Recorded. Buyer covenants that Buyer shall not record this Agreement (or any memorandum thereof) in the Public Records of the County. Buyer agrees, if Buyer records this Agreement or any memorandum thereof, to pay all of Seller's legal fees, paraprofessional fees and expenses incurred in removing the cloud in title caused by such recordation. Seller's rights under this Section shall be in addition to Seller's remedies for Buyer's default provided in Section 15.1 of this Agreement. Buyer expressly waives and disclaims all equitable lien rights Buyer may have with respect to the Lot and Home.

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35. Transfer or Assignment. Buyer has no right to assign, sell or transfer Buyer's interest in this Agreement (whether voluntarily or by operation of law or otherwise) without Seller's prior written consent. If Buyer is a corporation, other business entity, trustee or nominee, a transfer of any material equity or beneficial or principal interest shall constitute an assignment of this Agreement. If Buyer attempts to assign this Agreement in violation of this Section 35, Seller can declare Buyer in default and Seller shall be entitled to all remedies available under Section 15.1 hereof. Buyer agrees that Seller may withhold its consent with or without any reason or condition in any manner it chooses (if it gives it at all) and may charge Buyer a reasonable amount to cover administrative costs incurred in considering whether or not to grant consent. If Seller desires to sell the Community before or during construction, Seller may assign or transfer without Buyer's consent Seller's interest in this Agreement, in the Deposit and in the non-refundable deposits or payments for options, extras and/or upgrades. If the buyer of the Community assumes Seller's obligations contained in this Agreement, neither Seller nor Seller's affiliates will be liable to Buyer for any acts, omissions or defaults by the buyer of the Community. Nothing in this Section 35 shall relieve the transferee or assignee of the underlying unconditional obligation to deliver to Buyer a Complete Home by the Required Completion Date.

36. Persons Bound By This Agreement. If Buyer has received Seller's permission to assign or transfer this Agreement, then Buyer's approved assignees shall be bound by the terms of this Agreement. If more than one person signs this Agreement as Buyer, each such person shall be jointly and severally liable for full performance of all of Buyer's duties and obligations hereunder. This Agreement shall be binding on Buyer's successors, assigns and heirs.

37. Time of the Essence. Buyer acknowledges that time is of the essence in connection with this transaction.

38. Interpretation and Computation of Time. The use of the masculine gender in this Agreement shall be deemed to refer to the feminine or neuter gender, and the singular shall include the plural, and vice versa, whenever the context so requires. This Agreement reflects the negotiated agreement of the parties, each represented by competent legal counsel, or by parties who choose not to be represented by counsel. Accordingly, this Agreement shall be construed as if both parties jointly prepared it, and no presumption against one party or the other shall govern the interpretation or construction of any of the provisions of this Agreement. Any reference in this Agreement to time periods of less than six (6) days shall, in the computation thereof, exclude Saturdays, Sundays and legal holidays and shall extend to 5:00 p.m. on the next full business day. Any reference in this Agreement to time periods of six (6) days or more shall, in the computation thereof, include Saturdays, Sundays and legal holidays, provided, however, if the last day of any such period is a Saturday, Sunday or legal holiday, the period shall be extended to 5:00 p.m. on the next full business day. Notwithstanding the foregoing, the Required Completion Date shall be calculated from two (2) years from the date that Buyer first signs this Agreement, inclusive of Saturdays, Sundays, and all legal holidays.

39. Notice. Except as provided in Section 12 with respect to notices of the scheduled date of Closing, any notice required or permitted to be given in connection with this Agreement shall be in writing and sent by United States certified mail with return receipt requested, professional overnight courier or telefax (with confirmation and copy by (i) certified mail if Buyer's address is within the United States or (ii) overnight professional courier if to a Buyer whose address is outside of the United States) to Buyer or Seller at the addresses on Page 1 of this Agreement, and additionally to Seller by hand delivery at Seller's sales office. All notices shall only be effective upon receipt or refusal to accept receipt (by failure to accept delivery or otherwise).

40. Waiver. Seller's waiver of any of its rights or remedies shall not operate to waive any other of Seller's rights or remedies or to prevent Seller from enforcing the waived right or remedy in another instance.

41. Survival, Incorporation and Severability. All of the provisions and disclaimers in this Agreement are intended to have effect after (1) the Closing, (2) the termination of this Agreement by either party, and/or (3) the default of this Agreement by either party, unless expressly stated otherwise. In the event that any clause or provision of this Agreement shall be void or unenforceable, such clause or provision shall be deemed deleted so that the balance of the Agreement is enforceable.

42. Section Headings. The Section headings in this Agreement are for convenience only and shall not affect the meaning, interpretation or scope of the provisions which follow them.

43. Florida Law. Any disputes that develop under this Agreement or questions regarding the interpretation of this Agreement will be settled according to Florida law to the extent federal law is not applicable.

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44. Venue. Each Buyer acknowledges that the Home and Community are located in the County (identified on Page 1 of this Agreement) and Seller has an office in the County. Accordingly, an irrebuttable presumption exists that the only appropriate venue for the resolution of any dispute lies in the County. In addition to the foregoing, each Buyer and Seller agree that the venue for resolution of any dispute lies in the County.

45. Entire Agreement. BUYER CERTIFIES THAT BUYER HAS READ EVERY PROVISION OF THIS AGREEMENT AND EACH ADDENDUM ATTACHED HERETO AND THAT THIS AGREEMENT AND EACH SUCH ADDENDUM CONSTITUTES THE ENTIRE AGREEMENT BETWEEN BUYER AND SELLER. THIS AGREEMENT CAN ONLY BE AMENDED IN WRITING. BUYER ACKNOWLEDGES THAT BUYER HAS NOT RELIED ON ANY REPRESENTATIONS, BROCHURES, WEBSITES, NEWSPAPER, RADIO, TELEVISION, ELECTRONIC OR OTHER FORMS OF ADVERTISEMENTS, WARRANTIES, STATEMENTS, OR ESTIMATES OF ANY NATURE WHATSOEVER, WHETHER WRITTEN OR ORAL, MADE BY SELLER, SALES PERSONS, AGENTS, OFFICERS, EMPLOYEES, CO-OPERATING BROKERS, IF ANY, OR OTHERWISE EXCEPT AS SET FORTH HEREIN OR IN THE ADDENDA. Seller wants to ensure that Seller and Buyer are in full agreement on all terms and conditions relating to the Agreement. To best ensure that there are no misunderstandings, Buyer should ensure that all terms and conditions (including all statements, representations, or understandings upon which Buyer relies in purchasing the Home) are set forth in writing in this Agreement. If there are any statements, representations or understandings which are made by a sales staff person or any other representative of Seller which are material to Buyer's decision to purchase, Buyer should insist that any such statement, representations or understanding is put in writing and contained in this Agreement. Seller reserves the right to reject the Agreement notwithstanding the inclusion of any such item in this Agreement.

46. Additional Changes. Buyer agrees that it may be necessary (at any time and from time to time) after Buyer executes this Agreement for Seller, and/or the Developer under the Documents, to change the terms and provisions of this Agreement and/or the Documents to comply with and conform to the rules and regulations (as same may exist and as same may be promulgated from time to time) of any governmental agency or subdivision. In addition, Seller, and/or the Developer under the Documents, shall have the right to amend all Documents for development or other purposes. The parties shall execute such further documents and instruments, and perform such further acts, as shall be necessary and advisable from time to time to carry out the intent and purpose of this Agreement and any Addenda attached hereto. ANY CHANGES TO THE PRINTED FORM OF THIS AGREEMENT, OR ANY ADDENDA ATTACHED HERETO, ARE SUBJECT TO AND CONTINGENT UPON WRITTEN APPROVAL BY SELLER'S LEGAL DEPARTMENT.

47. Inducement. Buyer acknowledges that the sole inducement to purchase the Home is the Home and not (i) the common facilities comprising part of the Community, or (ii) any expectation that the Home will increase in value.

48. Offer to Purchase/Effective Date. This Agreement, when executed by Buyer and delivered to Seller, together with the Initial Deposit specified hereunder, shall constitute an offer by Buyer to purchase the Property in accordance with the terms and conditions provided herein, and shall not be binding upon Seller until such time as an authorized agent or officer of Seller has executed this Agreement. The date of such acceptance is the "Effective Date" of this Agreement. In the event Buyer's offer is not accepted by Seller, all paid Deposits made by Buyer to Seller to date shall be returned to Buyer, and Buyer's offer shall be deemed withdrawn.

49. Counterparts and Telefaxed Signatures. This Agreement may be executed in any number of counterparts, a complete set of which shall be deemed to be an original and a complete set of which shall comprise but a single instrument. Signatures may be given via electronic transmission and shall be deemed given as of the date and time of the transmission of this Agreement to the other party.

[SIGNATURES AND ADDITIONAL TEXT APPEAR ON THE FOLLOWING PAGE]

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50. DISTRICT. Pursuant to Section 190.048 of Florida Statutes, Seller provides the following notice. THE POINCIANA WEST COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.

IN WITNESS WHEREOF, the parties have hereunto affixed their respective hands and seals on the day and year set forth below their respective names.

WITNESSES:

[Signature]  
Print Name: Paul J. Perreault

Print Name: \_\_\_\_\_

BUYER(S):

[Signature]  
(Signature)

Print Name: Norman L. Gundel  
Date: 2013-12-12

[Signature]  
(Signature)

Print Name: Lynn S. Gundel  
Date: 2013-12-12

(Signature) \_\_\_\_\_

Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_

(Signature) \_\_\_\_\_

Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_

SELLER:

AVATAR PROPERTIES INC.,  
a Florida corporation d/b/a AV Homes

By: [Signature] Tara Shipley  
Name: VP Finance  
Title: CFL  
Date: 12/12/13

# **EXHIBIT D**



SOLIVITA WEST COMMUNITY ADDENDUM

THE SOLIVITA WEST COMMUNITY ADDENDUM (this "Addendum") is executed in conjunction with and, by this reference, incorporated into the Purchase and Sale Agreement (the "Agreement") dated as of December 12, 2013 between Norman L. Gundel and Lynn S. Gundel (collectively, "Buyer") and Seller as defined in the Agreement respecting Lot 333 of the Solivita Phase CFL Subdivision/Plat, in the community known as Solivita West.

ADDITIONAL TERMS

1. Defined Terms. All initially capitalized terms not defined herein shall have the meanings set forth in the Agreement.

2. Community. The Home lies within a community known as Solivita West (the "Community"). This Addendum explains certain terms which are applicable to the purchase of Homes in the Community. Seller shall have the right, without notice to Buyer, to make changes to, among other things, the number and size of lots, the number and size of homes, the number of homes being built, the size and style of homes being built, features and materials in homes being built, prices of homes (whether more or less than currently published), price per square foot of homes (whether more or less than currently published), street layout and usage, amenities location and layout, size and number of trees, bushes and other foliage (current and future), and any other items or uses which are currently planned for the Community. Seller makes no representations or warranties that Seller will be the exclusive builder or developer in the Community or that the Community will be built out exactly as currently planned and Seller expressly reserves the right to make whatever changes it deems necessary relating to future development of the Community. Any current maps or other materials showing any final or projected Community development may be modified or updated in the future.

3. Document Book. Buyer acknowledges receipt of the "Document Book" for the Community as follows:

3.1 Buyer acknowledges receipt of and agrees to be bound by the Declaration for Solivita West (the "Declaration"), the Articles of Incorporation, By-Laws and any Rules and Regulations of Solivita West Community Association, Inc., all as amended and supplemented from time to time (collectively, the "Community Documents"). Buyer acknowledges and agrees that title to the Home will be subject to the Community Documents.

3.2 Buyer acknowledges that the provisions of the Document Book are fair and reasonable.

4. Association Membership.

4.1 Upon conveyance and recording of the Deed to the Home, Buyer understands and agrees that Buyer will then become a member of Solivita West Community Association, Inc., a Florida not-for-profit corporation (the "Association"). Buyer agrees to accept the liability and obligations of such membership. Buyer understands that as a member of Association, Buyer will be required to pay Assessments (as defined in the Document Book) for the maintenance of the Community Property (as defined in the Document Book) and for such other uses and purposes as are provided for in the Document Book. Buyer also understands and agrees that a failure to pay Assessments when due could cause Association to record a lien on the Lot and Home thereon and to foreclose such lien. Assessments are subject to additional increases in the manner currently provided for in the Document Book. Seller, Association, Developer (as defined in the Document Book), and any other builder cannot estimate the amount or frequency of any such increase.

4.2 Buyer acknowledges that nominees of Seller, the developer of the Community may serve as the initial officers and directors of Association. The officers and directors of Association and the management company, if any, are authorized by Buyer to act for and on the behalf of Association.

4.3 Buyer acknowledges that all new construction and modifications of existing construction and exteriors of improvements (including, without limitation, exterior color, style and materials) within the Community are subject to the prior written approval of the Architectural Control Committee of Association ("ACC"). Buyer agrees to comply with all rules and regulations of the ACC, as the same may be amended and exist from time to time. These restrictions are subject to change without notice. Buyer agrees not to commence any construction upon any property within the Community until after the ACC has given their written approval therefor. Buyer further agrees not to make any modifications of any existing buildings and improvements including, but not limited to, landscaping, without the prior written approval of the ACC and until any applicable permits have been obtained. Improvements constructed by Seller, or any other builder are exempt from this requirement. Approval of any work by the ACC shall not constitute an expressed or implied warranty or representation that any work complies with applicable codes, ordinances, or other governmental regulations, or that the work is well designed or will be constructed in a proper manner. Decks, fences and exterior color are among the more common, although not the only, improvements for which architectural approval is required. Failure to submit plans and specifications to the ACC for approval is a violation of the Community Documents, which may result in sanctions and/or the imposition of fines, and the removal, at the homeowner's expense, of any non-approved modifications

4.4 In addition, every city, county, or town has building codes and other ordinances that regulate what is permissible within its jurisdictional limits. Prior to making changes to the Lot or Home, Buyer should contact the applicable governmental authorities for further information concerning local codes and ordinances. Seller is not responsible for notifying homeowners of the content or restrictions contained in any local codes or ordinances.

5. Club Mandatory Membership.

5.1 In addition to membership within Association, each Home has an appurtenant mandatory membership in the Solivita Club (the "Club"). Membership in the Club will be pursuant to the Solivita Club Plan, as amended from time to time ("Club Plan"). All initially capitalized terms respecting the Club which are not defined herein shall have the meaning given such terms in the Club Plan. The Club Plan outlines the terms of such membership, use of the Club, how Club Membership Fees increase, and each Owner's obligation to pay a pro rata portion of the Club Dues (including, without limitation, the Club Membership Fee as defined in the Club Plan). Buyer also understands and agrees that all sums due pursuant to the Club Plan in regard to the Club are direct obligations of Buyer and a failure to pay Club Dues when due could cause the Club Owner to record a lien on the Home and to foreclose such lien to the extent permitted by law. Under the Club Plan, the Club Owner is anticipated to be the same entity as Seller or an entity related to Seller.

5.2 Club Owner has constructed, at its sole cost and expense, certain recreation facilities which include, without limitation, a spa and fitness building with exercise room and equipment, manager's office, open air pavilions, outdoor swimming pools, tennis and pickleball courts, picnic areas, barbecues, and related amenities (subject to Club Owner's paramount right to unilaterally, and without the joinder of any party whatsoever, add to, alter, modify and change such recreation facilities) together with such equipment and personalty as Club Owner determines in its sole and absolute discretion.

5.3 Portions of the Club available to members of Association shall be used and enjoyed by the Buyer, on a non-exclusive basis, in common with such other Owners, persons, entities, and corporations that may be entitled to use the Club under the terms in the Club Plan.

5.4 Buyer acknowledges that the Club Plan provides that each Owner becomes directly liable for Club Dues, including the Club Membership Fees to be paid to the Club Owner, all as set forth in the Club Plan. Buyer acknowledges that all sums due pursuant to the Club Plan in regard to the Club are direct obligations of Buyer and are secured by a lien against the Lot and any Home thereon. Failure to pay such sums may result in foreclosure of the lien.

5.5 By accepting a Deed to the Home, Buyer acknowledges that: (i) it is in the best interest of Buyer, Association, and the Community, as a whole, and property values therein, to provide for the Club to be located within the Community; (ii) the terms of the Club Plan relating to the Club and the Club Charges imposed thereby, including the Club Fee, are fair and reasonable given the nature of the Club amenities provided and the cost thereof; (iii) there were significant other housing opportunities available to the Buyer in the general location of the

Community, both with and without a Club; (iv) the Club, and the right to use the Club were, for purposes of this acknowledgment, important to the Buyer and Buyer would not have purchased the Lot or Home without the right to use the Club; (v) full disclosure of the nature of the Club and obligations associated therewith was included in the Club Plan given to Buyer prior to Buyer executing the Agreement; (vi) the fact that the Club Owner is, or may be, affiliated with the Seller, is acknowledged; (vii) the provisions of the Club Plan do not grant any ownership rights in the Club in favor of Association or Owner but, rather, grant a non-exclusive license to use portions of the Club available to members of Association subject to full compliance with all obligations imposed on each of them relating thereto; and (viii) Club Owner may sell the Club to any person or entity in its sole discretion at any time, including Association.

6. **Insulation Disclosures.** Pursuant to Title 16, Chapter I, Section 460.16 of the Code of Federal Regulations, insulation that is or will be installed in the Home is as follows and will, according to the manufacturer, yield the R-values stated as follows:

6.1 For Homes permitted prior to March 15, 2012

Location	Type	Thickness	R-Value
Roof	Fiberglass	12"	R-30
Exterior Masonry Walls	Foil	N/A	R-4.1
	Aminoplast Resin	4"	R-9.1
Exterior Stud Walls or Stud Walls between Garage and A/C Area, if any	Batted Fiberglass	3½"	R-11
Vaulted Ceilings, if any	Batted Fiberglass	9"	R-30

6.2 For Homes permitted after March 15, 2012

Location	Type	Thickness	R-Value
Roof	Spray Foam	5"	R-20
Exterior Masonry Walls	Foil	N/A	R-4.1
	Core Foam Block Fill		R-10
Exterior Stud Walls or Stud Walls between Garage and A/C Area, if any	Batted Fiberglass	3 ½ "	R-11

If so indicated above, fiberglass (also known as glass wool) is/will be used for insulation in the Home. The U.S. Department of Health and Human Services ("**HHS**") has listed fiberglass as a substance "which may reasonably be anticipated to be a carcinogen." This listing identifies substances selected for further study because of their potential carcinogenic risk but is not an assessment by HHS that there is a causal connection between fiberglass and human cancer. The listing does not establish that fiberglass presents a risk to persons in their daily lives.

7. **Community Charges.** In addition to the Closing Costs set forth in the Agreement, Buyer shall pay the following additional Closing Costs respecting the Community:

7.1 Association Assessments. Assessments payable to the Association ("Association Assessments") prorated for the month in which the Closing occurs (based on the then current Association Assessments at the time of closing). Current Association Assessments are set forth in the budget of the Association contained in the Document Book. Such Assessments are estimated to be as follows:

Phase Number	Monthly Assessment	Annual Assessment
7A and 7B (55' & 65' Lots)		
7C (85' Lots)		
7D (40' Lots)		

Buyer understands that the estimated operating budget for the Association is only an estimate of what it will cost to run the Association. The Association may make changes in the budget at any time to cover increases or decreases in expenses or estimates in the budget, and estimated Association Assessments may increase prior to Closing. Without limiting the generality of this Section, those changes will not give Buyer any right to cancel the Agreement.

7.2 Association Initial Contribution. Buyer acknowledges that among other Assessments provided for in the Community Documents, Association has established an initial contribution for the Association Initial Expense Fund (as defined in the Documents) ("Initial Contribution"). Buyer acknowledges that upon conveyance of the Home, an Initial Contribution in amount equal \$100.00 is due to Association. The Association Initial Expense Fund may be used for any reason deemed appropriate by Developer and/or Association including, without limitation, costs of deficit funding; provided, however, no portion of the Association Initial Expense Fund shall be used for payment of legal fees or litigation expenses and the total amount of such funds and interest accrued thereon, if any, shall be a set-off against any amounts payable by Developer to Association. Buyer acknowledges and agrees that the Initial Contribution is not to be considered as an advance payment of Association Assessments.

7.3 Resale Contribution. Buyer acknowledges that the Association has established a Resale Contribution (as defined in the Document Book). For more information on the Resale Contribution, please refer to the Document Book.

7.4 Club Dues. Club Dues payable to the Club Owner, prorated for the month in which the Closing occurs. Club Dues are estimated to be as follows at this time (based on the then current Club Dues at the time of Closing) including applicable sales tax:

Phases	1/1/12 - 4/30/12 (per month)	5/1/12 - 12/31/12 (per month)	Total Annually
7A, 7B, 7C, 7D			

Buyer understands that the estimated operating budget for the Club is only an estimate of what it will cost to run the Club. The Club Owner may make changes in the budget at any time to cover increases or decreases in expenses or estimates in the budgets. Without limiting the generality of this Section, such changes will not give Buyer any right to cancel the Agreement.

7.5 Club Contribution. Buyer acknowledges that among other Club Dues provided for in the Club Plan, the Club Owner (as defined in the Club Plan) has established a Club Contribution. Buyer acknowledges that upon conveyance of the Home, a Club Contribution in an amount equal to \$160.50 including applicable sales tax (or such amount as determined by Club Owner from time to time) is due to Club Owner.

8. Community Development District. THE POINCIANA WEST COMMUNITY DEVELOPMENT DISTRICT (THE "DISTRICT") HAS BEEN CREATED TO PROVIDE CERTAIN INFRASTRUCTURE, FACILITIES AND MAINTENANCE OPERATIONS FOR THE COMMUNITY.

8.1 DISTRICT DEBT SERVICE ASSESSMENTS. THE DISTRICT HAS ISSUED SPECIAL ASSESSMENT REVENUE BONDS IN THE PRINCIPAL AMOUNT OF \$15,860,000 (THE "BONDS") TO FINANCE A PORTION OF THE COST OF THE PUBLIC INFRASTRUCTURE OF THE COMMUNITY WHICH MAY INCLUDE, WITHOUT LIMITATION, THE CONSTRUCTION AND MAINTENANCE OF THE SURFACE AND STORM WATER SYSTEM WITHIN THE COMMUNITY ("PUBLIC").



INFRASTRUCTURE"). THE BONDS WILL BE REPAYABLE FROM NON AD VALOREM SPECIAL ASSESSMENTS (THE "DISTRICT DEBT SERVICE ASSESSMENTS") IMPOSED BY THE DISTRICT ON PROPERTY WITHIN THE COMMUNITY, WHICH PROPERTY HAS BEEN FOUND TO BE SPECIALLY BENEFITED BY THE PUBLIC INFRASTRUCTURE. EACH HOME IS SUBJECT TO A DISTRICT DEBT SERVICE ASSESSMENT TO REPAY THE BONDS.

 BUYER'S INITIALS

8.2 ALLOCATION OF DISTRICT ASSESSMENTS. THE DISTRICT DEBT SERVICE ASSESSMENTS HAVE BEEN ALLOCATED TO EACH ANTICIPATED EQUIVALENT RESIDENTIAL UNIT ("ERU") WITHIN THE BOUNDARIES OF THE DISTRICT IN ACCORDANCE WITH THE ASSESSMENT METHODOLOGY ADOPTED BY THE DISTRICT, A COPY OF WHICH MAY BE OBTAINED AT SELLER'S OFFICE OR FROM THE DISTRICT MANAGER AT THE FOLLOWING ADDRESS:

District Manager  
Poincianna West Community Development District  
c/o Gary Moyer  
Severn Trent Services  
610 Sycamore Street, Suite 140  
Celebration, Florida 34747

THIS ADDENDUM CONTAINS A BRIEF SUMMARY OF CERTAIN PROVISIONS OF THE ASSESSMENT METHODOLOGY REPORT WHICH IS NOT INTENDED TO BE COMPREHENSIVE. EACH BUYER SHOULD OBTAIN AND READ THE FULL TEXT OF SUCH METHODOLOGY REPORT TO FULLY ANSWER ANY QUESTIONS CONCERNING THE AMOUNT, NATURE OR PAYMENT TERMS OF THE DISTRICT ASSESSMENTS.

8.3 AMOUNT. THE AMOUNT OF DISTRICT DEBT SERVICE ASSESSMENTS IS APPROXIMATELY  PER HOME PER YEAR AT THIS TIME, BUT IT IS ANTICIPATED, BUT NOT GUARANTEED, THAT THE APPROXIMATE MAXIMUM AMOUNT OF THE DISTRICT DEBT SERVICE ASSESSMENT WILL NOT EXCEED  PER YEAR, PER HOME (WHICH INCLUDES PRINCIPAL AND INTEREST ON THE BONDS) BASED ON A NOVEMBER TAX PAYMENT. THE BONDS CURRENTLY OUTSTANDING ARE PAYABLE ANNUALLY OVER A PERIOD PROJECTED TO END ON MAY 1, 2037. THE ACTUAL AMOUNT OF DISTRICT DEBT SERVICE ASSESSMENTS WILL BE SET FORTH IN THE ASSESSMENT METHODOLOGY REPORT.

 BUYER'S INITIALS

8.4 PREPAY OPTION. EACH OWNER HAS THE OPTION OF PREPAYING THE DISTRICT DEBT SERVICE ASSESSMENT IN FULL, BUT NOT IN PART, BY PAYMENT OF THE REMAINING BALANCE OF THE PRINCIPAL AMOUNTS THEREOF (SUCH DISTRICT DEBT SERVICE ASSESSMENTS AMORTIZE LIKE A MORTGAGE), PLUS INTEREST THEREON AT THE RATE ON THE BONDS THROUGH THE NEXT INTEREST PAYMENT DATE OR THROUGH THE SECOND SUCCEEDING INTEREST PAYMENT DATE IF SUCH PREPAYMENT IS MADE WITHIN FORTY-FIVE (45) CALENDAR DAYS BEFORE AN INTEREST PAYMENT DATE. ASSUMING TIMELY PAYMENT OF ANNUAL ASSESSMENTS, THE PREPAYMENT AMOUNT WILL DECLINE EACH YEAR AS DISTRICT DEBT SERVICE ASSESSMENTS ARE PAID.

 BUYER'S INITIALS

8.5 DISTRICT MAINTENANCE SPECIAL ASSESSMENTS. IN ADDITION TO THE DISTRICT DEBT SERVICE ASSESSMENTS WHICH WILL REMAIN A LIEN ON EACH LOT UNTIL PAID, THE DISTRICT IMPOSES AN ANNUAL NON AD VALOREM ASSESSMENT TO FUND THE OPERATIONS OF THE DISTRICT AND THE MAINTENANCE OF ITS PUBLIC INFRASTRUCTURE AND SERVICES ("DISTRICT MAINTENANCE SPECIAL ASSESSMENTS"). EACH HOME IS SUBJECT TO DISTRICT MAINTENANCE SPECIAL ASSESSMENTS. THE BUDGET FOR DISTRICT MAINTENANCE SPECIAL ASSESSMENTS IS SUBJECT TO CHANGE. YOUR HOME'S

SHARE OF SUCH DISTRICT MAINTENANCE SPECIAL ASSESSMENTS IS THE SAME AS ALL OTHER LOTS IN THE COMMUNITY REGARDLESS OF THE CONFIGURATION OF YOUR LOT. THE DISTRICT MAINTENANCE SPECIAL ASSESSMENTS FOR 2012-2013 IS [REDACTED] PER YEAR PER HOME. SUCH AMOUNT MAY VARY FROM YEAR TO YEAR AND FROM TIME TO TIME DEPENDING ON THE ANNUAL BUDGET OF THE DISTRICT FOR EACH YEAR. NO ASSURANCE IS OR CAN BE GIVEN AS TO THE FUTURE LEVELS OF SUCH DISTRICT MAINTENANCE SPECIAL ASSESSMENTS.

*[Signature]*  
BUYER'S INITIALS

8.6 DISTRICT ASSESSMENTS. DISTRICT MAINTENANCE SPECIAL ASSESSMENTS TOGETHER WITH THE DISTRICT DEBT SERVICE ASSESSMENTS SHALL COMPRISE THE "DISTRICT ASSESSMENTS." WHILE THE DISTRICT ASSESSMENTS ARE NOT TAXES, UNDER FLORIDA LAW, THE DISTRICT ASSESSMENTS WILL CONSTITUTE A LIEN CO-EQUAL WITH THE LIEN OF STATE, COUNTY, MUNICIPAL AND SCHOOL BOARD TAXES AND WILL BE COLLECTED ON THE AD VALOREM TAX BILL SENT EACH YEAR BY THE TAX COLLECTOR OF POLK COUNTY. THE HOMESTEAD EXEMPTION IS NOT APPLICABLE TO THE DISTRICT ASSESSMENTS. BECAUSE A TAX BILL CANNOT BE PAID IN PART, FAILURE TO PAY THE DISTRICT ASSESSMENTS OR ANY OTHER PORTION OF THE TAX BILL WILL RESULT IN THE SALE OF TAX CERTIFICATES AND COULD ULTIMATELY RESULT IN THE LOSS OF TITLE TO THE PROPERTY OF THE DELINQUENT TAXPAYER THROUGH THE ISSUANCE OF A TAX DEED.

*[Signature]*  
BUYER'S INITIALS

8.7 PROVISO. DISTRICT ASSESSMENTS ARE SUBJECT TO CHANGE EACH FISCAL YEAR OF THE DISTRICT

8.8 THE DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.

9. Telecommunications Services. Association has entered into an agreement with Bright House Networks LLC ("Cable Provider") for the provision of bulk cable television services ("Cable Agreement"). Association has determined that the Cable Agreement is, when considered in whole, the best proposal for the Community. Seller may enter into separate agreements whereby Cable Provider will make certain payments and give certain concessions to Seller in consideration of Seller causing Association to enter into the Cable Agreement. Association shall have no interest in or claim to such payments or concessions.

10. Flood Zone. Buyer acknowledges that the Home may be in a flood zone. Mortgage lenders will typically require the issuance of flood insurance as a requirement for financing, which insurance must be present at Closing. Seller recommends that each Buyer of a home protect his/her Home by obtaining proper insurance coverage. It is possible, however, for Buyer to submit documentation to the Federal Emergency Management Agency ("FEMA") to have the Home re-classified by FEMA, whereby the mortgage lender may have the option to waive the requirement of flood insurance. Buyer is solely responsible for the submission to FEMA for such reclassification and any and all expenses relating to such submission. Further, Buyer acknowledges and understands that the waiver of flood insurance is at the sole discretion of the mortgage lender.

11. Utilities.

11.1 Storm Drainage. Some Lots contain or are adjacent to drainage and utility structures such as storm water overflow swales, storm water catch basins, manholes, fire hydrants, electrical transformers, switch boxes, telephone pedestals and streetlights. None of these items shall be altered, obstructed, buried, modified, restricted or interfered with in any manner whatsoever. Overflow swales are generally only utilized for overflow storm water

capacity as a result of water drainage. Electrical transformers may only be landscaped to the extent that permission is given by the ACC and such landscaping does not impede access by utility providers. In some cases, water may flow from one lot to another, and these situations are shown on the final plat. State law may provide that the owner of the lot receiving water is required to accept the water flow and may not impede the flow of this water. In addition, the Lot will be graded to provide for reasonable drainage away from the Home's foundation. The vast majority of foundation problems are caused by insufficient drainage or lack of watering of soil around the foundation. The construction of curbs, decks, retaining walls, spas, patios, landscape edging and similar items can also trap water within the yard area and cause structural damage to the Home's foundation. Seller strongly recommends that Buyer consult with a licensed landscape architect and civil engineer before performing any work or making any changes that may affect the existing drainage pattern.

11.2 Water Supply. Toho Water Authority provides water to the Community. Because Seller does not control the water supply, Seller cannot guarantee the quality of the water provided to the Community. In addition, this area is periodically subjected to extended periods of drought that may cause depletion of water supplies. Municipalities and other providers of water services in the area of the Community (including the Poinciana System) may enact mandatory or voluntary cut backs or other restrictions in water usage. Seller has no control, influence, responsibility or liability for or over decisions concerning water rationing.

11.3 Underground and Overhead Utility Lines. There are underground and/or overhead utility lines located within the Community. If Buyer has any questions about utility rates, services, safety, or anything else to do with overhead or underground transmission or utility lines, Buyer should contact the utility companies directly. Because Seller values Buyer's safety and that of Buyer's neighbors, no excavation or trenching should be done without first calling the utility companies for the location of buried utilities. This is especially important in utility easements where buried utility equipment is probable. Digging without advance notification and approval of the utility companies may be illegal, is dangerous and can result in severe personal injury or death to Buyer and Buyer's neighbors, and can also result in severe property damage to homes, property and utility equipment.

11.4 Above Ground Equipment. Buyer acknowledges and agrees that above ground utility equipment and fixtures including, without limitation, street lights, telephone boxes, cable television pedestals, fire hydrants, electrical transformers, lift stations, secondary power pedestals and/or switch cabinets (the "Above Ground Equipment") may be located within easements. The locations of Above Ground Equipment are determined by the applicable utility, governmental agency or the Association as they deem necessary in their sole discretion to supply utility services. The location or relocation of Above Ground Equipment is not in the control of Seller. Buyer is not entitled to any reduction of the Total Purchase Price or any other compensation if Above Ground Equipment is placed upon or adjacent to a Lot.

11.5 Restrictions Regarding Utility Mains. Large trees, masonry or structural walls are not permitted on side of lot lines over utility mains. Trees are not to be planted within eight (8) feet of water or sewer mains located in utility easements.

12. Building and Use Restrictions. Every lot is subject to building and use restrictions as set forth in the Declaration. These restrictions are subject to change without notice. Building and use restrictions may affect, among other things, residential and nonresidential uses, building specifications, accessory structures, nuisance, home occupancy, signage, antennas, satellite dishes, animals, driveways, vehicle parking, rubbish, utility and drainage easements, clothes lines, fences, special rights of Seller, any developer and homebuilder(s), leases and restoration of lots. Seller encourages you to carefully review the Declaration to ensure the long-term quality of life for both you and your neighbors.

13. Pet Restrictions. Buyer understands that the only pets allowed in the Community are those which are in accordance with the restrictions contained in Community Documents or any amendments thereto.

14. Streetlights. Numerous streetlights will be installed within the Community, many of which will be installed after homes have been completed, sold and occupied. Streetlights are sized and placed in accordance with applicable ordinances, and could in some instances generate light in or obstruct views from homes in the Community.

15. Waterbodies. BUYER ACKNOWLEDGES THAT THE WATER LEVELS OF LAKES, PONDS OR OTHER WATERBODIES WITHIN THE COMMUNITY MAY VARY. THERE IS NO GUARANTEE BY SELLER, THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT (THE "SFWMD"), ASSOCIATION OR THE DISTRICT THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME; AT TIMES, WATER LEVELS MAY BE NONEXISTENT.

16. Wetland Conservation Areas.

16.1 BUYER ACKNOWLEDGES THAT LOTS MAY BE ADJACENT TO WETLANDS, WETLAND MITIGATION OR PRESERVATION AREAS, UPLAND CONSERVATION AREAS AND DRAINAGE EASEMENTS, WHICH MAY BE DEDICATED BY PLAT AND/OR PROTECTED BY A CONSERVATION EASEMENT AND/OR FLOWAGE EASEMENT (COLLECTIVELY, "WETLAND CONSERVATION AREAS"). SUCH WETLAND CONSERVATION AREAS ARE SUBJECT TO RESTRICTIONS REQUIRED BY THE SFWMD WHICH RESTRICTIONS MUST BE COMPLIED WITH BY ASSOCIATION AND BUYER AT ALL TIMES.

16.2 Buyer acknowledges that the removal of littoral shelf vegetation (including cattails) from wet detention ponds is prohibited unless otherwise approved by the SFWMD. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass harp. Any questions regarding authorized activities within the Wetland Conservation Areas shall be addressed to the SFWMD's Surface Water Regulation Manager, Orlando Service Office.

17. Maintenance Responsibilities. All traffic signs and pavement markings shall be maintained by Association or Club Owner. Association or Club shall also maintain islands, landscaping and irrigation within the roadways and Community Property. Club Owner shall own and maintain gates located in the roadways.

18. County Taxes, Charges and Fees. Property within the Community is subject to Polk County taxes, utility charges, fees and may become part of a special taxing district, including but not limited to a street lighting district. For additional information, contact the Polk County Tax Collector's office at (863) 534-4700.

19. Facilities and Conditions Affecting Homes.

19.1 The information set forth in this section contains an overview of facilities and conditions which may affect some or all Lots in the Community (including but not limited to the Home). Because Seller does not have control over development outside of the Community, Seller does not warrant or guarantee any future development, usage, or lack of development or usage for properties located outside of the Community, or their possible impact on the residents of the Community. For additional information about offsite features that may affect the purchase of the Home, please contact the local governmental authorities having jurisdiction over the Community.

19.2 Seller advises Buyer that some of the homes (including but not limited to the Home) are or may be adjacent to or near some of the following:

DRAINAGE CHANNEL, STORM WATER DETENTION FACILITY, COMMUNITY CENTER, SPORTS FACILITY OR BALL FIELD, COMMUNITY LAKES, PARK AND/OR RECREATION FACILITY, LIFT STATION, HIGH VOLTAGE TRANSMISSION LINES, ELECTRICAL SUB-STATIONS, OR PIPELINE EASEMENT.

Buyer acknowledges that such facilities may impact noise, vibration, lighting, traffic and other conditions caused by daily operations of the facility. Drainage channels, lakes and storm water detention facilities will have varying levels of water for varying periods of time depending upon rainfall.

19.3 Some of the area around the Community is currently rural in nature and there may be certain agricultural operations that Buyer may, depending upon Buyer's sensitivity, find to be an inconvenience or a nuisance. Farmers sometimes use raw manure, chemical fertilizers, herbicides, insecticides, and rodenticides, which at times may be offensive to other people, especially sensitive people. Buyer is advised to take the time to drive around the area to ensure



that Buyer is satisfied with all agricultural and other uses.

19.4 As a result of the open spaces and bodies of water in and around the Community, Buyer may periodically find wild animals within the confines of the Community including, but not limited to, skunks, armadillos, feral pigs and boar, nutria, opossums, deer, raccoons, spiders, snakes, bees, fire ants, alligators and other reptiles and other insects common to the area. Contact with any wild animal can be dangerous. Should Buyer encounter any such animal, Buyer is encouraged to contact Buyer's local animal control office for further instructions.

19.5 Property West of the Community. The property west of the Community is a conservation area that is managed by the SFWMD. Seller is working with Earth Balance® to restore four (4) wetlands located on the western boundary of the Community. These areas were natural cypress wetlands that supported a variety of native plants and wildlife. Several years ago, the hydrology of these wetlands was altered by ditching and as a result, native vegetation was disturbed and wildlife sought habitat elsewhere. In an effort to re-establish these natural habitats, the ditches will be filled and existing vegetation will be replaced with bald cypress, red maple, and swamp tupelo trees. It is anticipated that these newly planted areas will fill in and help to restore the native wildlife habitat.

19.6 Property North of the Community. The Community is bordered to the North by Cypress Parkway.

19.7 Property East of the Community. The Community is bordered on the East by conservations areas and future lands to be developed as well as Capri, Flora Vista, and Portofino, three communities, either completed or under construction.

19.8 Property South of the Community. The property south of the Community is a conservation/mitigation area that is controlled by the SFWMD.

19.9 Development of Adjacent Property. Buyer acknowledges that Seller's current development plans for the Community where the Home and Lot are located may change and that no representations or warranties are made concerning the development of the Community, or any property adjacent to, surrounding, or near the Community. The terms of this paragraph shall survive Closing.

20. Onsite Lakes and Drainage System. Lakes have been built to handle the Community's storm water management system. Buyer acknowledges that these facilities along with their littoral areas will belong to the District or the golf course owner and must be monitored, maintained and funded by them.

21. Attachments. The following documents are attached to and form a part of the Agreement:

Check (☑) all that apply:

- Disclosure Summary
- Solivita West Community Addendum
- Age Compliance Addendum
- Energy Rating Brochure
- Mold and Mildew Addendum
- Floor Plan and Elevation Plan
- District Brochure
- Features List
- Specimen Warranty Booklet (if requested)
- Addendum Respecting Pending Site Plan and Plat
- Addendum for Natural Stone Floors and Countertops and Manmade Products
- Government Issued Photo ID Card
- Supplement to Bonded Builder's Warranty Group
- Inventory Home Addendum

Buyer Initials	<del>MSH</del>	LSY
Buyer Initials	<del>MSH</del>	LSY
Buyer Initials	<del>MSH</del>	LSY
Buyer Initials	<del>MSH</del>	LSY
Buyer Initials	<del>MSH</del>	LSY
Buyer Initials	<del>MSH</del>	LSY
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Buyer Initials	<del>MSH</del>	LSY
Buyer Initials	<del>MSH</del>	LSY
Buyer Initials	<del>MSH</del>	LSY

- Pool Addendum
- \_\_\_\_\_
- \_\_\_\_\_

Buyer Initials \_\_\_\_\_  
 Buyer Initials \_\_\_\_\_  
 Buyer Initials \_\_\_\_\_

22. Addendum not a Substitute. Buyer acknowledges and agrees that this Addendum is not a substitute for reading the entire Document Book. For a more detailed explanation of any section contained in this Addendum, refer to the Document Book.

23. Counterparts. This Addendum may be executed in counterparts, a complete set of which shall form a single Addendum.

24. Conflicts. Except for conflicts relating to Seller's unconditional obligation to Complete, in the event of any conflict between this Addendum and the Agreement, this Addendum shall control. In all other respects, including the Seller's unconditional obligation to Complete, the Agreement shall remain in full force and effect.

[ADDITIONAL TEXT AND SIGNATURES ON FOLLOWING PAGE]

26. Entire Agreement. The Agreement, together with this Addendum and any other addenda to the Agreement, contains the entire agreement between Buyer and Seller concerning the matters set forth herein. All prior discussions, negotiations and contracts, if any, whether oral or written, are hereby superseded by these documents. No addition or modification of this Addendum or the Agreement shall be effective unless set forth in writing and signed by Buyer and an authorized agent of Seller.

BUYER:



Name: Norman L. Gundel

Date: 12/12/13

BUYER:

Name: \_\_\_\_\_

Date: \_\_\_\_\_

BUYER:



Name: Lynn S. Gundel

Date: 12/12/13

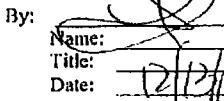
BUYER:

Name: \_\_\_\_\_

Date: \_\_\_\_\_

SELLER:

AVATAR PROPERTIES INC.,  
a Florida corporation d/b/a AV HOMES

By:  Tara Shipley  
Name: \_\_\_\_\_  
Title: vp Finance  
Date: 12/12/13 CFL

**EXHIBIT E**

## SOLIVITA WEST DISCLOSURE SUMMARY

1. AS A BUYER OF PROPERTY IN THIS COMMUNITY, YOU WILL BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS' ASSOCIATION.
2. THERE ARE RECORDED RESTRICTIVE COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN THIS COMMUNITY.
3. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE ASSOCIATION; ASSOCIATION ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. IF APPLICABLE, THE CURRENT AMOUNT OF ASSOCIATION ASSESSMENTS IS [REDACTED] PER MONTH [IF NOT APPLICABLE, MARK N/A]. YOU WILL ALSO BE OBLIGATED TO PAY ANY SPECIAL ASSESSMENTS IMPOSED BY THE ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE. IF APPLICABLE, THE CURRENT AMOUNT IS N/A PER Year [IF NOT APPLICABLE, MARK N/A].
4. IN ADDITION, YOU WILL BE OBLIGATED TO PAY AN INITIAL CONTRIBUTION TO AN ASSOCIATION EXPENSE FUND AT CLOSING. IF APPLICABLE, THE CURRENT AMOUNT OF THE CONTRIBUTION IS [REDACTED].
5. YOU MAY BE OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE RESPECTIVE MUNICIPALITY, COUNTY, SPECIAL DISTRICT, OR COMMUNITY DEVELOPMENT DISTRICT. ALL ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.
6. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR ASSESSMENTS LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION COULD RESULT IN A LIEN ON YOUR PROPERTY.
7. THERE MAY BE AN OBLIGATION TO PAY RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS' ASSOCIATION. IF APPLICABLE, THE CURRENT AMOUNT IS N/A [IF NOT APPLICABLE, MARK N/A].
8. THERE MAY BE AN OBLIGATION TO PAY CLUB DUES IN CONNECTION WITH A MANDATORY CLUB MEMBERSHIP PURSUANT TO A CLUB PLAN. IF APPLICABLE, THE CURRENT AMOUNT OF CLUB DUES IS [REDACTED] PER MONTH INCLUDING APPLICABLE SALES TAX [IF NOT APPLICABLE, MARK N/A]. IN ADDITION, THERE MAY BE AN OBLIGATION TO PAY AN INITIAL CONTRIBUTION TO THE CLUB. THE CURRENT AMOUNT OF THE CONTRIBUTION IS [REDACTED] INCLUDING APPLICABLE SALES TAX.
9. THE DECLARANT [SELLER] MAY HAVE THE RIGHT TO AMEND THE RESTRICTIVE COVENANTS WITHOUT THE APPROVAL OF THE ASSOCIATION MEMBERSHIP OR THE APPROVAL OF THE PARCEL OWNERS.
10. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE ONLY SUMMARY IN NATURE, AND AS A PROSPECTIVE BUYER, YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING DOCUMENTS BEFORE PURCHASING THE PROPERTY.
11. THESE DOCUMENTS ARE EITHER MATTERS OF PUBLIC RECORD AND CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE PROPERTY IS LOCATED, OR ARE NOT RECORDED AND CAN BE OBTAINED FROM THE DECLARANT [SELLER].

THIS DISCLOSURE SUMMARY MAY BE EXECUTED IN COUNTERPARTS, A COMPLETE SET OF WHICH SHALL FORM A SINGLE DISCLOSURE SUMMARY.

BUYER: *Norman L. Gundel*  
Name: Norman L. Gundel  
Date: 12/11/13

BUYER: *Lynn S. Gundel*  
Name: Lynn S. Gundel  
Date: 12/11/13

BUYER:  
Name: \_\_\_\_\_  
Date: \_\_\_\_\_

BUYER:  
Name: \_\_\_\_\_  
Date: \_\_\_\_\_

SALES ASSOCIATE:

SELLER APPROVAL  
(REQUIRED)

AVATAR PROPERTIES INC.,  
a Florida corporation d/b/a AV Homes

By: *Bekky Biondello*  
Name: Bekky Biondello  
Title: \_\_\_\_\_  
Date: 12/11/13

Name: \_\_\_\_\_  
Date: \_\_\_\_\_

SELLER:

Avatar Properties Inc.,  
a Florida corporation d/b/a AV Homes

By: *Tara Shipley*  
Print Name: Tara Shipley  
Title: VP Finance  
Date: 12/11/13 CFL

**EXHIBIT F**

Contract No. 1298136

P. County CBC 049015, CBCA 17970

Check  One:

Check  One:

- CASH
- CONV
- OTHER

**SOLIVITA AT POINCIANA, INC.**

395 Village Drive  
Kissimmee, Florida 34759

- Owner Occupied
- Second Home

**PURCHASE AND SALE AGREEMENT**  
*(Solivita West)*

THIS IS A LEGALLY BINDING AGREEMENT, IF NOT FULLY UNDERSTOOD SEEK COMPETENT LEGAL ADVICE. NO WARRANTIES OR REPRESENTATIONS, OTHER THAN THOSE SPECIFIED IN THIS AGREEMENT, ARE EXPRESSED OR IMPLIED. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF SELLER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS AGREEMENT AND THE DOCUMENT BOOK PROVIDED TO PURCHASER, IF ANY.

THIS PURCHASE AND SALE AGREEMENT ("**Agreement**") is made and entered into effective as of the 10th day of June, 2006 by and between **SOLIVITA AT POINCIANA, INC.**, a Florida corporation ("**Seller**"), and the purchaser(s) named below ("**Purchaser**"):

PURCHASER(S):		<b>Check <input checked="" type="checkbox"/> Applicable:</b>	
1. William F. Mann		M <input checked="" type="checkbox"/> S <input type="checkbox"/> W <input type="checkbox"/> M <input checked="" type="checkbox"/> F <input type="checkbox"/>	
2. Gail W. Mann		M <input checked="" type="checkbox"/> S <input type="checkbox"/> W <input type="checkbox"/> M <input type="checkbox"/> F <input checked="" type="checkbox"/>	
3.		M <input type="checkbox"/> S <input type="checkbox"/> W <input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/>	
4.		M <input type="checkbox"/> S <input type="checkbox"/> W <input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/>	
Purchaser Address: [REDACTED]			
City: [REDACTED]	State / Country: FL	Zip: 32746	
By providing your telephone and fax numbers and your email address, you hereby consent to receiving telephonic, fax and email communications, including advertisements, made or sent by or on behalf of Solivita at Poinciana, Inc. and/or its affiliates.			
Home Telephone: [REDACTED]	Telefax Number:		
Business Telephone Purchaser:	Social Security Number / Passport Number:		
Business Telephone Second Purchaser:	[REDACTED]		
Email Address: [REDACTED]	[REDACTED]		

Purchaser's Initials

*WFM GWM*



Contract No. 1298136

Polk County CBC 049015, CBCA 17970

1 **Purchase and Sale.** Purchaser agrees to buy and Seller agrees to sell to Purchaser (on the terms and conditions set forth below) Model 1545-B Port Royal constructed or to be constructed on the following described property:

Lot 0121 of Solivita West Phase 7B55, as shown in Plat Book 136 at Page 14-18 in Polk County (the "County"), Florida.

Elevation: B Garage (check  preference)  L  R  
Address: 394 Scripps Ranch Road, Kissimmee, FL 34759

The single family residence, the above-described property; improvements constructed or to be constructed thereon, and all appurtenances thereto are collectively referred to in this Agreement as the "**Home**" and are located within Solivita West (the "**Community**"). The lot on which the Home is located will be referred to in this Agreement as the "**Lot**."

2. **Purchase Price and Payments.** The total purchase price ("**Total Purchase Price**") for the Home being purchased hereunder, exclusive of any Closing Costs as described in Section 15 and elsewhere herein, will be as follows:

PURCHASE PRICE	AMOUNT
Base Purchase Price	██████████
Lot Premium	\$ ██████████
Architectural Option(s)	\$ ██████████
<b>TOTAL PURCHASE PRICE:</b>	<b>\$ ██████████</b>

Purchaser shall make the following payments:

PAYMENT	DUE DATE	AMOUNT DUE
Initial Deposit (check, money order, wire, Mastercard®, or Visa®)	Upon Signing of Agreement	\$ ██████████
Additional Deposit (check, money order or wire)	03/10/2007	\$ ██████████
		\$ 0
Amount to be financed		\$ 0
<b>Balance due by cashier's check, or federal wire only (bank check or official check will not be accepted)</b>	<b>At Closing (as defined in Section 14 herein)</b>	<b>\$ ██████████</b>
Initial <u>W.M.</u> Purchaser      Initial <u>S.W.M.</u> Purchaser		
<b>TOTAL (does not include costs of design options)</b>		<b>\$ ██████████</b>

Contract No. 1298136

Any funds paid by Purchaser under the terms of this Agreement to Seller through a check are accepted by Seller subject to collection. Purchaser acknowledges that Seller shall have the right to deposit such checks without such action being deemed acceptance of this Agreement. If any such checks are not paid by the bank after acceptance of this Agreement, Seller shall have the right to cancel this Agreement.

3. Financing and Sale of Other Residence.

3.1. Financing. Purchaser represents and warrants that this Agreement and Purchaser's obligations under this Agreement are not and will not be subject to or contingent upon Purchaser securing financing for the acquisition of the Home unless the parties execute an addendum to this Agreement to that effect on Seller's form provided for such purpose. Purchaser understands and agrees that Purchaser will be obligated to pay "all cash" at Closing. Purchaser will be solely responsible for making Purchaser's own financial arrangements. Seller agrees, however, to cooperate without cost to Seller with any lender Purchaser chooses and to coordinate Closing with such lender, if, but only if, such lender meets Seller's Closing schedule and pays Seller the proceeds of its mortgage at Closing. In the event that the lender does not pay Seller these proceeds at Closing, Purchaser will not be allowed to take possession of the Unit until Seller actually receives the funds and they have cleared the funds and they have cleared.

3.2. Sale of Other Residence. Purchaser represents and warrants that this Agreement will not be subject to or contingent upon Purchaser selling Purchaser's present residence or other property unless the parties execute an addendum to this Agreement to that effect on the Seller's form provided for such purpose. Failure to disclose such contingency will constitute a default by Purchaser and the remedies for Purchaser's default under this Agreement shall apply.

4. Notice. State law requires that the following statement be disclosed to purchasers of residential homes:

**THE BUYER OF A ONE-FAMILY OR TWO-FAMILY RESIDENTIAL DWELLING UNIT HAS THE RIGHT TO HAVE ALL DEPOSIT FUNDS (UP TO TEN PERCENT (10%) OF THE PURCHASE PRICE) DEPOSITED IN AN ESCROW ACCOUNT. THIS RIGHT MAY BE WAIVED, IN WRITING, BY BUYER.**

**WAIVER:**

Purchaser's Initials DM HW M

I/We hereby waive my/our rights under Section 501.1375 of the Florida Statutes to have all deposit funds, up to ten percent (10%) of the Total Purchase Price, deposited in an escrow account.

**NON-WAIVER:**

Purchaser's Initials \_\_\_\_\_

Purchaser is electing to have all deposit funds, up to ten percent (10%) of the Total Purchase Price, deposited in an escrow account. Seller intends to use the deposit funds for construction purposes and may acquire a master surety bond, permitting Seller to obtain the immediate release of such deposit funds from the escrow account as provided in Section 501.1375(5) of the Florida Statutes. If Purchaser does not waive the right to have the deposit funds placed in an escrow account, Purchaser may be debited at closing an amount equal to the premium for the applicable portion of the master surety bond securing such deposit funds. Seller may, if it wishes to utilize deposits up to ten percent (10%) of the Total Purchase Price, acquire a surety bond in the manner provided by law, if such a bond is readily available in the open market, which bond would be payable to Purchaser in the amount of the deposits. Thereafter, the funds in the escrow deposit, up to ten percent (10%) of the Total Purchase Price, may be released to Seller for construction purposes only. If a surety bond is not readily available to Seller, Seller may borrow money in an amount equal to the funds held in escrow for construction purposes only, in which case any interest which Seller pays on such a loan for a period not to exceed twelve (12) months shall be paid by Purchaser to Seller at Closing, but Purchaser shall be credited for any interest accrued on the escrowed funds. The following is an example of Purchaser's interest, debit/credit entitlement referred to above: assuming a \$10,000.00 deposit, with Seller borrowing at an interest rate of ten percent (10%) per annum, an escrow interest rate of five percent (5%) and a twelve (12) month construction period, Seller's interest cost would be \$1,000.00, \$500.00 in interest would accrue on the escrow account, and \$500.00 would be an additional cost to Purchaser at Closing.

Seller hereby advises Purchaser that, unless Purchaser waives the escrow account requirement referenced above, Seller will either acquire a master surety bond or surety bond in the manner provided by law, or borrow funds in the amount of the escrowed deposits and will charge Purchaser interest at the rate paid by Seller, less the interest accrued on the escrow account. Purchaser is further advised that once construction of the Home has commenced, Seller will use the deposits in excess of ten percent (10%) of the Total Purchase Price in the actual construction and development of the Home.

5. Credit Information Authorization. Purchaser authorizes the individual or entity to whom Purchaser has applied for a mortgage loan in connection with this transaction ("**Lender**"), to disclose to Seller the information contained in any loan application, verifications of deposit, income and employment, and credit reports or credit related documentation on Purchaser. Purchaser authorizes Seller to order one or more credit reports from a consumer reporting agency to be used in connection with this transaction. The cost of said report(s) is (are) to be paid by Purchaser. Purchaser authorizes Seller to forward all copies of all or any portion of such report(s) without interpretation to Lender, or to any lender who (at the request of Purchaser) will evaluate a potential extension of credit to Purchaser, in connection with this transaction. Purchaser authorizes the Lender, and any credit bureau or other person or entity utilized or engaged by Lender, to obtain one or more consumer reports regarding Purchaser and to investigate any information, reference, statement, or data, provided to Lender by the Purchaser or by

Purchaser's Initials DM HW M

Contract No. 1298136

any other person or entity, pertaining to Purchaser's credit and financial status. Purchaser shall indemnify and hold harmless Lender and Seller, and any credit bureau or other person or entity utilized or engaged by Lender or Seller, for any damages or liability arising from an investigation of Purchaser's credit and financial status.

6. Title Insurance, Mortgage Loan and Closing Costs

6.1 Purchaser has a right to use a title company and a lender chosen by Purchaser in connection with the purchase of the Home. If the (a) purchase of the Home is a cash transaction without financing, and Purchaser elects to use Prominent Title Insurance Agency, Inc. ("**Prominent**"), a title company affiliated with Seller, or (b) purchase of the Home will be financed, and Purchaser elects to use both Prominent and a lender as may be named by Seller on the Approved Lender Addendum attached hereto and made a part hereof ("**Approved Lender**"), then Seller shall pay the Home Impact Fee (as hereinafter defined). In order to assure that the title work and the loan application process are commenced promptly, Purchaser must select the title company and lender, and advise Seller of the election, either simultaneously with the execution of this Agreement or within ten (10) days of the date of this Agreement. Please check (  ) one of the boxes below and place your initials below the selected text. By initialing on the line provided by the selected text, Purchaser also acknowledges receipt of the Affiliated Business Arrangement Disclosure Statement which discloses the affiliation of Seller with Prominent.

(1)  Purchaser elects to use both Prominent and Approved Lender (or such other lender named on the Approved Lender Addendum).

Purchaser's Initials JWM YWM

(2)  Purchaser intends to purchase the Home without financing (i.e., will not obtain financing from any lender) but elects to use Prominent.

Purchaser's Initials \_\_\_\_\_

(3)  Purchaser elects to use a title company other than Prominent and/or a lender other than Approved Lender (or any other lender named on the Approved Lender Addendum).

Purchaser's Initials \_\_\_\_\_

(4)  Purchaser shall notify Seller within ten (10) days of the date of this Agreement of its election of option (1), (2) or (3) by delivering to Seller the Election Form Amendment attached hereto.

Purchaser's Initials \_\_\_\_\_

6.2 If Purchaser selects option (1) or (2) in Section 6.1 above, Seller will pay the Home Impact Fee only if the election is made within the time period noted above. Regardless of whether Seller pays such costs, Purchaser will pay all other loan and Closing Costs including, without limitation, the title search fee, title exam fee and settlement fee.

6.3 Notwithstanding the foregoing selection, Seller is not required to furnish Purchaser with an abstract of title, title insurance commitment or title insurance policy. Purchaser shall deliver to Seller a copy of the title insurance commitment, obtained by Purchaser in connection with the purchase of the

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Home, no later than twenty (20) days before Closing. If Purchaser and/or Purchaser's lender will seek to obtain title insurance, Purchaser's failure to deliver the title insurance commitment to Seller during the time set forth in this Section shall constitute a default under this Agreement. Prominent shall act as the closing agent for Seller.

Purchaser's Initials

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7. Construction Financing. Seller may borrow construction money from Seller's own lender to construct the Community and/or the improvements on the land comprising the Home. Purchaser acknowledges that any lender advancing construction funds will have a first mortgage on the Home until Closing. At that time, Seller may use all of the Closing proceeds to release the Home from the lien of the construction mortgage. This Agreement and the Deposit hereunder will not give Purchaser any lien or claim against the Home, and Purchaser's rights hereunder shall at all times from the date hereof be subordinate to those of any lender holding a mortgage, whether or not such mortgage secures the advancement of construction funds and even if such mortgage is placed of record and encumbers the Home after the date of this Agreement.

8. Seller's Construction Specifications.

8.1 Generally. Seller reserves the right (i) to position the Home on the Lot in the location it deems, in its sole and absolute discretion, acceptable, notwithstanding whether such lot is a standard homesite, oversized, corner or pie-shaped lot, provided such positioning of the Home complies with applicable governmental regulations, and (ii) to make variations to the site plan based upon constraints applicable to the Lot. The materials, equipment and fixtures included in and to be used in constructing the Home will be substantially the same as or similar in quality to those described in the applicable plans and specifications and in the model (except as to extras, options and/or upgrades), if a model has been constructed. Seller has the absolute right to make modifications to the plans and specifications. Without limiting the generality of the foregoing, Purchaser specifically agrees that minor changes in the dimensions of rooms and patios, entrances and terraces, if applicable, and changes in the locations of windows, doors, walls, partitions, utility lead-ins and outlets (including, but not limited to electrical, cable television, and telephone), air-conditioning components, lighting fixtures and electrical panel boxes may be made by Seller. Such changes may also include, but are not limited to, minor changes in the building location, setbacks and facing, the building's external configuration, its structural components, its finishes and the landscaping associated therewith. It is widely observed construction industry practice for pre-construction plans and specifications for any home or building to be changed and adjusted from time to time in order to accommodate on-going, "in the field" construction factors. These changes and adjustments are essential in order to permit all components of the Home to be integrated into a well-functioning and aesthetically pleasing product in an expeditious manner. Based on the foregoing, Purchaser acknowledges that such changes may occur and agrees that it is reasonable and to Purchaser's benefit, to allow Seller the flexibility to make such changes to the Home. Purchaser further understands and acknowledges that many of the Homes to be constructed within the Community require floor plans which are opposite ("flipped") mirror images of the model floor plan and that Seller's agents and/or representatives have fully explained and reviewed this fact with Purchaser and Purchaser fully understands and accepts the floor plan configuration for the Home and improvements to be constructed within the Home. Purchaser further understands and agrees that the following items (which may be seen in models or shown in illustrations) may not be included with the sale of the Home: wall coverings, paint colors, accent light fixtures, wall ornaments, drapes, blinds, bedspreads, furniture, furnishings, wet bars, monitoring systems, certain built-in fixtures, special floor coverings, wood trim, upgraded items and/or any other items of this nature which may be added or deleted from time to time. This list of items (which is not all-inclusive) is provided as an illustration of the type of items built-in or

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placed upon models or shown in illustrations strictly for purposes of decoration and example only. By initialing below Purchaser acknowledges having received a features list and a floor plan.

Purchaser's Initials

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8.2. Variations. Purchaser further understands and agrees that certain of the finishing items, such as tile, marble, carpet, cabinets, stone, brickwork, wood, paint, stain and mica are subject to size and color variations, grain and quality variations, and may vary in accordance with price, availability and changes by manufacturers from those shown in the model, if any, or in illustrations or brochures or those included in the specifications. Furthermore, if circumstances arise that, in Seller's opinion, warrant changes of suppliers, manufacturers, brand names or items, Seller reserves the right to substitute equipment, materials, appliances, etc., which in Seller's opinion are considered to be of quality substantially similar or equal, or of better quality, subject to their availability. Purchaser also understands that Seller has the right to substitute or change materials and/or stain colors utilized in wood decor, if any. Purchaser acknowledges and understands that the plans and specifications on file for the Home with applicable governmental authorities may not be identical to Seller's plans and specifications because Seller's construction requirements may result in changes (there being no legal requirement to file all changes with such authorities). As a result of the foregoing, Purchaser and Seller both acknowledge and agree that: **The Home, the Community and the Master Community may not be constructed in accordance with the plans and specifications on file with the applicable governmental authorities. Without limiting the generality of Section 18 of this Agreement, Seller disclaims and Purchaser waives any and all express or implied warranties that construction will be accomplished in compliance with such plans and specifications. Seller has not given and Purchaser has not relied on or bargained for any such warranties. In furtherance of the foregoing, in the event of any conflict between the actual construction of the Home, the Community and/or the Master Community, and that which is set forth on the plans and specifications. Seller has not given and Purchaser has not relied on or bargained for any such warranties. In furtherance of the foregoing, in the event of any conflict between the actual construction of the Home, the Community and/or the Master Community, and that which is set forth on the plans and specifications, Purchaser agrees that the actual construction shall prevail and to accept the Home, Community, and Master Community as actually constructed (in lieu of what is set forth on the plans and specifications). Seller will provide Purchaser, when available, with a checklist of color and/or material choices for those items for which Purchaser will have a choice, if any (in Seller's sole discretion). Purchaser agrees to complete and return the color and/or material selections so that the same are received by Seller no later than (75) days prior to the estimated date of commencement of construction of the Home (Seller will provide written notification to Purchaser of such commencement date). If Purchaser fails to complete and return the color and/or material selections prior to the time specified above, Purchaser understands that all choices will be made by Seller and Purchaser will have no reason to object to those choices. Colors of all items and materials not included in that checklist will be selected by Seller. Dimensions of your Home may differ from those reflected in brochures, advertisements, artists' renderings and marketing floor plans. Actual dimensions may vary upon completion of the Home. Purchaser hereby acknowledges that Purchaser has been informed by Seller that there will be a \$500.00 fee applicable to each lot transfer, elevation, model or garage preference change made by Purchaser after execution of this Agreement by Purchaser. Additionally, Purchaser understanding that if Purchaser changes Purchaser's Lot to a different phase or changes the model of the Home, the pricing in affect at the time of the change will be applicable therefor.**

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Purchaser's Initials

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8.2.1 Wood Variations. Purchaser acknowledges that Seller has informed Purchaser that it is the nature of real hardwood to have a variety of colors and grain textures. When working with natural materials, it is not possible for the manufacturer of the wood cabinets to make doors and drawers that match one another or match wood moldings within the Home. Additionally, due to such variety, wood moldings within the Home may not match one another. Purchaser further acknowledges that unusual or inconsistent grain patterns will not constitute a reason for replacement of the wood cabinets or wood moldings.

8.3 Landscaping. Purchaser further agrees and understands that trees and landscaping which are located within the Community and/or Master Community may be removed during the construction or development process. While Seller has taken great care during the planning and construction of the Community and Master Community to save trees, future development and construction will require the removal of additional trees, shrubs, and other foliage and, therefore, Seller does not guarantee the preservation of any trees, shrubs, ground cover, or other foliage in the Community, the Master Community, or the Lot, and cannot be responsible for short or long-term damages to foliage due to construction or development activities. Seller does not guarantee the location, replacement or survival of any trees and/or landscaping which are left or planted on any portion of the Community. Any loss of trees, shrubs, annuals, or other landscaping shall in no way obligate Seller to replace them.

9. Completion Date. It is anticipated that construction of the Home will be completed by December 10, 2007 (the "Estimated Completion Date"). This Estimated Completion Date of construction of the Home is Seller's present estimate and is neither a representation nor a warranty that construction of the Home will be completed by that date. The Home may be completed prior to or after the Estimated Completion Date. Seller is required to complete and does agree that the construction of the Home will be completed within a period of two (2) years of Purchaser's execution of this Agreement (the "Required Completion Date"). If construction is delayed by events constituting acts of God, impossibility of performance or frustration of purpose, the Required Completion Date shall be extended by the delay period. It is the express intent of the parties that the parties' rights and obligations under this Agreement be construed in the manner necessary to exempt this Agreement and the sale of the Home from registration under the Interstate Land Sales Full Disclosure Act, and both Purchaser and Seller hereby expressly waive any right or provision of this Agreement that would otherwise preclude any exemption.

10. Inspection Prior to Closing.

10.1 Purchaser will be given a reasonable opportunity to inspect the Home with Seller's representative prior to Closing, and at that time Purchaser will sign a "New Home Orientation List" stating any defects in workmanship or materials or incomplete items which Purchaser discovers. Any such incomplete or defective items not so listed which are apparent or visible shall be deemed accepted by Purchaser and any claim related thereto forever waived. If any item listed is actually defective in workmanship or materials in Seller's opinion (in accordance with construction standards prevalent for a similar home in the county where the Community is located), Seller will be obligated to correct those defects at Seller's cost within a reasonable period of time after Closing, but Seller's obligation to correct will not be a ground for deferring the Closing, nor for any setoff, nor for imposing any condition on Closing as long as the Home is habitable. By way of example, a failure to install screening shall not delay Closing. The issuance of a certificate of occupancy or use shall be conclusive evidence of habitability. Purchaser shall have no right to require escrows or hold backs of closing funds, and none will be permitted. If Purchaser fails to take advantage of the pre-closing inspection on the time and date scheduled by Seller, Purchaser shall be deemed to have waived his/her rights to submit a New Home Orientation List to Seller.

10.2 Purchaser acknowledges that all matters pertaining to the initial construction of the Home will be performed by Seller and Seller's representatives. Purchaser acknowledges and agrees that for reasons of safety and to comply with liability and insurance requirements imposed upon Seller, neither Purchaser nor any agent of Purchaser shall, until after the Closing, be permitted to enter upon the Home without Seller's prior written approval. Purchaser agrees not to interfere with or interrupt any workmen at the Home. Any personal inspections shall be made at times designated by Seller and upon written permission of Seller, and shall not be allowed under any condition prior to the formal inspection described above and only with Seller's representative. Purchaser may not order any work on the Home, other than options, upgrades and/or extras that Seller has agreed in writing to provide, until after the Closing. Purchaser recognizes that Seller is under no obligation to agree to provide options, extras and/or upgrades. Without limiting the applicability of this Section to all obligations, representations and covenants of Purchaser hereunder, Purchaser specifically acknowledges that any breach by Purchaser of the terms and conditions contained within this Section shall be deemed to be a "material breach" and shall entitle Seller to declare this Agreement to be in default in accordance with the provisions of Section 16 hereof. Seller's failure to promptly take any action with respect to Purchaser's breach of the terms and conditions contained herein shall not be deemed a waiver of any of Seller's rights or remedies hereunder. Whenever this Agreement shall require the Seller to complete or substantially complete an item of construction, unless provided specifically to the contrary herein, such item shall be deemed complete or substantially complete when so completed, in the sole and unfettered opinion of the Seller. Without limiting Seller's rights contained within Section 8 hereof, should Seller fail to provide any item of construction required to be provided or any option, extra and/or upgrade, Purchaser's sole remedy therefor will be to collect an amount from Seller equal to Seller's cost for such item and for Seller's cost of installation of such item had such item been installed at the appropriate time during construction. Without limiting Seller's rights and Purchaser's obligations contained within this Section and elsewhere in this Agreement, should any defects in workmanship or materials be discovered before or after the Closing, Purchaser agrees that Purchaser's sole remedy therefor is for Seller to repair or replace the defective item at Seller's sole and absolute discretion. To the extent permitted by applicable law, Seller disclaims any liability for incidental or consequential damages that may arise from a defective item.

11. Damage to Home. If between the date of this Agreement and the Closing, the Home is damaged by fire, natural disaster or other casualty, the following shall apply:

11.1 Risk of loss to the Home by fire, natural disaster, acts of terrorism or other casualty until the Closing is assumed by Seller, but without any obligation by Seller to repair or replace the Home, except that if Seller elects to repair or replace such loss or damage to the Home, this Agreement shall continue in full force and effect and Purchaser shall not have the right to reject title or receive a credit against or abatement in the Total Purchase Price. If Seller elects to repair or replace such loss or damage, Seller shall be entitled to a reasonable period of time within which to complete such repairs or replacement. Any proceeds received from insurance or in satisfaction of any claim or action in connection with such loss or damage shall belong entirely to Seller. If such proceeds shall be paid to Purchaser, Purchaser agrees that such funds are the property of Seller and Purchaser shall promptly upon receipt thereof turn the same over to Seller. If Seller notifies Purchaser that Seller does not elect to repair or replace any such loss or damage to the Home, then this Agreement shall be deemed terminated and of no further force or effect. Seller shall refund to Purchaser all monies deposited hereunder whereupon the parties shall be released and discharged of all claims and obligations hereunder, except that if Purchaser is then otherwise in default hereunder, Seller shall retain all or a portion of the Deposit and of the deposits for options, extras and/or upgrades as and for liquidated damages as provided in Section 16 hereof.



11.2 Risk of loss to the Home by fire, natural disaster, acts of terrorism or other casualty from and after Closing is assumed by Purchaser. Purchaser should be aware that the Home, however well constructed, may be subject to damage or destruction by naturally occurring events such as hurricanes and sinkholes. While Seller has no knowledge of sinkholes or naturally occurring gases such as radon in the immediate vicinity of the Home, all risks associated with all natural occurrences shall be borne by Purchaser from and after Closing.

12. Documents. Purchaser acknowledges receipt of the Document Books for the Community and the Master Community (the "**Document Books**") containing important documents regarding the Community and Master Community. Purchaser should be aware that the Document Books do not include all of the documents affecting the Home, the Community, and the Master Community (collectively, the "**Documents**"), however, all of the provisions of each of the Documents and the explanations, disclaimers and limitations set forth therein are incorporated by reference into this Agreement. Purchaser acknowledges that Seller has the right to amend such Documents as deemed necessary by Seller in its sole and absolute discretion. Purchaser agrees to take title to the Home subject to the Documents, to abide by and be bound by all of the terms and conditions of the Documents, and any amendments thereto. Notwithstanding any other provision herein to the contrary, in the event that this Agreement is terminated for any reason whatsoever, Purchaser shall return the Document Books to Seller in the same condition originally received (ordinary wear and tear excepted). If the Document Book is not returned upon termination of this Agreement, Seller shall be entitled to deduct \$75.00 from any portion of the Deposit to be refunded to Purchaser as a result of the termination, to defray Seller's costs and expenses resulting from the preparation, printing and delivery of the Document Books. Purchaser understands and agrees this Section shall survive the termination of this Agreement.

12.1 Association Memberships. Upon conveyance and recording of the Deed to the Home, Purchaser understands and agrees that Purchaser will then become a member of the Solivita West Community Association, Inc., a Florida not-for-profit corporation (the "**Community Association**"). Purchaser agrees to accept the liability and obligations of such membership. Purchaser understands that as a member of the Community Association, Purchaser will be required to pay Assessments (as defined in the Document Book) for the maintenance of the Common Areas (as defined in the Document Book) and for such other uses and purposes as are provided for in the Document Book. Purchaser also understands and agrees that a failure to pay Assessments when due could cause the Community Association to record a lien on the Home and to foreclose such lien. Purchaser further acknowledges that the Community Association is a member of the Association of Poinciana Villages, Inc. (the "**Master Association**"). Purchaser acknowledges that a portion of Assessments due by Purchaser to Community Association may be for operating expenses of the Master Association and may be paid by Community Association to Master Association. Purchaser acknowledges that nominees of Seller, the developer of the Community and the Master Community, may serve as the initial officers and directors of the Community Association. The officers and directors and the management company, which may be an affiliate of Seller, are authorized by Purchaser to act for and on behalf of the Community Association.

12.2 Architectural Control Committee and Design Control Board. Purchaser acknowledges that all new construction and modifications of existing construction and exteriors of improvements within the Community are subject to the prior written approval of the Architectural Control Committee of the Community Association (the "**ACC**") and/or Design Control Board of the Master Association (the "**DCB**"), as applicable. Purchaser agrees to comply with all rules and regulations of the ACC and the DCB, as the same may be amended and exist from time to time. Purchaser agrees not to commence any construction upon any property within the Community until after the ACC and/or the DCB has given its written approval therefor. Purchaser further agrees not to make any modifications of any existing buildings and improvements including, but not limited to, landscaping and landscape irrigation, without

the prior written approval of the ACC and/or the DCB, as applicable.

12.3 Club Solivita Mandatory Social Membership. In addition to memberships within the Community Association, each Home has an appurtenant mandatory membership in the Solivita Club (the "**Club**") pursuant to the recorded Solivita Club Plan, as amended (the "**Club Plan**"). The Club Plan outlines the terms of such membership and use of the Club and each Owner's (as defined in the Club Plan) obligation to pay a pro rata portion of the Club Dues (as defined in the Club Plan) including, without limitation, the Club Membership Fee (as defined in the Club Plan). Purchaser also understands and agrees that a failure to pay Club Dues when due could cause Club Owner (as defined in the Club Plan) to record a lien on the Home and to foreclose such lien. At this time Club Owner is the same entity as Seller or an entity related to Seller. Purchaser acknowledges that Club Owner shall have the right to manage and control the Club in its sole and absolute discretion.

12.3.1 Club Owner has constructed or will construct, at its sole cost and expense, certain recreation facilities which may include, without limitation, a fitness building with exercise room, equipment and lockers, clubhouse meeting room, tot lot, spa, and one or more outdoor swimming pools, (subject to Club Owner's paramount right to unilaterally, and without the joinder of any party whatsoever, add to, alter, modify and change such recreation facilities), together with such equipment and personalty as Club Owner determines in its sole and absolute discretion. Purchaser acknowledges that portions of the Club, in addition to being located at the main Club site, may, but are not required to be, located within the Community. Neither Club Owner nor Developer warranties as to what recreational facilities will be constructed in the future or where any such recreational facilities will be located within the Community.

12.3.2 Portions of the Club available to members of the Community Association shall be used and enjoyed by Purchaser on a non-exclusive basis, in common with such other persons, entities, and corporations that may be entitled to use the Club under the terms of the Club Plan.

12.3.3 By accepting a Deed to the Home, Purchaser acknowledges that: (i) it is in the best interest of Purchaser, the Master Association, the Community Association, the Community and the Master Poinciana as a whole, and property values therein, to provide for the Club to be located within the Master Community; (ii) the terms of the Club Plan relating to the Club and the Club Charges imposed thereby, including the Club Fee, are fair and reasonable given the nature of the Club amenities, provided and the cost thereof; (iii) there were significant other housing opportunities available to the Purchaser in the general location of the Community, both with and without a Club; (iv) the Club, and the right to use the Club were, for purposes of this acknowledgment, important to the Purchaser and Purchaser would not have purchased the Home without the right to use the Club; (v) full disclosure of the nature of the Club and obligations associated therewith was included in the Club Plan given to Purchaser prior to Purchaser executing the Agreement; (vi) the fact that Club Owner is, or may be, affiliated with the Seller, is acknowledged; and (vii) the provisions of the Club Plan do not grant any ownership rights in the Club in favor of the Master Association, Community Association or Purchaser but, rather, grant a non-exclusive license to use portions of the Club available to members of the Master Association and Community Association subject to full compliance with all obligations imposed on each of them relating thereto.

12.4 Pet Restrictions. Purchaser understands that the only pets allowed in the Master Community, the Community, and the Club are those which are in accordance with the restrictions contained in the Document Books or any amendments thereto.

13. Closing Date. Without limiting Section 9 of this Agreement, Purchaser acknowledges and agrees

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that Seller has the right in its sole discretion to schedule the date, time and place for the closing of the transaction contemplated by this Agreement (the "Closing") and that Purchaser shall close on such Closing date. Prior to the Closing, a temporary or permanent certificate of occupancy or use covering the Home shall be issued by the proper governmental agency. Seller reserves the right to schedule the Closing on an earlier or later date than the Estimated Completion Date. Purchaser will be given at least ten (10) days notice of the Closing date, time and place. Seller is authorized to postpone the Closing at its discretion. Seller must, however, give Purchaser reasonable notice of the new Closing date. Any notice of Closing may be given verbally, by telephone, telefax, mail or other means of communication at Seller's option. An affidavit of one of Seller's representatives that such notice was given will be conclusive for purposes of proving that notice was given. All notices will be given to Purchaser at the address or by use of the telephone number(s) specified on Page 1 of this Agreement unless Seller has received written notice from Purchaser of any change therein prior to the date notice of Closing is given. The fact that Purchaser fails to receive the notice of Closing because Purchaser has failed to advise Seller of any changes of address or phone number, or because Purchaser has failed to pick up a letter when Purchaser has been advised of an attempted delivery or for any other reason, shall not relieve Purchaser of Purchaser's obligation to close on the scheduled date, unless Seller otherwise agrees in writing to postpone the Closing date. If Seller agrees in writing to reschedule the Closing at Purchaser's request or because Purchaser (if a corporation) has failed to produce all corporate documents requested by Seller, or for any other reason (except for delay required by Seller), Seller may impose a late charge equal to One Hundred Twenty Five Dollars (\$125.00) per day for every day that the scheduled Closing is delayed and proration shall be as of the original Closing date. Purchaser agrees the late charge is appropriate in order to cover Seller's administrative and other expenses resulting from a delay in Closing. Seller is not required to agree to reschedule Closing, but Seller may reschedule Closing in Seller's sole discretion.

14. Closing. Title to the Home to be delivered to Purchaser at Closing will be marketable and insurable, subject only to those matters hereinbelow set forth. In connection therewith:

14.1 Title to the Home shall be subject to the following: (1) zoning, building codes, bulkhead laws, ordinances, regulations, rights or interests vested in the United States of America or the State of Florida; (2) real estate taxes and other taxes for the year of conveyance and subsequent years including taxes or assessments of any special taxing or community development district (including assessments relating to capital improvements and bonds); (3) the general printed exceptions contained in an ALTA Owner's Title Insurance Policy; (4) utility easements, sewer agreements, telephone agreements, cable agreements, telecommunication agreements, monitoring agreements, restrictions and reservations common to any plat affecting title to the Home; (5) the Documents; (6) any laws and restrictions, covenants, conditions, limitations, reservations, agreements or easements recorded in the Public Records (for example, property use limitations and obligations, easements (right-of-way) and agreements relating to telephone, gas or electric lines, water and sewer lines and drainage, provided they do not prevent use of the Home for single family residential purposes); and (7) acts done or suffered by Purchaser and any mortgage obtained by Purchaser for the purchase of the Home. It is Purchaser's responsibility to review and become familiar with each of the foregoing title matters, some of which are covenants running with the land. If any title defects are discovered by Purchaser after Closing, Purchaser's sole remedy shall be to make a claim to Purchaser's title insurer. Purchaser agrees for Purchaser and Purchaser's heirs, personal representatives, successors and assigns to observe and be bound by all of the terms and conditions of the matters set forth above and those matters in the Document Book recorded or to be recorded in the Public Records.

14.2 Seller is not required to furnish Purchaser with an abstract of title. If desired, Purchaser may obtain the same at Purchaser's expense.

14.3 Seller shall convey title to Purchaser at Closing by delivery to Purchaser of a Special Warranty Deed (the "**Deed**") describing the Home which shall convey title to Purchaser subject to the Documents and all matters described in Section 14.1 above, and any such matters omitted from the Deed shall nevertheless be deemed to be included in the Deed. This Section shall expressly survive Closing and the delivery of the Deed. The acceptance of the Deed by Purchaser shall be deemed to be full performance and discharge of every agreement and obligation on the part of Seller to be performed pursuant to this Agreement, except those which are herein specifically deemed to survive Closing or which may survive by operation of law (if any).

14.4 Seller shall provide an affidavit complying with the Foreign Investment in Real Property Tax Act of 1980, as amended, upon the written request of Purchaser.

14.5 Seller may not own title to the Home or Lot on the date of execution of this Agreement or at Closing; however, Seller shall obtain title to the Home or effect the necessary transfer of title on or before the date of Closing or cause title to be transferred to Purchaser at Closing.

14.6 If Seller cannot provide marketable and insurable title as described above, Seller will have a reasonable period of time (at least one hundred twenty (120) days) from the date of the scheduled Closing to attempt to correct any defects in title; provided, however, Seller shall not be obligated to incur any expense to clear title to the Home. If Seller cannot or elects not to correct the title defects, Seller shall so notify Purchaser within such period, and Purchaser may thereafter elect (by written notice from Purchaser to Seller) one of the following two (2) options: (1) to accept title in the condition offered (with defects) and pay the balance of the Total Purchase Price for the Home (without set off or deduction therefor), thereby waiving any claim with respect to such title defects and Purchaser will not make any claims against Seller because of the title defects; or (2) to terminate this Agreement and receive a full refund of all monies deposited hereunder. If all monies deposited hereunder are refunded, Purchaser agrees to accept it as full payment of Seller's liability hereunder, whereupon this Agreement shall be terminated and Seller shall thereafter be relieved and released of all further liability hereunder. Purchaser shall not thereafter have any rights to make any additional claims against Seller. In the event Purchaser does not notify Seller in writing within five (5) business days from the receipt of Seller's notice (time being strictly of the essence) as to which option Purchaser elects, Purchaser shall be conclusively presumed to have elected option (2) set forth above. Purchaser shall be responsible for any pending and proposed liens, taxes and/or assessments for public improvements. Seller will be responsible for public improvement liens which have been certified as of the date of Closing. At Closing, Purchaser agrees to pay to Seller the balance of the Total Purchase Price and any additional amounts Purchaser owes under this Agreement by cashier's check drawn on a bank approved by Seller or by wire transfer. Official check, bank check or personal check will not be accepted.

15. Closing Costs. PURCHASER UNDERSTANDS AND AGREES THAT IN ADDITION TO THE BALANCE OF THE TOTAL PURCHASE PRICE, PURCHASER SHALL PAY CERTAIN OTHER FEES AND CLOSING COSTS AT CLOSING ("**CLOSING COSTS**"). These extra charges include, without limitation:

15.1 The premium for a policy of owner's title insurance, the cost of the documentary stamp taxes on the Deed, and the cost to record the Deed. In addition, Purchaser shall pay all title search fees and other Closing expenses of Purchaser.

15.2 Customary Closing Costs of a purchaser, including but not limited to items such as loan fees, loan closing costs and all other related sums, attorneys' fees, escrows for taxes and insurance,

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recording fees, documentary stamp taxes on the note, intangible taxes, credit reports and PMI insurance, if applicable, charged by Purchaser's lender or otherwise customary for a purchaser at Closing

15.3 Title search updates, settlement closing fee(s), title examination fees, and any other Closing expenses of Purchaser.

15.4 All additional costs respecting the Home imposed by any governmental authority.

15.5 The cost of a survey of the Home.

15.6 Certified governmental liens (liens which can be paid pursuant to written notice), if any, shall be assumed and paid by Seller; pending governmental improvement liens shall be paid and assumed by Purchaser.

15.7 A pro rata share of waste fees.

15.8 Assessments payable to the Community Association, prorated for the month in which the Closing occurs (based on the then current Assessments at the time of Closing). Assessments are estimated to be [REDACTED] per month at this time. Purchaser understands that the estimated operating budget for the Community Association is only an estimate of what it will cost to run the Community Association. The Community Association may make changes in the budget at any time to cover increases or decreases in expenses or estimates in the budget. Without limiting the generality of this Section, those changes will not give Purchaser any right to cancel this Agreement.

15.9 An initial contribution to the Community Association Initial Expense Fund (as defined in the Documents) which is payable to the Community Association equal to [REDACTED]. The purpose of this fund is to insure that the Community Association will have cash available to meet its obligations, unforeseen expenditures, or to acquire additional property, equipment or services deemed necessary or desirable. Amounts paid into the fund are not to be considered as advance payment of Assessments.

15.10 An initial contribution to the Club Contribution Fund (as defined in the Documents) in an amount equal to [REDACTED] payable to the Club Owner. The purpose of the Club Contribution Fund is to insure that Club Owner will have cash available to meet its obligations, unforeseen expenditures, or to acquire additional property, equipment or services deemed necessary or desirable in Club Owner's sole and absolute discretion. Amounts paid into such fund are not to be considered as advance payments of Club Dues (as defined in the Documents).

15.11 Club Dues payable to Club Owner, prorated for the month in which the Closing occurs. Club Dues are estimated to be [REDACTED] per month at this time (based on the then current Club Dues at the time of Closing). Purchaser understands that the estimated operating budget for the Club is only an estimate of what it will cost to run the Club. Club Owner may make changes in the budget at any time to cover increases or decreases in expenses or estimates in the budgets. Without limiting the generality of this Section, such changes will not give Purchaser any right to cancel the Agreement.

15.12 Current expenses of the Home (for example: taxes, special assessments and current monthly assessments to one or more homeowners' associations) will be adjusted between Seller and Purchaser as of the date of the original Closing date. Purchaser shall reimburse Seller for any prepaid expenses of the Home such as utility deposits, insurance premiums, local interim service fees, cable fees, assessments and capital contributions made to one or more homeowners' associations paid by Seller in advance and/or for the month of Closing.

15.13 If real estate taxes for the year of Closing are assessed in the aggregate on the land comprising the portion of the Community including the Home rather than on a Lot-by-Lot basis, Seller will pay such taxes in full when due, but Purchaser will reimburse Seller at the Closing Purchaser's pro rata share of such taxes from the date of the Closing (if such taxes are then known) or the Home's allocable share (so prorated) of Seller's estimate of those taxes (if such taxes are not then known), subject to readjustment at either the request of Seller or Purchaser within six (6) months from when the actual tax bill is known. If taxes for the year of Closing are assessed on a Lot-by-Lot basis but such taxes are not due on the date of the Closing, Purchaser will be responsible for paying such tax bill in full when due but Seller will reimburse Purchaser at the Closing, Seller's pro rata share of such taxes (if the taxes are then known) or the Seller's estimate of those taxes (if such taxes are not then known) through the date of Closing, subject to readjustment at either the request of Seller or Purchaser within six (6) months from when the actual bill is known. If the Closing takes place after Seller has paid the taxes for the year of the Closing, Purchaser will reimburse Seller at the Closing for Purchaser's pro rata share of those taxes from the date of Closing.

15.14 The cost of any modifications or changes which are incurred by Seller as a result of changes in building codes, governmental rules, regulations or requirements, or the enforcement of any of the same, after the date of this Agreement, shall be paid by Purchaser at the time of Closing.

15.15 Subject to Section 6, the cost and/or charge associated with the sewer and water system capacity impact fees of the Florida Governmental Utility Authority pertaining to the service connections for the Home ("**Home Impact Fee**"). While such fees are subject to change by the Authority, the Seller estimates the current fees at [REDACTED].

16. Default.

16.1 Purchaser's Default. Should Purchaser fail to close on the title to the Home as herein provided, or fail to perform or observe any of the Purchaser's obligations hereunder, Seller may, at its option, terminate this Agreement by notice to Purchaser, which termination will be effective upon the giving of such notice. In such event, the portion of the Deposit equal to or less than ten percent (10%) of the Total Purchase Price shall be retained by Seller as liquidated and agreed upon damages for Purchaser's default, and all rights and privileges hereunder shall thereafter terminate; or, in the alternative, Seller shall have the right of specific performance. The portion of the Deposit in excess of ten percent (10%) of the Total Purchase Price, if any, shall be returned to Purchaser. Notwithstanding the foregoing, any deposits or payments for options, extras and/or upgrades shall also be retained by Seller as liquidated and agreed upon damages. Seller has removed the Home from the market and has incurred substantial direct and indirect expenses relative to sales, models, advertising and similar items, and Purchaser recognizes that no method could determine the precise damage resulting from Purchaser's default and that such liquidated damages are a fair and reasonable remedy. The termination of this Agreement and the retention of the portion of the Deposit equal to or less than ten percent (10%) of the Total Purchase Price and the retention of deposits or payments for options, extras and/or upgrades, as liquidated and agreed upon damages, shall be the Seller's sole remedy in the event of Purchaser's default, and upon termination of the Agreement, neither party shall have any further obligation to the other. Any damage or loss that occurs to the Home while Purchaser is in default will not affect Seller's right to retain that portion of the Deposit equal to or less than ten percent (10%) of the Total Purchase Price as liquidated damages to the extent provided herein. The provisions of this Section shall survive the

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termination of this Agreement.

16.2 Seller's Default.

16.2.1 Prior to Closing.

16.2.1.1 Notice. Purchaser shall give written notice to Seller following Seller's default under this Agreement as a condition precedent to seeking any remedy against Seller. The written notice shall specify the default in detail. The notice to be given pursuant to this Section shall be delivered to Seller in the same manner noted in Section 31 of this Agreement.

16.2.1.2 Cure Period. Unless otherwise provided by law or agreed to by the parties, Seller shall have a minimum of ninety (90) days from the date Seller receives the written notice (the "Cure Period") to correct any default or to otherwise respond to Purchaser in the event Seller determines that no default has occurred and/or defect exists.

16.2.1.3 Right to Inspect and Correct. Seller shall have the Cure Period to inspect and correct any alleged default or defect or to otherwise respond to Purchaser in the event Seller determines that no default has occurred and/or defect exists.

16.2.1.4 Expiration of Cure Period. Purchaser agrees that Purchaser shall seek no remedy against Seller prior to the expiration of the Cure Period. Seller shall have the right but not the obligation to take action during the Cure Period and/or respond to any notice received from Purchaser.

16.2.1.5 Remedy. In the event that Seller is unable to cure a default during the Cure Period (except in the event of a title defect as set forth in Section 14 above), Purchaser shall have the right to terminate this Agreement and receive a full refund of the Deposit and a full refund of deposits or payments for options, extras and/or upgrades, and the Purchaser's liquidated damages under this provision shall be the sum equal to that portion of the Deposit equal to or less than ten percent (10%) of the Total Purchase Price; or, in the alternative, Purchaser shall have the right of specific performance. In the event Purchaser rightfully so terminates this Agreement, both parties shall be released from any and all further obligations hereunder. Purchaser and Seller acknowledge that such liquidated damages are a fair and reasonable remedy because it is not possible to determine at this time the actual damages Purchaser might suffer, if any, should Seller default under this Agreement. By way of example, if the Deposit is less than ten percent (10%) of the Total Purchase Price, then Purchaser shall receive a refund of the Deposit and a refund of deposits or payments for options, extras and/or upgrades, and liquidated damages under this provision shall be equal to the actual amount of the Deposit. If the Deposit is equal to or more than ten percent (10%) of the Total Purchase Price, then Purchaser shall receive a refund of the actual amount of the Deposit and a refund of deposits or payments for options, extras and/or upgrades, and Purchaser's liquidated damages under this provision shall be equal to ten percent (10%) of the Total Purchase Price. Notwithstanding anything contained in this Section 16 to the contrary, in the event of Seller's default under Section 9 of this Agreement, the Cure Period shall not apply and Purchaser shall have all remedies available at law and in equity without limitation or restriction.

16.2.2 Post-Closing.

16.2.2.1 Notice. As a condition precedent to seeking any action or remedy against Seller, to the extent Purchaser has any claim, dispute and/or other matter in question between

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Purchaser and Seller (whether contract, warranty, tort, statutory or otherwise) including, but not limited to: (a) any and all controversies, disputes or claims arising under, or related to, this Agreement, the Home, the Community, the Master Community, or any other dealings between Purchaser and Seller; (b) any controversy, dispute or claim arising by virtue of any representations, promises or warranties alleged to have been made by Seller or Seller's representative; and/or (c) any personal injury or property damage alleged to have been sustained by Purchaser on the Lot or in the Community (collectively, a "**Claim**"), Purchaser shall notify Seller in writing (the "**Notice**"), with a copy to Seller's General Counsel, stating plainly and concisely:

16.2.2.1.1 the nature of the Claim, including the persons involved and Seller's role in the Claim;

16.2.2.1.2 the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

16.2.2.1.3 the proposed remedy; and

16.2.2.1.4 any evidence that depicts the nature and cause of the Claim and the nature and extent of repairs necessary to remedy the Claim, including expert reports, photographs, and videotapes.

The notices to be given pursuant to this Section shall be delivered to Seller and Seller's Counsel in the same manner noted in Section 31 of this Agreement. Notices to Seller's General Counsel are to be sent to Solivita at Poinciana, Inc., Attention: General Counsel, 201 Alhambra Circle, 12th Floor, Coral Gables, Florida 33134.

16.2.2.2 Inspection. Seller shall be given a reasonable opportunity to inspect and have inspected the Home that is the subject of the Claim to determine the nature and cause of any alleged defect and the nature and extent of repairs necessary to remedy the Claim. Unless otherwise provided by law or agreed to by the parties, Seller shall have a minimum of thirty five (35) days from receipt of the Notice to conduct any inspection.

16.2.2.3 Right to Cure. Seller shall have the right to repair, replace or pay the Purchaser the reasonable cost of repairing or replacing any defective item. Unless otherwise provided by law or agreed to by the parties, Seller shall have a minimum of ninety (90) days from receipt of the Notice to cure as provided herein. Purchaser shall have no right to bring any action against Seller until expiration of Seller's right to cure.

16.2.2.4 Time. The time periods provided for the inspection and cure by Seller shall be extended by any period of time that Purchaser refuses to allow Seller to inspect the Home, cure and/or perform tests. Any inspection, test, repair or replacement performed on a business day between 9 a.m. and 5 p.m. shall be deemed to be reasonable hereunder.

16.2.2.5 Master Deed Restrictions. The provisions of this Section 16.2.2 shall be covenants running with the land and are referenced in the Master Deed Restrictions recorded or to be recorded in the Public Records of County.

17. Seller's Use of the Community. As long as Seller and/or the Declarant/Developer under the Documents or its successors or assigns owns any portion of the Community, Seller and/or the



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Declarant/Developer under the Documents and its agents may maintain sales and leasing offices and models within the Community to assist Seller and/or the Declarant/Developer under the Documents in selling, reselling, and leasing properties in the Community and properties located outside the Community. As long as Seller, or any nominees of Seller and/or the Declarant/Developer under the Documents, owns any land or home in the Community, Seller and/or its nominees and/or the Declarant/Developer under the Documents shall have the right and privilege to maintain general sales offices in and about the Community, including model residences, and to have their employees present on the premises to show homes, use Community facilities and/or property and, without limitation, to do any and all other things necessary or appropriate by them to sell, resell, or lease homes and other properties owned by Seller and/or the Declarant/Developer under the Documents, all without charge or contribution; provided, however, that such activities shall be carried on in such a manner as will not unreasonably interfere with the Purchaser's enjoyment of the Home.

18. Warranties.

18.1 Limitation of Warranties.

18.1.1 Purchaser acknowledges that at the time of execution of this Agreement, Seller has no reason to know of any particular purpose Purchaser has in purchasing the Home and items of personal property located therein other than normal residential use. Purchaser agrees that the only warranties which Seller is providing Purchaser are those set forth in the Bonded Builders Home Warranty Association Specimen Booklet BB-W502 ("Bonded Builders Warranty"), incorporated herein by reference. A copy of the Bonded Builders Warranty Specimen Booklet is available for examination at Seller's offices and will, at Purchaser's request, be attached as an exhibit to this Agreement. Validation of Bonded Builders Warranty is not guaranteed, but is conditioned on the satisfactory completion of all required inspections, Seller's compliance with all the administrator's enrollment procedures, and Seller remaining a member in good standing of the warranty program.

Purchaser's Initials W.M. Y.W.M.

18.1.2 DURING THE TIME THAT THE BONDED BUILDERS WARRANTY REMAINS IN EFFECT, ANY IMPLIED WARRANTIES AVAILABLE TO YOU UNDER FEDERAL OR STATE LAW WITH RESPECT TO THE CENTRAL AIR CONDITIONING AND HEATING SYSTEM SHALL REMAIN AVAILABLE TO YOU. WITH RESPECT TO ALL OTHER COMPONENTS OF YOUR HOME, SELLER GIVES THE BONDED BUILDERS WARRANTY EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESSED OR IMPLIED. TO THE MAXIMUM EXTENT LAWFUL, AND EXCEPT FOR THE BONDED BUILDERS WARRANTY, WITH THE EXCEPTION OF ANY IMPLIED WARRANTIES AVAILABLE TO PURCHASER AS TO THE CENTRAL AIR CONDITIONING AND HEATING SYSTEM DURING THE TIME THAT THE BONDED BUILDERS WARRANTY REMAINS IN EFFECT, SELLER DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS, FITNESS FOR A PARTICULAR PURPOSE, HABITABILITY, INTENDED USE, WORKMANSHIP, OR CONSTRUCTION RESPECTING THE HOME, COMMON PROPERTIES OF THE COMMUNITY, IF ANY, AND ALL FIXTURES OR ITEMS OF PERSONAL PROPERTY SOLD PURSUANT TO THIS AGREEMENT, OR ANY OTHER REAL OR PERSONAL PROPERTY WHATSOEVER CONVEYED IN CONNECTION WITH THE SALE OF THE HOME, OR LOCATED WITHIN THE COMMUNITY WHETHER ARISING FROM THIS AGREEMENT, USAGE, TRADE, IMPOSED BY STATUTE, COURSE OF DEALING, CASE LAW OR OTHERWISE.

18.1.3 SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN

IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. THE BONDED BUILDERS WARRANTY IS THE ONLY EXPRESS WARRANTY GIVEN BY SELLER. SELLER DISCLAIMS ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. THE BONDED BUILDERS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE.

18.1.4 Normal swelling, expansion and contraction of materials and construction, and any cracks appearing as a result thereof or as a result of settlement of, in or on the Home shall not be deemed to be construction defects. Upon Closing, Seller shall deliver to Purchaser all manufacturers' warranties, if any, covering the consumer products (if any) to be conveyed to Purchaser hereunder, provided, however, SELLER SHALL NOT THEREBY BE DEEMED TO WARRANT ANY SUCH CONSUMER PRODUCT, NOR TO ADOPT ANY LIABILITY FOR ANY SUCH MANUFACTURERS' WARRANTY THEREOF. The terms of this Section shall survive the Closing of this transaction.

18.1.5 Purchaser acknowledges and agrees that Seller has made no representations or warranties regarding (i) the economic advantages or disadvantages of purchasing the Home, (ii) any potential increase in the value of the Home above the Purchase Price, or (iii) the purchase of the Home as an investment or for other economic purposes, and Purchaser has and will rely on its own determination of such matters in purchasing the Home.

18.1.6 Purchaser acknowledges and agrees that Seller has made no representations or warranties regarding the existence or quality of any views that will be visible from the Home when completed. Future development and construction activities can and will modify the view from the Home. Trees and other foliage may be added or removed. Additional housing and other improvements will be added. Purchaser understands and agrees that the view from the Home can and will only be determined upon completion of the Home and the Community, and that any views that can be anticipated from models, sketches or other materials attempting to show how the Home and Community will look upon completion may not be relied upon for such purpose and Purchaser is not purchasing the Home in reliance on the Home having any particular view.

18.2 No Warranties for Third Party Construction.

18.2.1 Seller does not warrant any of the work performed in the Home or on the Lot by third party contractors, not hired by Seller, prior to or after the Closing.

18.2.2 Seller shall not be liable for any defects in the work performed by third party contractors not hired by Seller, nor for any adverse impact to the Home, Lot or Community caused thereby.

18.2.3 Further, should Purchaser elect to use a third party contractor that is a subcontractor of Seller, Purchaser acknowledges that Seller makes no representations relative to the performance by such third party contractor.

19. Deposits. Any reference to Deposit or Deposits herein shall refer collectively to all amounts deposited with Seller under this Agreement, and under any addendum or amendment hereto, except for any deposits or payments made by Purchaser for options, extras and/or upgrades. Any and all deposits or payments for options, extras, and/or upgrades are non-refundable except (i) in the event of Seller's

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default, (ii) if the Home is damaged, as described in Section 11, and Seller does not elect to repair or replace the Home and/or (iii) Seller is unable to provide marketable and insurable title, as described in Section 14. All monies deposited under the terms of this Agreement, except for the balance due at Closing, may be made by check, subject to collection. All payments must be made in United States funds. If the Deposit is held in escrow, it shall be released to Seller upon written notice from Seller to the escrow agent that Purchaser has defaulted under this Agreement.

20. Agreement Not to be Recorded. Purchaser covenants that Purchaser shall not record this Agreement (or any memorandum thereof) in the Public Records of the County. Purchaser agrees, if Purchaser records this Agreement, to pay all of Seller's legal fees, paraprofessional fees and expenses incurred in removing the cloud in title caused by such recordation. Seller's rights under this Section shall be in addition to Seller's remedies for Purchaser's default provided in Section 16 of this Agreement.

21. Transfer or Assignment. Purchaser has no right to assign, sell or transfer Purchaser's interest in this Agreement (whether voluntarily or by operation of law or otherwise) without Seller's prior written consent. If Purchaser is a corporation, other business entity, trustee or nominee, a transfer of any material equity or beneficial or principal interest shall constitute an assignment of this Agreement. If Purchaser attempts to assign this Agreement in violation of this Section 21, Seller can declare Purchaser in default and Seller shall be entitled to all remedies available under Section 16 hereof. Purchaser agrees that Seller may withhold its consent with or without any reason or condition in any manner it chooses (if it gives it at all) and may charge Purchaser a reasonable amount to cover administrative costs incurred in considering whether or not to grant consent. If Seller desires to sell the Community before or during construction, Seller may assign or transfer Seller's interest in this Agreement, in the Deposit and in the non-refundable deposits or payments for options, extras and/or upgrades without Purchaser's consent. If the buyer of the Community assumes Seller's obligations contained in this Agreement, Seller will not be liable to Purchaser for any acts, omissions or defaults by the buyer of the Community.

22. Persons Bound By This Agreement. If Purchaser has received Seller's permission to assign or transfer this Agreement, then Purchaser's approved assignees shall be bound by the terms of this Agreement. If more than one person signs this Agreement as Purchaser, each such person shall be jointly and severally liable for full performance of all of Purchaser's duties and obligations hereunder. This Agreement shall be binding on Purchaser's successors, assigns and heirs.

23. Interpretation and Computation of Time. The use of the masculine gender in this Agreement shall be deemed to refer to the feminine or neuter gender, and the singular shall include the plural, and vice versa, whenever the context so requires. This Agreement reflects the negotiated agreement of the parties, each represented by competent legal counsel, or by parties who chose not to be represented by counsel. Accordingly, this Agreement shall be construed as if both parties jointly prepared it, and no presumption against one party or the other shall govern the interpretation or construction of any of the provisions of this Agreement. Any reference in this Agreement to time periods of less than six (6) days shall, in the computation thereof, exclude Saturdays, Sundays and legal holidays and shall extend to 5:00 p.m. on the next full business day. Any reference in this Agreement to time periods of six (6) days or more shall, in the computation thereof, include Saturdays, Sundays and legal holidays; provided, however, if the last day of such period is a Saturday, Sunday or legal holiday, the period shall be extended to 5 p.m. on the next full business day.

24. Waiver. Seller's waiver of any of its rights or remedies shall not operate to waive any other of Seller's rights or remedies or to prevent Seller from enforcing the waived right or remedy in another instance.

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25. Survival, Incorporation and Severability. All provisions and disclaimers in this Agreement are intended to have effect after the Closing and shall survive the Closing, unless expressly stated otherwise. The explanations and disclaimers set forth in the Documents are incorporated into this Agreement. In the event that any clause or provision of this Agreement shall be void or unenforceable, such clause or provision shall be deemed deleted so that the balance of the Agreement is enforceable.

26. Section Headings. The Section headings in this Agreement are for convenience only and shall not affect the meaning, interpretation or scope of the provisions which follow them.

27. Florida Law. Any disputes that develop under this Agreement or questions regarding the interpretation of this Agreement will be settled according to Florida law to the extent federal law is not applicable.

28. Entire Agreement. PURCHASER CERTIFIES THAT PURCHASER HAS READ EVERY PROVISION OF THIS AGREEMENT AND EACH ADDENDUM ATTACHED HERETO AND THAT THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN PURCHASER AND SELLER. This Agreement is the entire agreement for the sale and purchase of the Home and once it is signed it can only be amended in writing. Prior agreements, representations understandings, and oral statements not reflected in this Agreement have no effect and are not binding on Seller. PURCHASER ACKNOWLEDGES THAT PURCHASER HAS NOT RELIED ON ANY REPRESENTATIONS, NEWSPAPER, RADIO OR TELEVISION ADVERTISEMENTS, WARRANTIES, STATEMENTS, OR ESTIMATES OF ANY NATURE WHATSOEVER, WHETHER WRITTEN OR ORAL, MADE BY SELLER, SALES PERSONS, AGENTS, OFFICERS, EMPLOYEES, CO-OPERATING BROKERS (IF ANY) OR OTHERWISE EXCEPT AS HEREIN SPECIFICALLY REPRESENTED. PURCHASER HAS BASED HIS/HER DECISION TO PURCHASE THE HOME ON PERSONAL INVESTIGATION, OBSERVATION AND THE DOCUMENTS.

29. Inducement. Purchaser acknowledges that the sole inducement to purchase the Home is the Home and not the common facilities comprising part of the Community, if any.

30. Time of the Essence. Purchaser acknowledges that time is of the essence in connection with this transaction.

31. Notice. Except as provided in Section 13 with respect to notices of the scheduled date of Closing, any notice required or permitted to be given in connection with this Agreement shall be in writing and sent by United States certified mail with return receipt requested, professional overnight courier or telefax (with confirmation and copy by (i) certified mail if Purchaser's address is within the United States or (ii) overnight professional courier if to a Purchaser whose address is outside of the United States) to Purchaser or Seller at the addresses on Page 1 of this Agreement, and additionally to Seller by hand delivery at Seller's sales office. All notices shall only be effective upon receipt or refusal to accept receipt (by failure to accept delivery or otherwise).

32. RADON GAS. This disclosure is required by Section 404.056 of the Florida Statutes. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

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33. Energy Rating. Pursuant to Florida Statutes Section 553.996, Purchaser may request that Seller cause a State Certified Energy Rater to perform an energy efficiency rating on the Home being purchased. Purchaser hereby releases Seller from any responsibility or liability for the accuracy or level of the rating and Purchaser understands and agrees that this Agreement is not contingent upon Purchaser approving the rating, that the rating is solely for Purchaser's own information and that Purchaser will pay the total cost of the rating. Purchaser hereby acknowledges the receipt of a brochure from The Florida Energy Gauge Program regarding Florida's Building Energy Rating System (the "Energy Rating Brochure").

34. Insulation Disclosure. Pursuant to Title 16, Chapter I, Section 460.16 of the Code of Federal Regulations, the insulation that is or will be installed in the Home is as follows and will, according to the manufacturer, yield the R-values stated:

Location	Type	Thickness	R-Value
Roof	Brown Cellulose / Fiberglass	6 1/2" 10"	R-30
Exterior Masonry Walls/Concrete Walls	Foil	N/A	R-4.1
Exterior Stud Walls or Stud Walls between Garage & A/C Area, if any	Batted Fiberglass	3 1/2"	R-11
Vaulted Ceilings, if any	Batted Fiberglass	10"	R-30

If so indicated above, fiberglass (also known as glass wool) is/will be used for insulation in the Home. The U.S. Department of Health and Human Services ("HHS") has listed fiberglass as a substance "which may reasonably be anticipated to be a carcinogen." This listing identifies substances selected for further study because of their potential carcinogenic risk but is not an assessment by HHS that there is a causal connection between fiberglass and human cancer. The listing does not establish that fiberglass presents a risk to persons in their daily lives.

35. Selling Agent and Cooperating Broker. Unless stated differently below, Purchaser represents to Seller that Purchaser has not consulted, dealt or negotiated with a real estate broker, salesperson or agent other than Seller's sales personnel located at Seller's sales office. Purchaser agrees that Seller is not responsible for the payment of a commission to a real estate broker, salesperson or agent other than Seller's sales personnel and Purchaser agrees to indemnify and hold Seller harmless from and against any and all loss and liability, including attorney's and paraprofessional's fees and costs at all levels, resulting from or arising out of any representation or breach of a representation or warranty set forth in this Section 35.

Purchaser and Seller hereby acknowledge the involvement of the following real estate broker .

Purchaser understands and agrees that this Section shall survive the Closing and the delivery of the Deed.

Purchaser's Initials W.M. Y.W. M

36. Counterparts and Telefaxed Signatures. This Agreement shall be validly executed when signed

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Purchaser's Initials W.M. Y.W. M

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in counterparts. The effective time of the Agreement is the date and time when the last of the parties to sign executes this Agreement. Signatures may be given via telefax transmission and shall be deemed given as of the date and time of the transmission of this Agreement by telefax to the other party.

37. Additional Changes. Purchaser agrees that it may be necessary (at any time and from time to time) after Purchaser executes this Agreement for Seller, and/or the Developer/Declarant under the Documents, to change the terms and provisions of this Agreement and/or the Documents to comply with and conform to the rules and regulations (as same may exist and as same may be promulgated from time to time) of any governmental agency or subdivision. In addition, Seller, and/or the Developer/Declarant under the Documents, shall have the right to amend all Documents for development or other purposes. The parties shall execute such further documents and instruments, and perform such further acts, as shall be necessary and advisable from time to time to carry out the intent and purpose of this Agreement. ANY CHANGES TO THE PRINTED FORM OF THIS AGREEMENT, OR ANY ADDENDA THERETO, ARE SUBJECT TO AND CONTINGENT UPON WRITTEN APPROVAL BY SELLER'S LEGAL DEPARTMENT. IF SUCH WRITTEN APPROVAL IS NOT RECEIVED BY PURCHASER WITHIN TEN (10) DAYS OF EXECUTION BY SELLER, THEN SUCH CHANGES AND/OR ADDENDA SHALL BE DEEMED ACCEPTED BY SELLER.

38. Prevailing Party. In the event a dispute arises under the Agreement, then the parties agree to the following provisions:

38.1 Resolution of Disputes. EACH PARTY ACKNOWLEDGES THAT THIS AGREEMENT IS A SOPHISTICATED LEGAL DOCUMENT. ACCORDINGLY, JUSTICE WILL BEST BE SERVED IF ISSUES REGARDING THIS AGREEMENT ARE HEARD BY A JUDGE IN A COURT PROCEEDING, AND NOT A JURY. EACH PURCHASER AGREES THAT ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION, WITH RESPECT TO ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM, OR CROSSCLAIM, WHETHER IN CONTRACT AND/OR IN TORT (REGARDLESS IF THE TORT ACTION IS PRESENTLY RECOGNIZED OR NOT) INCLUDING, BUT NOT LIMITED TO, THOSE FOR PERSONAL INJURIES, PAIN, SUFFERING AND WRONGFUL DEATH, BASED ON, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATED TO THIS AGREEMENT, THE DOCUMENTS (INCLUDING, WITHOUT LIMITATION, ANY DECLARATION), ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT, VALIDATION, PROTECTION, ENFORCEMENT ACTION OR OMISSION OF ANY PARTY SHALL BE HEARD BY A JUDGE IN A COURT PROCEEDING AND NOT A JURY. SELLER HEREBY SUGGESTS THAT EACH PURCHASER CONTACT AN ATTORNEY IF SUCH PURCHASER DOES NOT UNDERSTAND THE LEGAL CONSEQUENCES OF EXECUTING THIS AGREEMENT.

38.2 Attorneys' Fees and Costs. In the event that any litigation is commenced in connection with or the enforcement or interpretation of this Agreement, the Home or the application of laws or regulations to any aspect of this transaction, the prevailing party shall be entitled to recover its cost of suit, including reasonable attorneys' and paraprofessional fees at trial and appellate levels.

38.3 WITHOUT LIMITING ANY OTHER PROVISION, THIS SECTION 38 SHALL SURVIVE CLOSING AND RUN WITH LAND.

39. Venue. Each Purchaser acknowledges that the Home is located in the County (identified on Page 1 of this Agreement) and Seller has an office in the County. Accordingly, an irrebuttable presumption

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exists that the only appropriate venue for the resolution of any dispute lies in the County. In addition to the foregoing, each Purchaser and Seller agree that the venue for resolution of any dispute lies in the County.

40. Reservation of Easement. For the purpose of completing the construction and servicing of the Home and surrounding areas, Seller hereby reserves an easement of ingress and egress for itself and its successors and assigns, and each of their respective agents, employees, materialmen and subcontractors, over, under and upon the Home for a period of sixty (60) days after Closing.

41. Construction Activities. ALL OWNERS, OCCUPANTS AND USERS OF THE COMMUNITY ARE HEREBY PLACED ON NOTICE THAT SELLER AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES WILL BE, FROM TIME TO TIME, CONDUCTING CONSTRUCTION ACTIVITIES, EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO THE COMMUNITY. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF THE COMMUNITY, 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 THE COMMUNITY 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) SELLER 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 SELLER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, (iv) ANY PURCHASE OR USE OF ANY PORTION OF THE COMMUNITY HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING AND (v) THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO SELLER TO SELL, CONVEY, AND/OR ALLOW THE USE OF THE HOME. THIS SECTION SHALL SURVIVE THE CLOSING

42. Prices. Seller reserves the right to establish prices for homes built in the Community. Seller may, in Seller's sole discretion, increase or decrease the price or price per square foot for any home, lot or option at any time, or offer incentives for sales of lots and homes. Once Purchaser has signed a contract establishing a price for the Home, the prices for any subsequent changes or upgrades to the Home as requested by Purchaser including, but not limited to, design, floor plan, options, materials or otherwise, are subject to change by Seller until a written and signed agreement on the price is reached by Seller and Purchaser. Seller makes no representations or warranties that the price for the Home or options in the home will be increased or decreased for other purchasers of identical or similar homes or options. The Home is being sold for residential purposes and not as an investment.

43. Real Estate Taxes. When a new home is built, the full value of the home is typically not reflected in the real estate taxes until the second calendar year after construction has been completed. Seller is not responsible for communicating any information regarding real estate taxes (current or future) and cannot and will not predict what the taxes on the Home may be. Purchaser should confirm any information provided concerning appraisals, tax valuation, tax rates or other tax-related questions,

with Purchaser's personal tax advisor and the local taxing authorities.

44. Flood Zone. Avatar Properties, Inc. ("Avatar"), at the onset of the development of the Community, sought direction from the Federal Emergency Management Agency ("FEMA") regarding the engineering and construction of homesites in the Community so that such homesites could be removed from the flood plain designation of FEMA. FEMA informed Avatar that if development plans for the Community were implemented, that FEMA was of the position that when constructed, such designation could be removed by Avatar filing the appropriate documents with FEMA. Avatar had undertaken such filing with FEMA but as of the date of this Agreement, the final written approval has not been issued by FEMA.

If the approval is not received from FEMA prior to Closing, Purchaser's lender will require that Purchaser purchase flood insurance. The FEMA approval process could take as much as nine (9) to twelve (12) months. Avatar has agreed, as a gesture of goodwill, at Closing to pay up to the first year's premium for flood insurance provided Purchaser's lender requires the same. Once final approval is received from FEMA, Avatar will cancel such coverage and seek a refund of the pro-rata portion of the premium.

To the extent Purchaser desires to take advantage of Avatar's offer regarding payment of the flood insurance coverage, Purchaser must initial below. Purchaser has the option of paying for the insurance coverage himself/herself and retaining such coverage in the future even after the FEMA approval process has been completed.

Purchaser's Initials

*W M Y W M*

45. Irrigation System. Purchaser acknowledges and agrees that the irrigation system to be provided by Seller for the Common Areas may utilize a water supply from a well or lake. The water from these sources may or may not have a high concentration of iron which can cause staining. Seller cannot detect in advance which water supply may stain walls, sidewalks, driveways and surrounding areas and Seller shall not be responsible to correct any such staining. Purchaser understands that it may become necessary to install a treatment system to the irrigation water to prevent staining on the Home, sidewalks, driveways, or other surrounding areas and that if such treatment system is necessary it shall be paid for by the Community Association.

46. Loop System. Purchaser understands that the Community uses a loop irrigation system. After Closing, if Purchaser desires to make any alterations or improvements to the Home that in any way affect the loop irrigation system, then Purchaser shall be responsible for taking measures to "cap off" the main line of the loop irrigation system that leads to the Home. In addition, Purchaser shall be obligated to obtain prior written approval of the Community Association and/or Master Association, as applicable, before taking any action that may affect the loop irrigation system. Once the main line is "capped off," Purchaser shall then be responsible for his or her own irrigation system for the Home. Any damages to the Home or damage to any other Home(s) connected to the loop irrigation system resulting from a Purchaser's failure to comply with the terms set forth herein and/or the Document Book shall be the sole responsibility of such non-complying Purchaser and Seller shall not be liable for the same. Furthermore, Purchaser understands that if provided in the Document Book, Purchaser may be permitted to install, without limitation, a private fence, patio, and/or screened enclosure ("Improvement"), on the Home upon the prior written approval of the ACC and/or DCB as set forth in the Document Book. If a fence is approved to be installed, then a five (5) foot gate must also be installed. Before the ACC and/or DCB 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



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the ACC and/or DCB to approve the Improvement installation, a letter or other evidence by a professional irrigation company must be given to the ACC and/or DCB at least ten (10) days before the Improvement installation setting forth that the effectiveness of the Community drainage system will not be affected by the re-routing of the irrigation system. Should Purchaser install the Improvement without providing the necessary letter or other evidence from a professional irrigation company in advance as required herein, then Community Association may conduct the necessary inspection, repair any necessary drainage facilities and charge the work as an Individual Assessment to such Purchaser, all as further provided in the Document Book. Notwithstanding the foregoing, Purchaser shall be solely responsible for maintaining any inaccessible portion of the Home at Purchaser's sole expense.

47. Water Supply and Sewerage. Purchaser acknowledges that no septic tanks shall be permitted within the Community. No wells shall be installed without the express written consent of the ACC and/or DCB, if applicable, and all other applicable government agencies.

48. Wetland Conservation and Buffer Area Protection. Purchaser acknowledges that the Home may be adjacent to a wetland conservation area. The Community is subject to that certain Conservation Easement (as defined in the Document Book). These protected areas are described in the permits and plans approved by the South Florida Water Management District (the "SFWMD"). Your Home survey may show the wetland and buffer boundaries. Purchaser understands that the Home may be adjacent to a wetland and Purchaser is responsible for the protection of the wetland and its associated buffer. No property owner may disturb the conservation areas or buffer areas without first obtaining written approval from the SFWMD. Disturbance includes, but is not limited to mowing, sodding, trimming, dumping and the installation of exotic plants. Alteration without receiving written approval is grounds for enforcement action by the SFWMD.

49. Golf Course in Master Community. Purchaser agrees to assume all risks associated with the purchase of the Home which is located in the general vicinity of a golf course, including, but not limited to risk of property damage or personal injury arising from stray golf balls. Purchaser shall indemnify and hold harmless the Master Association, the Community Association and Seller from any liability, claims or expenses, including, but not limited to attorneys' and paraprofessionals' fees at all levels, arising from property damage or personal injury. Purchaser agrees that this provision applies to all homes in the Master Community and the Community.

50. Telecommunications Services. Community Association has entered or will enter into an agreement (the "Telecommunications Agreement") with Bright House Networks, LLC ("Telecommunications Provider") for telecommunications services. Community Association has determined that the Telecommunications Agreement is, when considered in whole, the best proposal for the Community. Purchaser acknowledges that Seller may enter into a separate agreement whereby Telecommunications Provider will make certain payments and give certain concessions to Seller in consideration of Seller causing Community Association to enter into the Telecommunications Agreement. Community Association shall have no interest in such payments or concessions.

51. Not Binding. This Agreement shall not be binding on Seller until executed by an authorized agent or officer of Seller.

52. Attachments. The following documents are attached to and form a part of this Agreement:

**Check (  ) all that apply:**

- |  |                      |                  |
|--|----------------------|------------------|
| <input checked="" type="checkbox"/> Department of Community Affairs Brochure (Energy)    | Purchaser's Initials | <u>WOM YWM</u>   |
| <input checked="" type="checkbox"/> Disclosure Summary                                   | Purchaser's Initials | <u>WOM YWM</u>   |
| <input type="checkbox"/> Notice of Related Companies                                     | Purchaser's Initials | _____            |
| <input checked="" type="checkbox"/> Approved Lender Addendum                             | Purchaser's Initials | <u>WOM H.W.M</u> |
| <input checked="" type="checkbox"/> Affiliated Business Arrangement Disclosure Statement | Purchaser's Initials | <u>WOM H.W.M</u> |
| <input type="checkbox"/> Specimen Supplement to Booklet                                  | Purchaser's Initials | _____            |
| <input checked="" type="checkbox"/> Floor Plan and Elevation Plan                        | Purchaser's Initials | <u>WOM H.W.M</u> |
| <input type="checkbox"/> Cooperating Broker Addendum                                     | Purchaser's Initials | _____            |
| <input type="checkbox"/> District Brochure   | Purchaser's Initials | _____            |
| <input type="checkbox"/> Specimen Warranty Booklet (if requested)                        | Purchaser's Initials | _____            |
| <input checked="" type="checkbox"/> Features List  | Purchaser's Initials | <u>WOM H.W.M</u> |
| <input checked="" type="checkbox"/> Special Addendum No. 1                               | Purchaser's Initials | <u>WOM YWM</u>   |
| <input checked="" type="checkbox"/> Special Addendum No. 2                               | Purchaser's Initials | <u>WOM YWM</u>   |
| <input type="checkbox"/> _____   | Purchaser's Initials | _____            |
| <input type="checkbox"/> _____   | Purchaser's Initials | _____            |
| <input type="checkbox"/> _____   | Purchaser's Initials | _____            |

53. Environmental Conditions. Molds and mildews develop from spores, which are in the air all around. As soon as spores settle in an area with the right conditions for growth, they establish colonies, which are often visible to the naked eye. These colonies are a source of more spores, can cause unsightly stains, and may release low levels of toxic chemicals called *mycotoxins* into the air. When excessive moisture or water accumulates indoors, mold growth can and will occur, particularly if the moisture problem is not promptly addressed. For information on health issues resulting from mold and mildew in your Home, please contact the National Institutes of Health and/or your primary health care physician.

53.1 Disclaimer:

**THE HOME YOU ARE PURCHASING CONTAINS MATERIALS WHICH CONTAIN OR ARE AFFECTED BY MOLD, MILDEW, FUNGUS, SPORES AND CHEMICALS WHICH MAY CAUSE ALLERGIC OR OTHER BODILY REACTIONS. YOU SHOULD CONSULT YOUR PHYSICIAN TO DETERMINE WHICH MOLD, MILDEW, FUNGUS, SPORES OR CHEMICALS MAY ADVERSELY AFFECT YOU OR MEMBERS OF YOUR FAMILY. THE CONSTRUCTION PRODUCTS USED IN BUILDING YOUR HOME CONTAIN, AMONG OTHERS, SOME OF THE FOLLOWING CHEMICALS:**

- WATER**
- FORMALDEHYDE (found in carpeting and pressed wood products)**
- ARSENIC (found in treated wood products)**
- FIBERGLASS (found in insulation products)**

**PETROLEUM AND PETROLEUM PRODUCTS (found in vinyl and plastic products)  
METHYLENE CHLORIDE (found in paint thinners)**

**IF YOU ARE NOT COMFORTABLE WITH THE FACT THAT THESE CHEMICALS OR SUBSTANCES EXIST IN SOME AMOUNT IN THE HOME YOU ARE PURCHASING, YOU SHOULD CONTACT AN ATTORNEY FOR ADVICE.**

53.2 What Purchaser Can Do. Purchaser can take positive steps to reduce or eliminate the occurrence of mold and mildew growth in the Home, and thereby minimize any possible adverse effects that may be caused by mold and mildew. These steps include, without limitation, the following:

53.2.1 Before bringing items into the Home, check for signs of mold or mildew. Potted plants (roots and soil), furnishings, or stored clothing and bedding material, as well as many other household goods, could already contain mold or mildew growth.

53.2.2 Regular vacuuming and cleaning will help reduce mold and mildew levels. Mild bleach solutions and most tile cleaners are effective in eliminating or preventing mold and mildew growth.

53.2.3 Keep the humidity in the Home low. Vent clothes dryers to the outdoors. Ventilate kitchens and bathrooms by opening the windows, by using exhaust fans, or by running the air conditioning to remove excess moisture in the air, and to facilitate evaporation of water from wet surfaces.

53.2.4 Promptly clean up spills, condensation and other sources of moisture. Thoroughly dry any wet surfaces or material. Do not let water pool or stand in the Home. Promptly replace any materials that cannot be thoroughly dried, such as drywall or insulation.

53.2.5 Inspect for leaks on a regular basis. Look for discoloration or wet spots. Repair any leaks promptly. Inspect condensation pans (refrigerators and air conditioners) for mold and mildew growth. Take notice of musty odors, and any visible signs of mold or mildew.

53.2.6 Should mold or mildew develop, thoroughly clean the affected area with a mild solution of bleach. First, test to see if the affected material or surface is color safe. Porous materials, such as fabric, upholstery or carpet should be discarded. Should the mold or mildew growth be severe, call on the services of a qualified professional cleaner.

53.3 Waiver. Whether Purchaser experiences mold or mildew growth depends largely on how Purchaser manages and maintains the Home. Seller's responsibility must be limited to things that Seller can control. As explained in the Bonded Builders Warranty, provided by separate instrument, Seller shall not be responsible for any damages caused by mold or mildew. Purchaser acknowledges and agrees that: (1) the Lot and the Home may be subjected to adverse environmental conditions including, but not limited to, mold or other potential toxins and other naturally occurring contaminants, (2) such adverse environmental conditions might not be discoverable even in the exercise of reasonable due diligence, (3) Seller has made no representations or warranties regarding either the presence or absence of such adverse environmental conditions, (4) Purchaser has had the opportunity to undertake such investigation of environmental conditions as it deems appropriate in its sole discretion, (5) Purchaser

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hereby waives and releases any claims it might have against Seller arising out of or in any way connected to such adverse environmental conditions including, but not limited to, the inability to possess the Home, inconvenience, moving costs, hotel costs, storage costs, loss of time, lost wages, lost opportunities, personal injury, property damage or the diminution in value of the Lot or Home, and (6) Purchaser releases and PURCHASER DOES NOT UNDERSTAND THE LEGAL CONSEQUENCES OF EXECUTING THIS AGREEMENT.

LEAKS, WET FLOORING AND MOISTURE WILL CONTRIBUTE TO THE GROWTH OF MOLD, MILDEW, FUNGUS OR SPORES. PURCHASER UNDERSTANDS AND AGREES THAT SELLER IS NOT RESPONSIBLE, AND HEREBY DISCLAIMS ANY RESPONSIBILITY FOR ANY ILLNESS OR ALLERGIC REACTIONS WHICH THE PURCHASER MAY EXPERIENCE AS A RESULT OF MOLD, MILDEW, FUNGUS OR SPORES. IT IS THE PURCHASER'S RESPONSIBILITY TO KEEP THE HOME CLEAN, DRY, WELL-VENTILATED AND FREE OF CONTAMINATION. ELECTRONIC AIR FILTERS WHICH MAY ASSIST IN EFFECTIVE AIR FILTRATION ARE AVAILABLE AT ADDITIONAL COST.

54. Increases in Construction Costs and Fees. Purchaser understands and agrees that the Home is being designed in accordance with and priced based on the State of Florida Uniform Building Code (the "Building Code") in effect as of the date of this Agreement, as well as on all applicable impact fees, permitting fees, utility fees, soil treatment fees, assessments, contributions and other fees imposed by the various federal, state and local governmental authorities and public utilities (e.g., WASA, FP&L) as of the date of this Agreement. Any and all increases of the fees, or if new ones are enacted, shall be passed to Purchaser at cost, and Purchaser shall pay such increase at Closing. In the event of a modification to or application of or interpretation of the Building Code which requires or causes Seller to incur increases in costs, whether for additional or different required materials, for increased design, professional or inspection fees or otherwise, Seller may, at its option, pass on to Purchaser such increases at Closing, and such increases shall be added to the Total Purchase Price of the Home. Further, the parties acknowledge that the Total Purchase Price set forth in the Agreement is based on the current cost of construction materials, appliances and labor prevailing in the County as of the date hereof. In the event of a force majeure (due to causes which are outside the control of the parties), which causes any of the costs or market prices of construction materials, appliances and/or labor to increase, in the aggregate, Seller's building costs up to, but not exceeding, three percent (3.0%) of the Total Purchase Price, such increase shall be added to and become a part of the Total Purchase Price, which shall be paid by Purchaser to Seller at Closing. If the increase in cost is more than three percent (3.0%) of the Total Purchase Price, Purchaser shall, within ten (10) days after notification, have the option of ratifying this Agreement at the new Total Purchase Price, which shall reflect the extra costs incurred as a direct result of the force majeure (the "Force Majeure Increase"). If Purchaser is unwilling to accept the Force Majeure Increase, Seller may in its sole discretion, terminate this Agreement without any further liability or obligation, except to return to Purchaser, within ten (10) days, all Deposits paid hereunder. In the event Seller, in its sole discretion, does not elect to terminate this Agreement, the parties shall proceed to Closing, based upon the original Total Purchase Price, as contemplated hereunder, plus the increase in the Total Purchase Price, not to exceed three percent (3.0%).

55. Florida Homeowners' Construction Recovery Fund. Pursuant to Section 489.1425 of the Florida Statutes, Seller provides the following notice: Payment may be available from the Florida Homeowners' Construction recovery fund if you lose money on a project performed under contract, where the loss results from specified violations of Florida law by a licensed contractor. For information about the recovery fund and filing a claim, contact the Florida construction industry licensing board at the following telephone number and address: Florida Construction Industry Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-1039, phone number: (850) 487-1395.

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56. Chapter 558 Notice of Claim. In accordance with Florida law, Seller provides Purchaser with the following notice: CHAPTER 558, FLORIDA STATUTES CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY BRING ANY LEGAL ACTION FOR AN ALLEGED CONSTRUCTION DEFECT IN YOUR HOME. SIXTY DAYS BEFORE YOU BRING ANY LEGAL ACTION, YOU MUST DELIVER TO THE OTHER PARTY TO THIS AGREEMENT (CONTRACT) A WRITTEN NOTICE REFERRING TO CHAPTER 558 OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE SUCH PERSON THE OPPORTUNITY TO INSPECT THE ALLEGED CONSTRUCTION DEFECTS AND TO CONSIDER MAKING AN OFFER TO REPAIR OR PAY FOR THE ALLEGED CONSTRUCTION DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER WHICH MAY BE MADE. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER THIS FLORIDA LAW WHICH MUST BE MET AND FOLLOWED TO PROTECT YOUR INTERESTS.

If Purchaser rejects any settlement offer made pursuant to such Florida law by Seller or other contractors, subcontractors, suppliers or design professionals hired by, through or under Seller or its affiliates (collectively, "Protected Parties"), and Purchaser elects to proceed with an action against one or more Protected Parties, Purchaser acknowledges that the dispute must be resolved as provided in this Agreement. Further, all other provisions of this Agreement respecting disputes remain in full force and effect.

57. Disclosure Summary. Prior to execution of this Agreement, Seller provided a Disclosure Summary to Purchaser. Purchaser hereby acknowledges receipt of the Disclosure Summary and the reading thereof prior to execution of this Agreement. Such Disclosure Summary is incorporated herein by reference.

**IF THE DISCLOSURE SUMMARY REQUIRED BY SECTION 720.401, FLORIDA STATUTES, HAS NOT BEEN PROVIDED TO THE PROSPECTIVE PURCHASER BEFORE EXECUTING THIS (AGREEMENT) CONTRACT FOR SALE, THIS AGREEMENT (CONTRACT) IS VOIDABLE BY PURCHASER (BUYER) BY DELIVERING TO SELLER OR SELLER'S AGENT OR REPRESENTATIVE WRITTEN NOTICE OF THE PURCHASER'S (BUYER'S) INTENTION TO CANCEL WITHIN 3 DAYS AFTER RECEIPT OF THE DISCLOSURE SUMMARY OR PRIOR TO CLOSING, WHICHEVER OCCURS FIRST. ANY PURPORTED WAIVER OF THIS VOIDABILITY RIGHT HAS NO EFFECT. PURCHASER'S (BUYER'S) RIGHT TO VOID THIS CONTRACT SHALL TERMINATE AT CLOSING.**

**THE PURCHASER SHOULD NOT EXECUTE THIS AGREEMENT UNTIL THE PURCHASER HAS RECEIVED AND READ THE DISCLOSURE SUMMARY REQUIRED BY SECTION 720.401, FLORIDA STATUTES.**

58. Community Development District. Purchaser acknowledges that the Poinciana West Community Development District (which name is subject to change) (the "District") has or will be created to provide certain infrastructure, facilities, and maintenance operations for the Master Community and/or the Community. Purchaser further acknowledges the following:

58.1 District Capital Assessments. The District has issued or will issue special assessment revenue bonds (the "Bonds") to finance the cost of the public infrastructure of the Master Community and/or the Community, which may include, without limitation, storm sewers, road improvements, management and drainage of preservation areas, water mains and distribution lines, landscape meridians and buffer areas, sanitary sewer lines and collection systems, entry and identification monuments,

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gatehouse(s), and public park and recreation areas (collectively, the "**Public Infrastructure**"). The Bonds will be repayable from non ad valorem special assessments (the "**District Capital Assessments**") imposed by the District on property within the Community. The Community has been found to be specially benefited by the Public Infrastructure. Each home within the Community is subject to a District Capital Assessment to repay the Bonds.

Purchaser's Initials WOM H.W.M

58.2 Amount. The amount of the District Capital Assessment is unknown at this time but is anticipated to be approximately \$400 to \$900 per year, per home, payable over a period of 30 years (which includes principal and interest on the Bonds). Such amount may vary from year to year and from time to time.

Purchaser's Initials WOM H.W.M

58.3 Prepay option. Each owner will have the option at any point of prepaying the District Capital Assessment. The prepayment amount will decline as District Capital Assessments are paid.

Purchaser's Initials WOM H.W.M

58.4 District Operation Assessments. In addition to the District Capital Assessments, the District imposes an annual non ad valorem assessment to fund the operations of the District and the maintenance of its Public Infrastructure and services ("**District Operation Assessments**"). Each home is subject to District Operation Assessments. The budget for District Operation Assessments is subject to change. At this time it is unknown how much District operations assessments for 2005 will be per year, per home. Once the amount is available, such amount may vary from year to year and from time to time. There may be additional assessments relating to the administration of the District.

Purchaser's Initials WOM H.W.M

58.5 District assessments. District Operation Assessments together with the District Capital Assessments shall comprise the "**District assessments.**" While the District Assessments are not taxes, under Florida law, the District Assessments will constitute a lien co-equal with the lien of state, county, municipal, and school board taxes, and will be collected on the ad valorem tax bill sent each year by the tax collector of Polk county. The homestead exemption is not applicable to the District Assessments. Because a tax bill cannot be paid in part, failure to pay the District Assessments or any other portion of the tax bill will result in the sale of tax certificates and could ultimately result in the loss of title to the property of the delinquent taxpayer through the issuance of a tax deed.

Purchaser's Initials WOM H.W.M

58.6 Disclosure. Pursuant to Section 190.048 of the Florida Statutes, Seller provides the following notice. **THE POINCIANA WEST COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER**

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Purchaser's Initials WOM H.W.M

Contract No. 1298136

**TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.**

IN WITNESS WHEREOF, the parties have hereunto affixed their respective hands and seals on the day and year set forth below their respective names.

**[ADDITIONAL TEXT AND SIGNATURE LINES APPEAR ON FOLLOWING PAGE]**

J. Makarowski  
(Witness)  
Print Name: J. MAKAROWSKI

J. Makarowski  
(Witness)  
Print Name: J. MAKAROWSKI

\_\_\_\_\_  
(Witness)  
Print Name: \_\_\_\_\_

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(Witness)  
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(Witness)  
Print Name: \_\_\_\_\_

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(Witness)  
Print Name: \_\_\_\_\_

William F. Mann  
(Purchaser)  
Print Name: WILLIAM F. MANN  
Date: 6-10-06

Gayle W. Mann  
(Purchaser)  
Print Name: GAYLE W. MANN  
Date: 6-10-06

\_\_\_\_\_  
(Purchaser)  
Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(Purchaser)  
Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

SOLIVITA AT POINCIANA, INC,  
a Florida corporation

By: Maria Mestre

Name: MARIA MESTRE  
Authorized Agent

Title: \_\_\_\_\_

Date: 6-10-06



**EXHIBIT G**

**DISCLOSURE SUMMARY**  
**FOR**  
**SOLIVITA WEST**

1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU WILL BE OBLIGATED TO BE A MEMBER OF SOLIVITA WEST COMMUNITY ASSOCIATION, INC. ("ASSOCIATION"). THE ASSOCIATION IS A MEMBER OF ASSOCIATION OF POINCIANA VILLAGES, INC. ("MASTER ASSOCIATION").
2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN THIS COMMUNITY.
3. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO ASSOCIATION: ASSOCIATION ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. THE CURRENT AMOUNT OF ASSOCIATION ASSESSMENTS IS APPROXIMATELY \$            PER Month. YOU WILL ALSO BE OBLIGATED TO PAY ANY SPECIAL ASSESSMENTS IMPOSED BY ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE. THE CURRENT AMOUNT IS \$            PER N/A. ASSOCIATION IS OBLIGATED TO PAY ASSESSMENTS TO MASTER ASSOCIATION.
4. YOU MAY BE OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE RESPECTIVE MUNICIPALITY, COUNTY, SPECIAL DISTRICT OR COMMUNITY DEVELOPMENT DISTRICT. ALL ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.
5. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR ASSESSMENTS LEVIED BY ASSOCIATION COULD RESULT IN LIENS ON YOUR PROPERTY.
6. THERE MAY BE AN OBLIGATION TO PAY RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN OBLIGATION OF MEMBERSHIP IN ASSOCIATION. THE CURRENT AMOUNT IS \$0.00 PER MONTH. THERE IS AN OBLIGATION TO PAY MONTHLY DUES IN CONNECTION WITH A MANDATORY MEMBERSHIP IN THE SOLIVITA CLUB. THE MONTHLY CLUB DUES ARE \$           , WHICH ARE SUBJECT TO CHANGE.
7. THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE RESTRICTIVE COVENANTS WITHOUT THE APPROVAL OF THE ASSOCIATION MEMBERSHIP OR THE APPROVAL OF THE PARCEL OWNERS.
8. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE ONLY SUMMARY IN NATURE, AND AS A PROSPECTIVE PURCHASER, YOU SHOULD REFER TO THE COVENANTS, SOLIVITA CLUB PLAN, AND THE ASSOCIATION AND MASTER ASSOCIATION GOVERNING DOCUMENTS BEFORE PURCHASING THE PROPERTY.
9. THESE DOCUMENTS ARE EITHER MATTERS OF PUBLIC RECORD AND CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE PROPERTY IS LOCATED OR ARE NOT RECORDED AND CAN BE OBTAINED FROM THE DEVELOPER.
10. PURCHASER [BUYER] SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE PURCHASER [BUYER] MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.

Purchaser: William F. Mann

Name: William F. Mann

Date: 6-10-06

Purchaser: Gail W. Mann

Name: Gail W. Mann

Date: 6-10-06

H

**ASSET SALE AND PURCHASE AGREEMENT**

**BY AND BETWEEN**

**AVATAR PROPERTIES INC.,  
a Florida corporation**

**AS SELLER**

**AND**

**POINCIANA COMMUNITY DEVELOPMENT DISTRICT,  
a special purpose unit of local government established under Chapter 190, Florida Statutes**

**AS BUYER**

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## ASSET SALE AND PURCHASE AGREEMENT

THIS ASSET SALE AND PURCHASE AGREEMENT (“Agreement”) is made as of the 5<sup>th</sup> day of December, 2016 by and between AVATAR PROPERTIES INC., a Florida corporation (“Seller”) and POINCIANA COMMUNITY DEVELOPMENT DISTRICT, a special purpose unit of local government established under Chapter 190, Florida Statutes (“Buyer”).

### BACKGROUND INFORMATION

Seller presently owns certain facilities (the “Facilities”), which Facilities are more particularly listed on Exhibit A attached hereto and incorporated herein by reference and generally located as depicted on the site plan (the “Site Plan”) attached hereto and incorporated herein by reference as Exhibit B in the master-planned residential community commonly referred to as Solivita, located in Polk County, Florida.

Seller desires to sell the Facilities upon the terms and conditions more particularly set forth in this Agreement.

Buyer desires to purchase the Facilities upon the terms and conditions stated in this Agreement.

### STATEMENT OF AGREEMENT

In consideration of the covenants and agreements contained in this Agreement, Buyer and Seller, each intending to be legally bound, hereby agree as follows:

#### ARTICLE 1

#### DEFINITIONS

##### Section 1.1 DEFINITIONS

The following terms when used herein shall have the following meanings:

(i) “Affiliate” of a Person means a Person that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the Person specified.

(ii) “ADA” means the Americans with Disabilities Act of 1990 and the Florida Building Code ADA 2010, as they apply to the Facilities when owned by the Buyer.

(iii) “ADA Survey” means collectively, that certain ADA Survey prepared by Heilman Architecture, P.A. dated June 28, 2016 and any peer reviews, updates or revisions of such survey requested and obtained by Buyer prior to the expiration of the



Inspection Period to address such ADA matters as Buyer reasonably determines apply to the Facilities when owned by the Buyer.

(iv) "ADA Work" means the completion of those certain repairs, alterations and improvements recommended pursuant to the ADA Survey in order for the Facilities to comply, in all material respects, with the provisions of ADA as it applies to the Facilities when owned by the Buyer.

(v) "Agreement" means this Agreement, together with all exhibits and schedules attached hereto.

(vi) "Amenity O&M Assessments" has the meaning set forth in Section 4.7 of this Agreement.

(vii) "Annual Pass(es)" has the meaning set forth in Section 4.3(vi) of this Agreement.

(viii) "Annual Pass Agreement" has the meaning set forth in Section 4.3(vi) of this Agreement.

(ix) "Assignment and Assumption of Contracts and Leases" means the Assignment and Assumption of Contracts and Leases in the form attached hereto as Exhibit H and made a part hereof, assigning, conveying and transferring all of Seller's right, title and interest in and to the Contracts which Buyer assumes in accordance with the terms of this Agreement.

(x) "Assignment and Assumption of Licenses and Permits" means the Assignment and Assumption of Licenses and Permits in the form attached hereto as Exhibit M and made a part hereof, assigning, conveying and transferring all of Seller's right, title and interest in and to the Licenses and Permits, to the extent assignable.

(xi) "Association" means the Solivita Community Association, Inc., a Florida not-for-profit corporation.

(xii) "Bill of Sale" means the bill of sale in the form attached hereto as Exhibit I and made a part hereof, conveying or assigning to Buyer the various items of Personal Property.

(xiii) "Bonds" shall mean the Buyer's Tax-Exempt Special Assessment Bonds to be issued, in one or two series issued simultaneously, in a principal amount not to exceed [REDACTED] and with an interest rate not to exceed a rate approved by Buyer, in its sole discretion, the proceeds of which shall be used to acquire the Purchased Assets and construct and reconstruct the Planned Community Improvements.

(xiv) "Bond Validation" means the validation of the Bonds by the applicable court having jurisdiction over such validation with all appeal periods having expired and no appeals having been taken or any filed appeals resolved by the validation of the Bonds.

(xv) "Buyer" means the Poinciana Community Development District, a special purpose unit of local government established pursuant to Chapter 190, Florida Statutes and its permitted successors and assigns in accordance with the terms of this Agreement.

(xvi) "Buyer's Conditions Precedent" means those conditions to Buyer's obligation to close on the transaction contemplated by this Agreement as more particularly set forth in Section 4.2 of this Agreement.

(xvii) "Closing" means the consummation of the purchase and sale transaction contemplated by this Agreement, including, without limitation, transfer of Seller's title to the Purchased Assets to Buyer upon the payment of the Purchase Price by Buyer.

(xviii) "Closing Date" means the date no later than thirty (30) days following satisfaction or waiver of Buyer's Conditions Precedent to Closing, as set forth in Section 4.2 of this Agreement and Seller's Conditions Precedent to Closing, as set forth in Section 4.3 of this Agreement, but in no event later than one-hundred twenty (120) days following the Bond Validation.

(xix) "Club" means the real property, improvements and personal property, which are subject to the Club Plan, as hereinafter defined, including but not limited to the Real Property, Improvements, Personal Property, FF&E, and Inventory within the Land and associated with and use in connection with the ownership, operation and maintenance of the Facilities which are included in the Purchased Assets.

(xx) "Club Dues" means the charges relating to the Club to be paid by the owners of homes within the Community and builders within the Community pursuant to the provisions of the Club Plan and Declaration, including without limitation, the Club Membership Fee.

(xxi) "Club Manager" means initially Evergreen Lifestyles Management, a Florida limited liability company, and its successors and permitted assigns.

(xxii) "Club Membership Fee" means the annual membership fee payable by each owner of a home within the Community with regard to such home as more specifically set forth in the Club Plan, as hereinafter defined.

(xxiii) "Club Operation" means the Club and related business, ownership, management, maintenance and operation of the Club, presently being conducted by Seller with respect to the Club.

(xxiv) "Club Operation Documents" means, collectively, copies of the Club Plan, all business files, books and records and other documentation related to the Club Operation or otherwise in the possession or control of the Seller.

(xxv) "Club Plan" means that certain Amended and Restated Solivita Club Plan recorded December 27, 2013 as Instrument No. 2013235601 in the Public Records of Polk County, Florida, as amended and supplemented from time to time.

(xxvi) "Club Plan Termination" means that certain termination of the Club Plan to be executed by Seller and recorded in the Public Records of Polk County, Florida, at Closing.

(xxvii) "Community" means the community commonly known as "Solivita" located in Polk County, Florida.

(xxviii) "Conceptual Plans" has the meaning set forth in Section 4.3(ii) of this Agreement.

(xxix) "Construction Fund" has the meaning set forth in Section 4.3(i) of this Agreement.

(xxx) "Contracts" means, collectively, the written contracts, operating agreements and leases in effect as of the date of this Agreement, including vendor agreements, capital leases, and operating leases, all as listed on Exhibit E and Exhibit F, attached hereto and made a part hereof, but solely to the extent related to the Purchased Assets.

(xxxii) "Costs of Issuance" means all costs and expenses associated with the issuance of the Bonds, including, without limitation, the underwriter's discount, legal fees and other costs associated with the issuance of the Bonds.

(xxxiii) "County" means Polk County, Florida.

(xxxiiii) "Deed" means the Special Warranty Deed in the form attached hereto as Exhibit G and made a part hereof.

(xxxv) "Effective Date" means December 5, 2016.

(xxxvi) "Entitlements" has the meaning set forth in Section 4.3(ii) of this Agreement.

(xxxvii) "Equalization Amount" means the amount by which the Purchase Price for the Purchased Assets shall be reduced, such that Buyer shall receive in-kind contributions from Seller in an amount necessary to reduce annual debt service assessments levied and assessed in connection with the Bonds payable by certain residents of the Community such that debt service assessments paid by such residents remains proportionately equivalent to the current annual Club Membership Fee being paid by such residents in relation to the highest annual Club Membership Fee presently being charged in the Community, as calculated by the District's Assessment Consultant.

(xxxviii) "Existing O&M Assessments" means those special assessments imposed for the purpose of funding the cost of the operation and maintenance of the existing infrastructure and facilities of Buyer and PWCDD.

(xxxix) "Facilities" means those facilities more particularly listed on Exhibit A attached hereto and incorporated herein by reference.

(xxxix) “Facilities Operation” means that portion of the Club Operations and related business, ownership, management, maintenance and operation of the Club Operations but solely to the extent relating to the Purchased Assets.

(xl) “Facilities Operation Documents” means, collectively, copies of all business files, books and records and other documentation related to the Club Operation or otherwise in the possession or control of the Seller, Seller’s Affiliates or the Club Manager, but solely to the extent such Club Operation Documents relate to the Purchased Assets.

(xli) “FF&E” means all machinery, equipment, furniture, furnishings, appliances, fixtures, vehicles, tools, leasehold improvements, accessories, signs, and all fixed or tangible assets used or useful in the Facilities Operation, including related product warranties thereto and/or all operation and instruction manuals associated therewith which are in the possession of Seller, if any, but solely to the extent relating to the Purchased Assets.

(xlii) “Final Plans” has the meaning set forth in Section 4.3(ii) of this Agreement.

(xliii) “Force Majeure” means civil commotion; war; acts of terrorism; war-like operations; sabotage; governmental or judicial regulations, legislation or controls; and acts of God including storms, floods, and other weather conditions which preclude or prevent Buyer from closing the transaction as contemplated by this Agreement.

(xliv) “Funding Agreement” means that certain Bond Financing Team Funding Agreement dated April 20, 2016 by and between Seller and Buyer.

(xlv) “Hazardous Substances” means, collectively, (i) asbestos in any form, (ii) urea formaldehyde foam insulation, or (iii) PCBs or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any federal, state, county, regional or local authority or which, even if not so regulated, is known to pose a hazard to the health and safety of any persons that now or may hereafter occupy the Real Property or Facilities.

(xlvi) “Information” means all properties, books, records, accounts, and documents of Seller relating to the Purchased Assets, including the Facilities Operation Documents, which shall be provided to Buyer in readable format, including but not limited to Word, Excel and PDF formats.

(xlvii) “Improvements” means all improvements and structures located on the Land, including but not limited to, the buildings, dining facilities, swimming pools, tennis courts and additional amenities.

(xlviii) “Inspection Commencement Date” shall mean the date that is the same date as the Effective Date of this Agreement.

(xlix) “Inspection Completion Date” means ninety (90) days following the Inspection Commencement Date.

(l) “Inspection Period” means the period of time beginning on the Inspection Commencement Date and ending on the Inspection Completion Date.

(li) “Inventory” means all inventories, supplies, materials and stock in trade which are used or useful in connection with the Facilities, including, but not limited to, all inventories of food, beverages, goods and merchandise held for consumption or sale, which shall be maintained at levels generally consistent with Seller’s customary business practice in connection with the operation and management of the Purchased Assets, as determined by the Club Manager in its sole discretion.

(lii) “Land” means the real property described in Exhibit C attached hereto and made a part hereof, upon which the Facilities have been constructed and upon which certain Planned Community Improvements, as hereinafter defined, will be constructed pursuant to the terms of this Agreement.

(liii) “Liability” or “Liabilities” means any liability, debt, obligation, amount or sum due (whether known or unknown, whether absolute or contingent, whether liquidated or unliquidated, and whether due or to become due) including, without limitation, any liability for Taxes.

(liv) “License Agreement” means that certain license agreement to be entered into by and between Seller and Buyer relating to Seller access and entry rights to the Facilities following Closing in the form and content attached hereto and incorporated herein by reference as Exhibit “T”.

(lv) “Licenses and Permits” means, collectively, any development rights, all governmental permits and approvals, registrations and business or other licenses and occupancy certificates owned and controlled by Seller and associated with the Purchased Assets, including the Planned Community Improvements.

(lvi) “Lien” means any lien, claim, security interest, encumbrance, or mortgage relating to the Purchased Assets.

(lvii) “Liquor Permits” means the licenses or permits required for the service and sale of alcoholic beverages at the Purchased Assets or Facilities.

(lviii) “Management Agreement” means that certain Amenity Management Agreement entered into effective as of October 26, 2015 by and between Seller and Club Manager.

(lix) “Master Declaration” means that certain Amended and Restated Master Declaration for Solivita recorded December 27, 2013 as Instrument No. 2013235692 of the Public Records of Polk County, Florida, as amended or supplemented from time to time.

(lx) “Member” has the meaning set forth in the Club Plan.

(lxi) “OFAC” means the Office of Foreign Asset Control of the United States Department of the Treasury.

(lxii) "Option" means the option granted to the Buyer to purchase the Sales Center in accordance with the terms of the Option Agreement.

(lxiii) "Option Agreement" means that certain agreement to be entered into by and between Seller and Buyer pursuant to which Seller shall grant the Buyer an option to purchase the Sale Center, as hereinafter defined, in accordance with the terms and provisions of Section 4.2(x) of this Agreement and in the form and content which shall be agreed upon by the parties prior to the expiration of the Inspection Period.

(lxiv) "Permitted Exceptions" means:

(1) Zoning and use restrictions now or that may hereafter come into existence due to governmental action and may be effective against the Real Property;

(2) The Master Declaration;

(3) Real property taxes and assessments for the year in which Closing occurs, which shall be prorated as provided in Section 3.3;

(4) The standard printed exceptions for taxes that are not yet due and payable and for matters that are disclosed by the Survey, to the extent such exceptions are not deleted from the Title Commitment by the Title Underwriter at Closing;

(5) All matters of record pertaining to the establishment, operation, management and financing of the Poinciana Community Development District and the Poinciana West Community Development District (except that special assessment principal and interest securing the Series 2007 Bonds and the 2012 Bonds levied on the Land and any outstanding and unpaid Existing O&M Assessments levied on the Land for the Buyer's fiscal year during which Closing occurs shall be paid in full by Seller at or before Closing); and

(6) Any matters which are approved in writing by Buyer or any exception to title appearing in the Title Commitment to which Buyer does not object in a timely manner pursuant to Section 5.1 herein.

(lxv) "Person" shall mean a natural person, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, governmental entity or other entity or organization.

(lxvi) "Personal Property" means all intangible personal property (to the extent assignable) and all of Seller's interest in other tangible personal property of every kind and character owned by Seller and currently attached to, located on or used in connection with the operation and maintenance of the Facilities. A list of tangible personal property currently held by Seller and located on or used in connection with the operation and maintenance of the Facilities is attached hereto and incorporated herein by reference as Exhibit "D" (the "Tangible Personal Property"). Notwithstanding the foregoing, the Tangible Personal Property is subject to removal and replacement in connection with the ordinary operation and maintenance of the Facilities by Seller and Seller makes no representation that each item of Tangible Personal Property will be available for transfer and conveyance to the Buyer at Closing; provided,

however, Seller agrees to maintain the level of Tangible Personal Property consistent with Seller's customary business practice in connection with the operation and management of the Purchased Assets, as determined by the Club Manager in its sole discretion.

(lxvii) "Planned Community Improvements" means the proposed improvements to be constructed on the Land within the Community, which are more particularly set forth on Exhibit R attached hereto and incorporated herein by reference.

(lxviii) "Planned Lots" means those portions of Seller's Retained Lots, as hereinafter defined, which are undeveloped, but which Seller intends to plat in the future as residential lots.

(lxix) "Platted Lots" means those portions of Seller's Retained Lots, as hereinafter defined, which have been platted pursuant to a recorded plat in Polk County, Florida.

(lxx) "PWCDD" means the Poinciana West Community Development District, a special purpose unit of local government established under Chapter 190, Florida Statutes.

(lxxi) "Project Management Agreement" has the meaning set forth in Section 4.3(i) of this Agreement.

(lxxii) "Project Manager" has the meaning set forth in Section 4.3(i) of this Agreement.

(lxxiii) "Project Management Duties" has the meaning set forth in Section 4.3(ii) of this Agreement.

(lxxiv) "Project Management Fee" has the meaning set forth in Section 4.3(ii) of this Agreement.

(lxxv) "Property Data" means, collectively, all of the information contained in Seller's electronic data room for purposes of reviewing certain Seller documents and records as they relate to the Purchased Assets, but expressly excluding any proprietary data, proformas or market studies.

(lxxvi) "Purchased Assets" has the meaning set forth in Section 2.1 of this Agreement.

(lxxvii) "Purchase Price" means the amount of SEVENTY THREE MILLION SEVEN HUNDRED THOUSAND AND NO/100 Dollars (\$73,700,000.00).

(lxxviii) "REA" means the Restrictions, Easements and Operating Agreement to be entered into by Seller, Buyer and the Association in accordance with Section 4.2(vii) of this Agreement.

(lxxix) "Real Property" means, collectively, the Land, together with all Improvements located thereon, subject to the Permitted Exceptions, and all of the rights, privileges and entitlements appurtenant thereto, including, but not limited to, all ingress, egress,

and easement rights, rights to public rights-of-way, airspace rights and mineral rights, together with all appurtenant rights and entitlements pertaining to streets, and roadways and waterways.

(lxxx) "Receivables" means all accounts receivable for the Facilities, including but not limited to those accounts receivable relating to the Club Membership Fee, Club Dues and other dues, fees, costs and assessments for services rendered or goods supplied prior to the Closing Date existing at the Closing Date.

(lxxxii) "Required Representatives" means each parties' respective counsel, accountants, shareholders, directors, lenders, consultants or affiliates who are actively and directly participating in the transaction.

(lxxxiii) "Restaurant Manager" means Solivita Golf & Hospitality, LLC, a Florida limited liability company.

(lxxxiv) "Restaurant Management Agreement" has the meaning set forth in Section 4.2(xii) of this Agreement.

(lxxxv) "Retained Land Threshold" shall mean ownership of no less than five percent (5%) of the total Platted Lots and Planned Lots, developed or to be developed, within the Community.

(lxxxvi) "Retained Liabilities" means the following liabilities retained by Seller after Closing:

(1) Any Taxes and/or assessments due to a governmental or quasi-governmental entity for any period prior to the Closing but not paid by Seller and any interest or penalties thereon.

(2) Claims of persons employed by Seller, the Club Manager at the Club or the Restaurant Manager based upon occurrences or circumstances arising prior to the day of Closing in connection with such employment.

(3) Any post-closing adjustments required by Section 3.3 which are Seller's responsibility.

(4) The Litigation listed on Exhibit O, if any.

(5) Any claims or circumstances occurring prior to the Closing which are covered by workers compensation or personal injury coverage maintained by Seller.

(6) Any claim for damage to persons or property that occurred prior to the Closing Date to the extent not covered by insurance maintained by Seller.

(lxxxvii) "Retained Lots" has the meaning set forth in Section 4.7 of this Agreement.



(lxxxvii) "Rules and Regulations" has the meaning set forth in Section 4.3(v) of this Agreement.

(lxxxviii) "Sales Center" means Seller's existing sales and administrative building located on the real property more particularly described on Exhibit S attached hereto and incorporated herein by reference.

(lxxxix) "Seller" means Avatar Properties, Inc., a Florida corporation.

(xc) "Seller Delay" means Buyer is unable to close by the Closing Date as a result of Seller's failure to: (i) timely deliver the Property Data as set forth in Section 5.2; or (ii) as a result of Force Majeure.

(xci) "Seller's Conditions Precedent" means those conditions to Seller's obligation to close on the transaction contemplated by this Agreement as more particularly set forth in Section 4.3 of this Agreement

(xcii) "Seller's Representatives" mean Tony Iorio, Matt Orosz and Stephen Orosz.

(xciii) "[REDACTED] Poinciana West Community Development District (Polk County, Florida) Special Assessment Bonds, Series 2007 issued by the Poinciana West Community Development District, as well as any bonds issued to refund or refinance the Series 2007 Bonds prior to Closing.

(xciv) "[REDACTED] Development District (Polk County, Florida) [REDACTED] Senior Special Assessment Refunding Bonds, Series 2012A-1 and [REDACTED] Subordinate Special Assessment Refunding Bonds, Series 2012A-2 issued by the Poinciana Community Development District.

(xcv) "Site Plan" means the site plan for the Community which is attached hereto and incorporated herein by reference as Exhibit B.

(xcvi) "Solivita Grande Resident" has the meaning set forth in Section 4.3(iii) of this Agreement.

(xcvii) "Survey" means, collectively, the surveys of the Real Property.

(xcviii) "Taxes" means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty or addition thereto.

(xcix) "Title Agent" means First American Title Insurance Company.

(c) "Title Commitment" means the ALTA title commitment with Florida modifications to be issued by Title Agent as agent for Title Underwriter for an owner's title insurance policy for the Real Property in the amount of the Purchase Price allocated to the Real Property by Buyer in accordance with Section 3.1 of this Agreement.

(ci) "Title Notice" means the written notice to be delivered from Buyer to Seller if Buyer objects to any of the title exceptions identified in the Title Commitment or title matters disclosed on the Survey, other than Permitted Exceptions.

(cii) "Title Underwriter" means a nationally recognized title insurance underwriter selected by Seller to deliver a commitment for an owner's policy of title insurance as provided for in Section 5.1 of this Agreement.

(ciii) "Warranties" means, collectively, any and all warranties held by Seller with respect to Personal Property and Improvements.

(civ) "Work" means the work conducted by Buyer in connection with Buyer's entry upon the Real Property for the purpose of evaluating the Purchased Assets and determining the physical condition and characteristics thereof and the suitability of the Purchased Assets.

## ARTICLE 2

### ASSETS TO BE PURCHASED

#### Section 2.1 CONVEYANCE OF PURCHASED ASSETS

Seller owns and agrees to sell, convey, transfer, assign, set over and deliver to Buyer on the Closing Date, and Buyer agrees to purchase and accept, on the terms and subject to the conditions expressed in this Agreement, all right, title and interest in and to the following (collectively, the "Purchased Assets"):

- (i) the Real Property;
- (ii) the Personal Property;
- (iii) the Inventory on the Closing Date;
- (iv) the FF&E;
- (v) to the extent assignable or transferrable and as otherwise permitted by law, all surveys, topographical information and reports, remediation reports, inspection reports relating to the Purchased Assets, operating manuals, warranties, plans and specifications and engineering drawings, customer and guest lists pertaining solely to the Facilities, consulting studies and reports relating solely to the Purchased Assets purchased by Buyer, to the extent Seller has any such items, including copies of all printouts of information contained in any computer software of Seller which are not delivered to Buyer at Closing and which is necessary to the Facilities Operation;

(vi) to the extent required for the continued Facilities Operation, the Facilities Operation Documents;

(vii) to the extent assignable by law or the terms thereof and subject to Seller's commercially reasonable efforts to assign, the Contracts, but expressly excluding Seller's expenditure of money. Attached hereto are schedules of the Contracts identifying by category (aa) in Exhibit F, leases (and if operating or capital), and (bb) in Exhibit E, all other contracts and operating agreements. Prior to the expiration of the Inspection Period, Buyer will notify Seller of any Contracts it does not wish to assume and Seller shall be obligated to cause such Contracts to be terminated following Closing; provided, however, that any such Contracts shall be terminated no later than thirty (30) days following Closing and Seller shall be obligated to pay any fees, costs or expenses incurred in connection with such Contracts following Closing;

(viii) all stationery and other imprinted material and office supplies, catalogs, circulars, advertising material, business records (or copies thereof), the right to receive mail and other communications and shipments of merchandise addressed to Seller if related to the Purchased Assets;

(ix) to the extent assignable by law or the terms thereof, and subject to the Seller's commercially reasonable efforts to assign, the Licenses and Permits; provided, however, that the Licenses and Permits shall be assigned to Buyer "as-is" "where is" with no representations or warranties by Seller. Buyer shall be responsible, at Buyer's sole cost and expense, for all matters required to permit the assignment of the Licenses and Permits to Buyer, including but not limited to promptly satisfying all conditions and compliance issues relating to the Licenses and Permits to permit assignment to Buyer as soon as possible following the Closing Date. Seller represents and warrants that Seller presently holds no Liquor Permits and that all Liquor Permits held in connection with the Club have been issued in the name of the Restaurant Manager. Seller agrees to coordinate with Buyer to effectuate the transfer of the Licenses and Permits, including but not limited to executing all necessary documents associated therewith and to use good faith, reasonable efforts to cause the transfer from Restaurant Manager of all Liquor Permits held by Restaurant Manager to Buyer at Closing to the extent such transfer is desired by Buyer, at Buyer's sole discretion or to use good faith, reasonable efforts to assist Buyer with respect to the issuance of new Liquor Permits to Buyer at Closing. Seller further agrees and acknowledges that Seller shall terminate as of Closing and at Seller's sole cost and expense, any existing management agreement with Restaurant Manager relating to any portion of the Facilities; and

(x) to the extent assignable by law or the terms thereof, the Warranties.

Title to Purchased Assets will be conveyed free and clear of any claim or interest created by, through or under Seller, with the exception of the Permitted Exceptions.

## Section 2.2 RETAINED LIABILITIES

After the Closing, Seller agrees to retain the Retained Liabilities. Following Closing, Buyer agrees that, except for the Retained Liabilities, Buyer shall assume all other obligations,

responsibilities, and liabilities relating to the Purchased Assets arising from actions or omissions after Closing.

### ARTICLE 3

#### PURCHASE PRICE AND PAYMENT

##### Section 3.1 PURCHASE PRICE

Buyer shall pay the Purchase Price in cash at Closing by wire transfer of funds, subject to prorations and adjustments as described in this Agreement. Seller and Buyer further agree and acknowledge that the Purchase Price and Bonds shall be reduced by the Equalization Amount. During the Inspection Period, Buyer and Seller shall cooperate to allocate the Purchase Price between the Land, Improvements and Personal Property, and reduce to writing such allocation, which allocation shall be made a part of this Agreement; provided, however, that any such allocation shall not be a condition to Closing and, in the event the parties are unable to reach agreement on an allocation, each party shall be permitted to allocate the Purchase Price in their reasonable discretion following Closing.

##### Section 3.2 COLLECTION OF RECEIVABLES

The Receivables shall not be transferred to Buyer. From and after Closing, Seller shall, in Seller's name and in its discretion, collect the Receivables post-Closing, at its sole cost and expense and Buyer shall cooperate with Seller in such collection activities, provided, however, that any such cooperation shall be at no cost or expense to Buyer.

Seller shall provide to Buyer at Closing a list of the Receivables due to Seller. Any Receivables received by Buyer after the Closing Date shall be remitted to Seller within twenty (20) days after each month end. Similarly, to the extent Seller receives after the Closing Date, payment of any sums with respect to use of the Facilities after Closing which are not included within the Receivables and are attributable to periods accruing from and after Closing, Seller shall deliver such sums to Buyer.

This Section 3.2 shall survive Closing.

##### Section 3.3 PRORATIONS/ADJUSTMENTS

At Closing, the following items of proration and adjustment will be made as between Seller and Buyer as follows:

(i) All real and personal property taxes and assessments which are past due or which have been due upon any of the Purchased Assets on the Closing Date will be paid by Seller, together with any penalty or interest thereon. Seller shall also pay (i) all outstanding debt service special assessment principal and interest levied on the Land securing the Series 2012 Bonds and Series 2007 Bonds, respectively; (ii) all outstanding and unpaid Existing O&M Assessments levied on the Land for the Buyer's and PWCDD's fiscal year occurring during the year of Closing; (iii) an advance payment of 100% of the Amenity O&M Assessments

levied on Seller's Retained Lots for the Buyer's fiscal year occurring during the year of Closing; and (iv) an advance payment of the debt service special assessment principal and interest securing the Bonds, which are allocated to Seller's Retained Lots, but solely to the extent (a) Buyer is unable to collect the assessment principal and interest pursuant to the Uniform Method for the levy, collection and enforcement of such assessment principal and interest under Chapter 197, Florida Statutes, for the Buyer's fiscal year occurring during the year of Closing and (b) Buyer estimates a shortfall in the collection of assessment principal and interest securing the Bonds from the direct bill method necessary to make the Buyer's next regularly scheduled payment of principal and interest on the Bonds; provided, however, in no event shall Seller be obligated to advance payment of the debt service special assessment principal and interest securing the Bonds beyond the amounts coming due relating to Seller's Retained Lots for the Buyer's current fiscal year. Current real and personal property taxes and installments of special assessments, other than special assessments on the Land securing the Series 2012 Bonds and Series 2007 Bonds, will be prorated and adjusted between Buyer and Seller as of the Closing Date based on the property tax year. If current tax bills are unavailable at the Closing Date, the prior year's tax bills will be used for proration purposes and taxes will subsequently be re-prorated between Buyer and Seller when the current year's tax bills are received, if requested by either party within forty-five (45) days of one party's receipt of the request for re-proration from the other party. Seller shall be entitled to the maximum discount allowed by law for Seller's proportionate share of all such taxes and assessments. In connection with the proration of real estate taxes and assessments, the parties shall cooperate in good faith to utilize the proration procedures set forth in Section 196.295, Florida Statutes.

(ii) Income and expenses attributable to the Purchased Assets through the Closing Date shall be deemed for the account of Seller and thereafter for the account of Buyer (other than the amounts set forth in (iii) below).

(iii) At Closing, Seller shall transfer to Buyer an amount equal to all deposits or prepaid amounts received by Seller prior to Closing, which relate to periods from and after the Closing, including but not limited to amounts relating to the Club Membership Fee, Club Dues and Event Contracts, as hereinafter defined, or activities occurring on or after the Closing Date.

(iv) To the extent practical without causing an interruption in service, Seller shall cause all utility companies to provide final meter readings and to pay the charges for electricity, gas and any other utilities payable to the utility companies servicing the Facilities as of the day preceding Closing. Seller shall be entitled to a return of all deposits or other prepaid items held by such utility companies. Buyer shall be obligated to establish utility accounts with all utility companies and to have all utility services transferred to Buyer's name at Closing. In the event that the utilities cannot be cut-off by Seller and transferred to Buyer at Closing without an interruption in services, then Seller shall cause the charges for electricity, gas and any other utilities payable to utility companies servicing the Facilities to be apportioned as of the day of Closing with respect to the month in which the Closing occurs, and transferable utility deposits, if any, shall be transferred to Buyer, but all transferable deposits, to the extent transferred, under utility agreements shall be reimbursed by Buyer to Seller at Closing.

All prorations will be made as of the day prior to Closing, based on a 365 day year or a 30 day month, as applicable, with Seller retaining all income and revenue and paying all expenses accrued as of said date. The prorations contemplated hereby are to be made and paid or credited to Seller and Buyer, as the case may be, so far as feasible, at Closing, with a final settlement to be made no later than ninety (90) days after the Closing Date.

## ARTICLE 4

### THE CLOSING

#### Section 4.1 CLOSING

Subject to the provisions of this Agreement, the parties shall close the transactions contemplated by this Agreement no later than the Closing Date. If Buyer shall elect to close prior to the date set forth above, Buyer shall provide Seller with five (5) days' prior notice of Closing. The time of Closing on the Closing Date shall be at a time mutually agreeable to both parties. Possession of the Purchased Assets shall be delivered to Buyer at the Closing. Closing shall occur through an escrow with Title Agent.

#### Section 4.2 BUYER'S CONDITIONS TO CLOSING

Buyer's obligation to close this transaction is subject to satisfaction (or waiver by Buyer in writing), of the following conditions (the "Buyer's Conditions Precedent"):

(i) The representations and warranties of Seller contained in this Agreement, including but not limited to those set forth in Article 6 shall be true and correct in all material respects on and as of the Closing Date with the same force and effect as if such representations and warranties had been made on and as of the Closing Date. This shall be evidenced by an affidavit of Seller to be delivered at Closing in a form and content reasonably acceptable to Buyer. In the event the representations and warranties of Seller set forth herein become materially untrue or inaccurate after the Effective Date due to the actions or inactions of Seller and Seller fails to cure such occurrence prior to the Closing, then Seller shall not be in default hereunder, and Buyer may upon its receipt of Seller's disclosure of the inaccuracy, at its option, (i) accept the Purchased Assets and close under the provisions of this Agreement, subject to the matters relating to the untrue or inaccurate representation or warranty, or (ii) terminate this Agreement, whereupon the parties shall be relieved of any further obligations under this Agreement, except for those matters which expressly survive such termination;

(ii) Seller shall have performed, observed and complied with all of the covenants, agreements and conditions required by this Agreement to be performed, observed and complied with by Seller prior to or as of the Closing in all material respects;

(iii) Subject to the provisions of Article 5 of this Agreement, the condition of title and the matters reflected on the Survey shall remain unchanged since Buyer's acceptance of title and Survey, excluding any new matters created by, through or under Buyer;

(iv) Buyer shall have obtained all material approvals and permits necessary to authorize the transactions contemplated by this Agreement, including but not limited to applicable consent from the owners of the Series 2012A-2 Bonds; Buyer and the PWCDD entering into an Interlocal Agreement governing the Purchased Assets and special assessments related thereto; adoption of debt assessment resolutions and operations and maintenance assessment resolutions by Buyer and the PWCDD related to the Purchased Assets; adoption of rules by the Buyer for annual user fees for the Facilities; negotiation, approval and execution of a management agreement by the Buyer for the Purchased Assets; and approval of such other resolutions and agreements as are necessary to authorize the acquisition of the Purchased Assets by Buyer.

(v) Buyer shall have obtained all necessary approvals to authorize the issuance of the Bonds pursuant to Chapters 170, 190, and 197, Florida Statutes, in sufficient amounts to acquire the Purchased Assets and constructed the Planned Community Improvements, including but not limited to the Bond Validation, with such Bonds being in a principal amount sufficient to: (a) pay the Purchase Price; (b) pay all Costs of Issuance; (c) pay all costs incurred in connection with the Closing and as otherwise provided by this Agreement; and (d) fund an acquisition and construction account sufficient to fund the construction and installation of the Planned Community Improvements; provided, however, in the event the Bond Validation is not obtained on or before one-hundred twenty (120) days following the Effective Date of this Agreement (the "Validation Date"), Seller shall have the right to elect, by delivering written notice to Buyer, to: (i) extend the Validation date for one or more periods of thirty (30) days each or (ii) terminate this Agreement, whereupon the parties shall be relieved of any further obligations hereunder, except with respect to those which expressly survive such termination;

(vi) Buyer shall have sold the Bonds and received funds from such sale in amounts as are necessary to acquire the Purchased Assets and construct the Planned Community Improvements and pay all Costs of Issuance, pursuant to such terms and conditions, which are acceptable to Buyer in its sole and absolute discretion;

(vii) During the Inspection Period, Seller and Buyer shall determine the necessity of entering into a form of a Restrictions, Easements and Operating Agreement (the "REA") to address issues with respect to the harmonious development, operation and management of the Facilities, Planned Community Improvements, common areas owned, operated, and maintained by the Association and the Seller's retained property within the Community to the extent not addressed in the Master Declaration, including but not limited to: (i) ingress and egress easements; (ii) parking easements; (iii) signage easements; (iii) prohibited uses on the parties respective property; (iv) restrictions on improvements (including aesthetic and density restrictions) and alterations on improvements located on the Real Property and (v) future provision of reclaimed water. In the event the parties determine, prior to the expiration of the Inspection Period, that an REA is necessary, then the parties agree to enter into and execute, on the Closing Date, the REA, in a form and content to be negotiated in good faith by the parties prior to the Closing Date. In the event that the parties are unable to agree upon the form of the REA prior to the Closing Date, the Closing Date shall be extended day for day until such time as the parties reach agreement upon the form of the REA; provided, however, that the Closing Date shall not be extended by more than sixty days (60) for the purposes set forth in this Section 4.2(vii). If the parties are unable to agree upon the form of the REA within the time periods

prescribed in this subsection, this Agreement shall automatically terminate, whereupon the parties shall be relieved of any further obligations hereunder, except with respect to those matters which expressly survive such termination. At Closing, Seller, Buyer and the Association shall execute and record the REA, which execution and recording shall be a condition precedent to Buyer's obligation to consummate the Closing;

(viii) Seller shall prepare the Club Plan Termination removing all Purchased Assets from the Club Plan and terminating Seller's right to receive any Club Dues for periods from and after the Closing Date relating to the Facilities and the Planned Community Improvements and terminating the Club Plan from and after Closing. It is the intent of the parties hereto that the Buyer shall issue the Bonds in order to finance the acquisition of the Facilities and construction of the Planned Community Improvements and that, following Closing, annual debt service assessments levied by the Buyer on the owners of real property within the Community shall be paid in lieu of the Club Membership Fee presently charged pursuant to the Club Plan and, further, that Buyer shall levy annual Amenity O&M Assessments against the owners of real property within the Community to pay for the annual operation and maintenance of the Facilities acquired by the Buyer and the Planned Community Improvements to be constructed in lieu of any fees or other charges levied and assessed against the owners of real property within the Community under the Club Plan relating to the use of the Facilities and the Planned Community Improvements. The form of the Club Plan Termination shall be provided to Buyer no later than twenty (20) days prior to the expiration of the Inspection Period for Buyer's review and approval. The Club Plan Termination shall be recorded in the Public Records of the County at Closing; and

(ix) Seller shall prepare an amendment to the Master Declaration making such changes as are necessary to reflect the new ownership of the Purchased Assets. The form of the amendment to the Declaration (the "Declaration Amendment") shall be provided to Buyer no later than twenty (20) days prior to the expiration of the Inspection Period for Buyer's review and approval. The amendment to the Declaration shall be recorded in the Public Records of the County at Closing; and

(x) Seller and Buyer shall enter into the Option Agreement.

(xi) Seller shall have completed the ADA Work in accordance with the ADA Survey such that the Facilities comply, in all material respects, with the ADA. Seller shall deliver a certificate to Buyer at Closing from a licensed professional engineer or architect stating that the Purchased Assets are in compliance with the ADA provisions applicable to a unit of local government established under Chapter 190, Florida Statutes (the "ADA Certificate").

(xii) Buyer shall be prepared to enter into a management agreement (the "Restaurant Management Agreement") with Restaurant Manager or another management company acceptable to Buyer, in Buyer's sole discretion, relating to the management of any portion of the Facilities comprising restaurant facilities.

(xiii) Following a review of Seller's financial position, in the event that Buyer determines, in its sole discretion, that additional financial security is necessary in order to secure Seller's obligation to pay Amenity O&M Assessments as provided for in Section 4.3(iii) of this Agreement, then in such event, Seller shall deliver, at Closing, a surety bond, letter of credit or



such other instrument or deposit (the "Security Instrument"), in a form and content acceptable to Buyer and Seller and in a principal amount equivalent up to eighteen (18) months (the "Coverage Period") of Amenity O&M Assessments, which Seller is obligated to pay on Seller's Retained Lots in accordance with Section 4.3(iii). Buyer agrees and acknowledges that the principal amount of the Security Instrument shall be reduced annually at the commencement of the Buyer's fiscal year to the then projected Amenity O&M Assessments for the Coverage Period, which Seller is obligated to pay in connection with Seller's Retained Lots.

(xiv) Satisfaction (or waiver by Buyer) of the Buyer's Conditions Precedent are conditions to the obligation of Buyer to close the purchase of the Purchased Assets. In the event that the Buyer's Conditions Precedent are not satisfied no later than five (5) days prior to the Closing Date, Buyer shall have the right, to either: (a) waive the Buyer's Conditions Precedent and move toward Closing or (b) terminate this Agreement and thereafter the parties shall have no further obligations to each other, except as otherwise set forth herein. Buyer shall provide written notice to Seller, no later than five (5) business days prior to the Closing Date, as to the satisfaction of the Buyer's Condition Precedent or, in the event that the Buyer's Conditions Precedent are not satisfied, written notice as to Buyer's election pursuant to this Section.

#### Section 4.3 SELLER'S CONDITIONS TO CLOSING

Seller's obligation to close this transaction is subject to satisfaction (or waiver by Seller in writing), of the following conditions (the "Seller's Conditions Precedent"):

(i) Seller and Buyer shall have entered into a project management agreement (the "Project Management Agreement") pursuant to which Buyer agrees to fund an acquisition and construction account from proceeds of the Bonds in an amount equal to no less than [REDACTED] (the "Construction Fund") to fund the construction, reconstruction, development and installation of the Planned Community Improvements. The parties agree and acknowledge that Buyer shall undertake to complete the Planned Community Improvements no later than three (3) years following Closing. The terms and conditions of the Project Management Agreement shall require that Buyer engage Seller to act as Buyer's project manager (the "Project Manager") with respect to the planning, construction, reconstruction and development of the Planned Community Improvements. In its capacity as Project Manager, Seller shall oversee all design, development, construction and installation of the Planned Community Improvements; provided, however, that (a) Seller shall not directly perform any architectural, engineering or other work which would be subject to the Consultants Competitive Negotiation Act, pursuant to Section 287.055, Florida Statutes and (b) Buyer shall be responsible for complying with all applicable laws, rules, regulations and ordinances of governmental agencies having jurisdiction over the Planned Community Improvements, including but not limited to any competitive bidding and solicitation requirements set forth in Section 190.033, Florida Statutes;

(ii) Seller and Buyer shall have agreed upon the general nature, extent and scope of the Planned Community Improvements, including but not limited to such conceptual plans and specifications as are necessary for the district engineer to prepare an opinion of probable costs relating thereto in connection with the issuance of the Bonds (collectively, the "Conceptual Plans"). Following agreement on the Conceptual Plans and

Closing, Seller shall be responsible for managing and coordinating all aspects of the planning, construction and development of the Planned Community Improvements, subject to the rights of Buyer to review and approve the same, including but not limited to: (i) coordinating the preparation of all conceptual drawings, design development drawings, schematic drawings, and construction drawings (collectively, the "Final Plans") relating to the Planned Community Improvements; (ii) seeking any and all final and non-appealable consents, permits (specifically including building permits), licenses, land use, zoning and other approvals and enactment of any ordinances and other governmental action required to construct and develop the Planned Community Improvements (the "Entitlements"); (iii) obtaining bids for all work, material and services to be performed in connection with the construction and development of the Planned Community Improvements in accordance with the Final Plans; (iv) preparing budgets for the Planned Community Improvements; (v) recommending for selection and retention by Buyer of the necessary professionals, including but not limited to the general contractor, architect, engineer, landscape architect and other project planners, to complete the Final Plans and construct and install the Planned Community Improvements; and (vi) overseeing and managing the construction and installation of the Planned Community Improvements, including making and approving change orders to the Final Plans, as required during the course of construction and installation of the Planned Community Improvements in order to construct and install the Planned Community Improvements materially in accordance with the Final Plans (collectively, the "Project Management Duties"). Seller shall be entitled to receive a construction management fee (the "Project Management Fee") in the amount of five percent (5.0%) of the total actual hard and soft costs incurred in connection with the construction and development of the Planned Community Improvements. All costs and expenses incurred in connection with the construction and development of the Planned Community Improvements, including all costs incurred in connection with the performance by Seller of the Project Management Duties, shall be the obligation of Buyer; provided, however, that such costs and expenses shall, in no event, exceed the Construction Fund. Following approval of the Final Plans by Buyer, no changes, revisions, or alteration to such Final Plans shall be permitted, except as may be required by applicable law in connection with obtaining the Entitlements, without the express written consent of Buyer. The terms and provisions of this subsection (ii) shall be incorporated into the Project Management Agreement;

(iii) Buyer agrees and acknowledges that, from and after Closing, Seller has agreed to pay Amenity O&M Assessments, as defined in Section 4.7 below, on Seller's Retained Lots, consisting of both the Platted Lots and the Planned Lots, for which Seller has not yet conveyed such lots to third-party, residential end-users. As a result, Seller will be funding Amenity O&M Assessments on the Retained Lots, but there will be no third-party, residential end-user utilizing the Facilities until such time as Seller conveys each of the Platted Lots and the Planned Lots to a third-party, residential end-user. Accordingly, in exchange for Seller funding Amenity O&M Assessments on such Platted Lots and Planned Lots prior to the conveyance of same to a third-party, residential end-user, Seller shall receive an Annual Pass, as hereinafter defined, for each of such Platted Lots and Planned Lots for which Seller funds Amenity O&M Assessments; provided, however, in no event shall Seller be entitled to or allocated more than a total of one-thousand (1,000) Annual Passes in the aggregate for all time pursuant to the terms of this Section 4.3(iii). Seller shall be permitted to assign and transfer all of Seller's rights in and to each Annual Pass to residential home buyers of homes in Seller's adjacent community (such residential home buyers being hereinafter referred to individually as

an "Initial Solivita Grande Resident" or collectively as the "Initial Solivita Grande Residents"), which adjacent community is commonly referred to as Solivita Grande; provided, however, that (i) Seller agrees that no less than ninety percent (90%) of such Annual Passes shall be assigned to homes with Initial Solivita Grande Residents who are of the age of fifty-five (55) years or older and (ii) Seller further agrees and acknowledges that the terms of such Annual Passes issued to the Initial Solivita Grande Residents shall provide that each such Annual Pass shall expire and be null and void no later than five (5) years following the sale of the first residential home to a Solivita Grande Resident. The term of any initial Annual Pass shall be for a period of one (1) year following the day upon which Seller assigns an Annual Pass to an Initial Solivita Grande Resident, which date shall be no later than thirty (30) days following the date upon which a certificate of occupancy is received for the home purchased by such Initial Solivita Grande Resident. Following the expiration of any Annual Pass assigned to an Initial Solivita Grande Resident, Seller shall be permitted to assign additional Annual Passes to an Initial Solivita Grande Resident provided that the term of any such additional Annual Passes assigned shall be for a period of one (1) year commencing on the first day following the expiration of any prior Annual Pass held by such Initial Grande Resident. Notwithstanding anything contained in this subsection (iii) to the contrary, any Initial Solivita Grande Resident using the Facilities and Planned Community Improvements shall remain subject to the payment of fees and costs associated with services rendered at the Facilities and Planned Community Improvements which are charged in addition to the Annual Pass fee (i.e. by way of example and not limitation, fees and expenses for food and beverage; event services; and fees for lessons, classes, etc.). Seller agrees and acknowledges that Seller's rights in and to the Annual Passes provided to Seller pursuant to this subsection are personal to Seller and that Seller shall not be permitted to assign such Annual Passes to third parties other than the Initial Solivita Grande Residents;

(iv) Within fifteen (15) days following the execution of this Agreement, AV Homes, Inc.'s Board of Directors shall have approved the transaction which is the subject of this Agreement. A letter from Seller addressed to Buyer, as applicable, stating the Seller's Board of Directors has approved the transaction shall be considered and deemed conclusive evidence that this condition has been satisfied without the need or requirement of any further documentation. If the condition of this subsection is not satisfied within the time period prescribed herein, this Agreement shall automatically terminate and the parties will have no further rights or obligations hereunder, other than those obligations which expressly survive the termination of this Agreement;

(v) Buyer shall have prepared rules and regulations (the "Rules and Regulations") governing use and occupancy of the Facilities and following completion, the Planned Community Improvements, by non-resident members of the public, including access protocols and an annual pass program relating to user rates, fees and charges governing such use by non-resident members of the public (the "Annual Pass Agreement") and the issuance of annual passes relating thereto (each individually, an "Annual Pass" and collectively, the "Annual Passes"), which Rules and Regulations and Annual Pass Agreement shall be acceptable to Seller, in its sole discretion, and shall be implemented by Buyer prior to Closing.

(vi) Satisfaction (or waiver by Seller) of the Seller's Conditions Precedent are conditions to the obligation of Seller to close the sale of the Purchased Assets. In the event that the Seller's Conditions Precedent are not satisfied no later than five (5) days prior to

the Closing Date, Seller shall have the right, to either: (a) waive the Sellers' Conditions Precedent and move toward Closing or (b) terminate this Agreement and thereafter the parties shall have no further obligations to each other, except as otherwise set forth herein. Seller shall provide written notice to Buyer, no later than five (5) business days prior to the Closing Date, as to the satisfaction of the Seller's Condition Precedent or, in the event that the Seller's Conditions Precedent are not satisfied, written notice as to Seller's election pursuant to this Section 4.3.

#### Section 4.4    MARKETING RIGHTS AND RESERVATIONS

Seller expressly reserves the exclusive right to use the "Solivita" brand and service mark; provided however, that Buyer is hereby granted a non-assignable, non-transferrable license to use the "Solivita" brand and service mark solely in connection with Buyer's ownership, use and operation of the Facilities. In addition, if the Buyer and the PWCDD merge in the future, the surviving community development district, without further authorization or license agreement from Seller, shall be permitted to be renamed the "Solivita Community Development District" and such community development district, without further authorization or license agreement from Seller, shall be granted a non-assignable, non-transferrable license to use the "Solivita" brand and service mark solely in connection with its ownership, use and operation of the Facilities and without any representation or warranty from Seller regarding the use and availability of such brands and service marks. Seller further expressly reserves the right to continue to use any photographs of the Facilities that were or are to be developed by Seller or the Buyer in order to market real property owned by Seller inside and outside of the Community and for other corporate purposes, including the right to refer historically to the Facilities as an "AV Homes Development", "Avatar Properties Development", "AV Homes Amenity or Recreational Facility," or words of similar import. The provisions of this Section 4.4 shall survive Closing.

#### Section 4.5    SELLER'S USE OF THE CLUB PROPERTY POST-CLOSING

After the Closing Date, Buyer shall permit Seller and Seller's officers, agents, representatives, and employees, at no cost, to access and enter the Facilities during normal business hours for purposes of showing the Facilities to prospective purchasers of other properties offered for sale by Seller or its affiliates in the Community. Seller's right of access and entry shall be governed by the terms of the License Agreement to be entered into at Closing in the form attached hereto as Exhibit T.

#### Section 4.6    POST-CLOSING MANAGEMENT

Buyer agrees and acknowledges that, following Closing, Buyer intends to retain Evergreen Lifestyles Management, a Florida limited liability company ("ELM"), as Buyer's manager for purposes of managing the Purchased Assets and, following completion, the Planned Community Improvements. At Closing, Seller shall assign and Buyer shall assume the Management Agreement or Seller shall cause the Management Agreement to be terminated at Closing and Buyer shall enter into a direct management agreement with ELM relating to the management of the Purchased Assets and, following completion, the Planned Community Improvements. In the event that, following Closing, Buyer desires to replace ELM with another third-party management company (a "Replacement Manager"), then in such event, so long as Seller meets the Retained Land Threshold, any such Replacement Manager must meet or exceed the following standards in order to be

appointed and retained as Buyer's manager: (i) any such Replacement Manager or the employee of the Replacement Manager with primary onsite responsibility for the day-to-day operations of the Facilities, shall have no less than five (5) years' experience in the operation and management of facilities similar to the Purchased Assets and the Planned Community Improvements and (ii) any such Replacement Manager shall be properly licensed, insured and bonded, in amounts and coverages customary in the industry. If the Buyer decides to hire an employee as the Replacement Manager to manage the day-to-day operations of the Facilities while the Seller still meets the Retained Land Threshold, such individual shall have no less than five (5) years' experience in the operation and management of facilities similar to the Purchased Assets and the Planned Community Improvements and (ii) shall hold and maintain all such licenses as are necessary to perform the Replacement Manager's duties. The provisions of this Section 4.6 shall survive closing.

#### Section 4.7 SPECIAL ASSESSMENTS PAYABLE BY SELLER POST-CLOSING

From and after Closing, the Parties agree that the Platted Lots and Planned Lots owned by Seller (the "Retained Lots") shall be subject to the levy of special assessments associated with the Bonds; provided, however, that the initial principal amount of the Bonds allocated to each Retained Lot shall be no more than the initial principal amount allocated to a non-Retained Lot within the Community that does not have an assessment reduced by the Equalization Amount. The parties agree that the individual lots comprising the Retained Lots will be subject to the levy of special assessments for operations and maintenance ("Amenity O&M Assessments") of the Purchased Assets or Planned Community Improvements as to each lot on a fair and equitable basis and consistent with Amenity O&M Assessments levied and collected against all other non-Retained Lots within the Community. All Planned Lots owned by Seller which are intended to be developed as residential lots shall be subject to the levy of special assessments as more particularly set forth in the assessment methodology to be adopted by the Buyer in connection with the issuance of the Bonds, which special assessments shall subsequently be allocated to the Planned Lots as such Planned Lots are platted. Seller agrees that in connection with the Districts' budget processes for fiscal year 2018 and fiscal year 2019, the Districts will certify for direct collection the Amenity O&M Assessments levied on the Retained Lots then owned by Seller and Seller will pay such Amenity O&M Assessments in full on or before October 1, 2017 and October 1, 2018, respectively. Seller agrees to, and waives any objection to, the Districts certifying Amenity O&M Assessments levied against the Retained Lots for direct collection in fiscal year 2017, fiscal year 2018, fiscal year 2019 and every fiscal year thereafter for which in the District's sole discretion payment in full on the Retained Lots on or before October 1<sup>st</sup> is necessary to maintain adequate cash flows to pay for the operations and maintenance expenses of the District associated with the Purchased Assets. Seller agrees to provide, in connection with Closing, legal descriptions for Seller's Retained Lots prior to Closing.

#### Section 4.8 CLOSING COSTS

At the Closing, all costs shall be payable as follows:

Seller shall pay for:

(i) All fees and charges of its attorneys, consultants, engineers, accountants, and other professionals and/or representatives;

- (ii) The cost of preparing and recording any corrective instruments that may be required in connection with curing the title established herein;
- (iii) The cost of recording the Deed in the Public Records of the County;
- (iv) The cost of documentary stamps and surtax which are required to be affixed to the Deed;
- (v) The cost of the Owner's Title Insurance Commitment and Policy and all related title searches, charges and any endorsements to the Owner's Title Insurance Commitment and Policy;
- (vi) All sales, transfer or excise taxes imposed on the transfer of any and all tangible personal property hereunder; and
- (vii) Except as otherwise provided herein, all special assessments and taxes which became a lien on their respective properties prior to Closing.

Buyer shall pay for:

- (viii) All fees and charges of its attorneys, consultants, engineers, accountants, architects and other professionals and/or representatives, including but not limited to those incurred by Buyer in connection with the Funding Agreement. To the extent any such costs were incurred in connection with the Funding Agreement and Seller has paid the cost of such items prior to Closing, Seller shall receive a credit at Closing in accordance with the provisions of the Funding Agreement;
- (ix) The cost of the Survey;
- (x) The cost of any due diligence audits or reports which Buyer may order; and
- (xi) The cost of any financing pertaining to the purchase of the Purchased Assets, if any.

#### Section 4.9 DELIVERIES BY SELLER

At the Closing, Seller shall in addition to all other items specified elsewhere in this Agreement, cause to be duly executed by the appropriate person and/or delivered, the following items, as appropriate:

- (i) Counterpart of Closing Statement;
- (ii) Deed;
- (iii) Assignment and Assumption of Contracts and Leases;

- (iv) Annual Pass Agreement;
- (v) Bill of Sale;
- (vi) REA, if applicable;
- (vii) Club Plan Termination;
- (viii) Declaration Amendment, if applicable;
- (ix) ADA Certificate;
- (x) Assignment and Assumption of Licenses and Permits;
- (xi) A certificate from Seller stating whether or not Seller's representations and warranties made herein are true and correct in all material respects as of the Closing Date;
- (xii) Such corrective instruments as may be required to deliver good and marketable title, pursuant to the provisions of Article 5 hereof;
- (xiii) A seller's affidavit for the Real Property in form and content as may be reasonably required by the Title Underwriter to delete the standard "gap" exception, the standard construction lien exception and the standard parties in possession exception except with respect to any tenants, occupants, licensees or users pursuant to the terms of the Contracts or Leases;
- (xiv) Non-foreign affidavit evidencing that Buyer shall not be liable for transfer liability under Section 1445 of the Internal Revenue Code, as amended;
- (xv) Evidence satisfactory to Buyer and Title Underwriter of Seller's due formation and existence and that the person executing the closing documents on behalf of Seller has full right, power and authority to do so;
- (xvi) Intentionally Deleted;
- (xvii) Project Management Agreement;
- (xviii) Option Agreement;
- (xix) License Agreement;
- (xx) Actual and exclusive possession and operating control of the Purchased Assets, subject to the Events and Permitted Exceptions;
- (xxi) a form letter or other communication from Seller to each Member as shall be agreed upon between Seller and Buyer directing that all future fees, and all payments shall be paid to Buyer, or as Buyer shall otherwise direct;

(xxii) All keys, security codes and security cards not otherwise in the possession of the Club Manager, together with a list of the names and email addresses (if available) of each individual with access to such keys, security codes and security cards; and

(xxiii) Any other documents Buyer deems reasonably necessary or advisable to consummate the transactions contemplated hereby.

#### Section 4.10 DELIVERIES BY BUYER

At the Closing, Buyer shall execute or cause to be executed by the appropriate persons and/or deliver to Seller the following:

- (i) Closing Statement;
- (ii) Assignment and Assumption of Contracts and Leases;
- (iii) REA, if applicable;
- (iv) Assignment and Assumption of Licenses and Permits;
- (v) Intentionally Deleted;
- (vi) Project Management Agreement;
- (vii) Copies of the Rules and Regulations and Annual Pass Agreement relating thereto;
- (viii) Option Agreement;
- (ix) License Agreement;
- (x) Rules and Regulations;
- (xi) Evidence satisfactory to Seller and Title Underwriter of Buyer's due formation and existence and that the person executing the closing documents on behalf of Buyer has full right, power and authority to do so;
- (xii) A certificate from Buyer stating whether or not Buyer's representations and warranties made herein are true and correct in all material respects as of the Closing Date;
- (xiii) The cash balance of the Purchase Price due at Closing for the Purchased Assets, pursuant to the Closing Statement;
- (xiv) Consumer's Certificate of Exemption (Fla. DOR Form DR-14) containing Buyer's Florida tax identification number and a copy of Buyer's Application for Certificate of Exemption (Fla. DOR Form D-5) filed with the Florida Department of Revenue; and



(xv) Any other documents Seller deems reasonably necessary or advisable to consummate the transactions contemplated hereby.

## ARTICLE 5

### TITLE REVIEW AND INSPECTIONS

#### Section 5.1 TITLE COMMITMENT AND SURVEY

As of the Effective Date of this Agreement, Seller, at Buyer's expense, has caused Title Agent to issue the Title Commitment, along with legible photocopies of the title exceptions set forth on the Title Commitment. Seller has further caused a duly licensed surveyor to prepare a Survey for the Property, which Survey has been delivered to Buyer and will be certified to Buyer, Seller, Title Agent and Title Underwriter at Closing and which shall be updated to locate all matters set forth in Schedule B-II of the Title Commitment which are capable of depiction. Seller shall furnish good and marketable title for the Property, free and clear from all liens, mortgages, pledges, security agreements, rights, charges or encumbrances, but solely to the extent created by, through or under Seller and any other matters disclosed in the Title Commitment or Survey which are timely objected to by Buyer, except with respect to the Permitted Exceptions. Buyer shall give Seller the Title Notice, if any, no later than thirty (30) days prior to expiration of the Inspection Period. In the event Buyer objects to any title exception(s) or title matters disclosed on the Survey other than the Permitted Exceptions, Buyer shall state in the Title Notice to which title exception(s) set forth on the Title Commitment or title matters disclosed on the Survey Buyer objects. Any title exceptions or title matters disclosed on the Survey not timely objected to by Buyer within the prescribed time period shall thereafter be deemed a part of and included within the defined term used herein as the "Permitted Exceptions." Seller shall not be obligated to satisfy or remove any matter to which Buyer has objected in the Title Notice; provided, however, that at the Closing, all mortgages and any other liens, charges or encumbrances created by, through or under Seller that may be satisfied by the payment of money shall be satisfied of record by Seller. No later than twenty (20) days after delivery of the Title Notice (the "Title Review Period"), if Seller has failed or refuses to satisfy or remove any matter to which Buyer has objected in the Title Notice, Buyer may, prior to expiration of the Inspection Period, at its option (i) accept title subject to the objections raised by Buyer, in which event said objection(s) shall be deemed waived for all purposes, and proceed with Closing without any reduction in the Purchase Price, or (ii) rescind this Agreement, whereupon this Agreement shall terminate and the parties shall have no further liability or obligation hereunder except for such obligations which survive the Closing. Buyer shall elect one of the two options specified in the preceding sentence prior to expiration of the Inspection Period. In the event Buyer fails to timely make such election, Buyer shall be deemed to have elected the option to accept title subject to the objections raised by Buyer and proceed with Closing in accordance with item (i) hereinabove.

Except with respect to title and survey matters which Seller has chosen to cure in accordance with this Section, if Buyer has not delivered the Termination Notice as provided for in this Section 5.1, Buyer shall be deemed to have accepted the Title Commitment and Survey, including the Permitted Exceptions.

## Section 5.2 ACCESS TO PROPERTY DATA

Seller has delivered or shall make available to Buyer the Property Data from and after the Effective Date of this Agreement. In addition, Seller shall continue to make the Property Data available to Buyer through the Inspection Period and in the event Buyer does not elect to terminate this Agreement as provided in Section 5.3 below, during the term of this Agreement, Seller will continue to provide access to the Property Data. The parties agree that upon conclusion of the Inspection Period and through the Closing Date, if Buyer elects not to terminate this Agreement, the Property Data shall be updated as may be necessary, to incorporate any additions thereto or deletions therefrom as may have occurred since the Effective Date.

## Section 5.3 BUYER'S INSPECTION RIGHTS

Within fifteen (15) days from the Effective Date, to the extent not already delivered by Seller to Buyer, Seller shall make available to Buyer copies of documentation in Seller's possession or control, if any, pertaining to the Purchased Assets, including but not limited to surveys, engineering plans and specifications, title policies, environmental reports and studies (including but not limited to radon, mold, lead based paint, and asbestos), licenses, permits, building plans and specifications, list of inventory, equipment, furniture and fixtures, notices of violations of any ordinances or environmental regulations and insurance policies ("Documentation").

During the Inspection Period, Buyer shall have the right to evaluate the Purchased Assets in any manner reasonably desired by Buyer for the purpose of determining the physical condition and characteristics thereof and the feasibility of and suitability of the Purchased Assets for Buyer's intended use, subject to all of the terms and conditions stated in this Section.

In the event Buyer fails to close on the transaction herein contemplated, Buyer shall return any copies of Seller's Property Data which it may have in its possession, together with any third party reports (subject to provisions of Section 5.3 (a)(ii)), to Seller within thirty (30) business days of the termination of this Agreement; provided, however, Buyer may retain copies of any such documents.

During the Inspection Period and upon reasonable advance notice to the Seller, Seller will permit full access to and will make available to Buyer's representatives for inspection and review, the Information as may be reasonably requested from time to time, and Seller shall permit access to other third parties reasonably requested for verification of any information so obtained. Buyer expressly agrees that its exercise of such rights of access shall be performed in a manner that will not interfere unreasonably with the business operations of the Club. Seller shall furnish to Buyer copies of all Contracts and shall make available for Buyer's review at any time the Licenses and Permits.

Subject to the restrictions and conditions hereafter described, with respect to the Work Buyer agrees as follows:

a. Buyer's inspections of and Work on the Real Property shall be subject to the following terms and conditions:

(i) All Work Buyer wishes to perform on the Real Property (including all inspections and tests and work associated therewith), environmental studies and audits, hydrology analysis, surveys of the Real Property, appraisals and building inspections, shall be reasonably identified in writing to Seller prior to the commencement of any such work. All Work shall be performed during normal business hours and Buyer shall use commercially reasonable efforts to assure such activities do not interfere with the Club Operation.

(ii) Buyer shall have the right to have its engineers, contractors and others of Buyer's selection make the inspections and tests of the Real Property, including but not limited to environmental surveys and tests; soil tests, termite inspections, mold tests and fire suppression tests; provided, however, (a) if Seller so elects, Seller's designated representative shall accompany any such engineer or others during any such inspection(s) and test(s) that require entry into any building on the Real Property and (b) prior to performing any invasive testing, Buyer must first obtain the written consent of Seller, which may be withheld in Seller's discretion. If Seller refuses to provide written consent to such activities, the Buyer shall have the option, in its sole discretion, to terminate this Agreement prior to the expiration of the Inspection Period, whereupon the parties shall be relieved of any further obligations hereunder, except with respect to those matters which expressly survive such termination. As part of the consideration for Seller's consent to allow Buyer to enter the Real Property, Buyer shall deliver to Seller, if this transaction does not close, a copy of all written reports prepared by third parties, including written data, written studies and other written information obtained by Buyer as a result of Buyer's exercise of its rights under this Section relating to the Real Property or as a result of any Work relating to the Real Property, other than its financial information and work sheets, all without representation or warranty of any kind, but excluding any written materials subject to the attorney-client privilege and any internally prepared reports, studies and analysis.

(iii) Buyer shall obtain and pay for all permits and approvals required by any governmental entity with jurisdiction over any Work performed by or on behalf of Buyer on the Real Property.

(iv) Buyer warrants and guarantees that Buyer shall be solely responsible and liable for payment of all costs and expenses associated with the Work performed in connection with the exercise of its inspection rights (including, by way of example, but not limitation, costs of all professional or other services performed on behalf of Buyer in connection with the Work) and Buyer shall promptly pay all such costs and expenses. Buyer shall not permit any Lien to be placed against any portion of the Real Property as a result of Buyer's exercise of its rights of entry or performance of Work on the Real Property. Within fifteen (15) business days after Buyer's receipt of any notice to Buyer that a Lien has been placed or claimed against any portion of the Real Property as a result of Buyer's exercise of its rights under this Section or the performance of any Work in connection therewith, Buyer shall pay, bond or otherwise discharge the Lien and remove it as an encumbrance or cloud on Seller's title to the Real Property. If Buyer fails to so pay, bond or discharge the Lien, Seller shall have the right, but not the obligation, to pay, bond or otherwise discharge the Lien and all costs incurred by Seller in so doing, including, without limitation, Seller's attorneys' and paralegals' fees and costs, shall be reimbursed to Seller by Buyer within ten (10) business days of Buyer's receipt of written demand for same from Seller.

(v) To the extent authorized by law and without waiving any of the protections and immunities afforded to Buyer under Florida law, Buyer agrees and covenants that it shall unconditionally and fully indemnify, release, defend and hold Seller harmless from any and all claims, losses, penalties, demands, judgments, damages, injuries and costs of suit, including attorneys' and paralegals' fees (and including federal, state and/or local regulatory enforcement actions), for any expense, damage or liability, demands, guarantees or warranties (both express and implied) incurred by Seller and its successors and assigns for personal injury, property damage, direct damages, or economic loss, controversies, costs, expenses, actions or causes of action of any nature whatsoever, at law or in equity, relating to or arising out of performance of the Work. To the extent authorized by law and without waiving any of the protections and immunities afforded to Buyer under Florida law, such obligations of Buyer shall include, all reasonable and necessary costs incurred by Seller or its successors or assigns to repair, replace or restore real or personal property to substantially the same condition it was in prior to being damaged during work performed in the course of the Work. Buyer's obligations contained in this section shall survive any assignment, cancellation or termination of this Agreement, to the extent authorized by law and without waiving any of the protections and immunities afforded to Buyer under Florida law.

(vi) Buyer, as a condition to its right to enter the Real Property, shall require its contractors and professionals to maintain commercial general liability insurance under an occurrence policy form (naming Seller as an "additional insured") issued by an insurance company or companies reasonably satisfactory to Seller and possessing an A. M. Best Company rating of A-, Class VII to protect Seller from any claims for bodily injury, including death, and property damage in a minimum amount of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate arising in connection with Buyer's exercise of its rights of entry, investigation and inspection of the Real Property. A copy of such policy or a certificate substantially in the form of Schedule E or an ACORD 28 on which Seller may rely shall be delivered to Seller or Seller's attorneys prior to Buyer's exercise of its right of entry. Such policy shall provide that coverage shall not be cancelled in coverage or in limits except after sixty (60) days' notice.

(vii) Buyer warrants and guarantees that upon completion of the Work or termination of this Agreement, whichever occurs first, Buyer shall repair any damage caused by Buyer and/or its agents, contractors, and employees on or to the Real Property and Buyer shall restore the Real Property to substantially its pre-existing condition. Buyer shall be solely liable and responsible for all costs and expenses associated with such repair and restoration. If Buyer's activities on the Real Property create a violation of any laws, rules, codes, regulations or ordinances of any governmental agencies having authority over such matters, then Buyer shall no later than ten (10) business days' after notice from Seller (in accordance with the terms of this Agreement) take all necessary and appropriate action to restore the Real Property to its former condition at Buyer's sole cost and expense. If Buyer fails to timely restore the Real Property to its pre-existing condition following Seller's notice as provided in the preceding sentence, then Buyer shall pay all costs and expenses incurred by Seller or its agents for all remediation and restoration required as a result of any such changed condition. If Buyer fails to close this transaction, Buyer shall reimburse Seller for all such obligations, costs and expenses within ten (10) business days of Seller's demand therefor.

(viii) All of Buyer's obligations under this Section and its subparts shall survive termination of this Agreement, to the extent permitted by applicable law.

If at any time prior to the Inspection Completion Date, Buyer determines that Buyer is not satisfied with the results of its property inspections or that Buyer determines that the Purchased Assets are not suitable, for any reason or for no reason, in Buyer's sole and absolute discretion, then Buyer may elect to cancel and terminate this Agreement by delivering written notice to Seller prior to the Inspection Completion Date of Buyer's election so to terminate. Following Buyer's timely delivery of written notice to Seller of its election to terminate, this Agreement shall be terminated and the parties shall be relieved of any further obligations hereunder except for Buyer's indemnities, obligations stated in subsection (a)(v) above and representations or warranties which survive termination of this Agreement which shall include Buyer's obligation to pay Seller the sum of [REDACTED] as consideration for Seller entering into this Agreement. The provisions of this Section 5.3 shall survive termination of this Agreement. If Buyer fails to give such written notice of termination, the obligations of this Agreement shall continue in full force and effect and the parties shall continue to Closing pursuant to the terms of this Agreement.

## ARTICLE 6

### REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby warrants and represents to Buyer that the following statements are true and correct as of the Effective Date of this Agreement and shall be true as of the Closing Date:

#### Section 6.1 APPROVAL

Seller is a corporation, duly organized and validly existing under the laws of the State of Florida. On or prior to the Closing Date, Seller shall have taken all requisite action required to approve the execution and delivery of this Agreement and the performance of the transactions contemplated by this Agreement. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby do not and will not violate, conflict with, or result in a breach of or default under any of the terms, provisions or conditions of the organizational documents of Seller, or any statute, regulation or any court or administrative order or process, or any agreement or instrument to which Seller is a party or by which it, or its properties or assets is bound, or result in the creation of any lien, charge or encumbrance upon any, of the assets of Buyer under any of the foregoing.

Each of the other documents and instruments delivered pursuant to this Agreement, constitute, or upon execution and delivery in accordance with the terms of this Agreement, will constitute, valid obligations of Seller legally binding upon Buyer and enforceable in accordance with their respective terms.

#### Section 6.2 NO BREACH

The execution of this Agreement by Seller and the consummation of the transactions contemplated hereunder will not violate or result in a breach of or constitute a default under any

provision of any contract, lien, instrument, order, judgment, decree, ordinance, regulation or other restriction of any kind to which Seller is or may be bound or affected.

### Section 6.3 NO BROKER

Seller represents that Seller has not engaged the services of any real estate broker, finder or other agent with regard to the Property or this Agreement. Seller agrees to indemnify and hold Buyer harmless from and against any claim for any brokerage or other commission or finders fee made by any person or entity claiming to have rights to compensation by reason of this contemplated purchase and sale transaction.

### Section 6.4 LEASES

To the actual knowledge of Seller, other than as set forth on Exhibit E, (i) there are no leases in effect that in any way relate to or affect the Land, and (ii) no party described in the Leases is in breach, default or violation of any such document. Following the Effective Date of this Agreement, Seller shall not enter into any leases of the Purchased Assets without the prior written consent of Buyer, unless such Leases are cancellable by Buyer within sixty (60) days following the Closing Date. To the extent that Seller enters into any leases following the Effective Date which Buyer elects not to assume, Seller shall be responsible for any and all costs, expenses and liabilities incurred in connection with terminating such leases.

### Section 6.5 CONTRACTS

To the actual knowledge of Seller, other than as set forth on Exhibit E, (i) there are no contracts or other agreements in effect that in any way relate to or affect the Land or the Facilities, and (ii) no party described in the Contracts listed on Exhibit E is in breach, default or violation of any such document except as set forth in a written notice sent or received by Seller and disclosed to Buyer in writing.

### Section 6.6 OFAC

Neither Seller nor, to the knowledge of Seller's Representatives, on behalf of Seller, any of its members, or to Seller's knowledge, any of their members, shareholders or other equity owners, is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of OFAC (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action.

### Section 6.7 UNITED STATES PERSON

Seller is a "United States person" within the meaning of Sections 1445(f) (3) and 7701(a)(30) of the Internal Revenue Code of 1986, as amended.

### Section 6.8 PARTIES IN POSSESSION

There are no parties in possession of the Land or of any portion thereof, as the case may be, as lessees, tenants at sufferance, licensees or trespassers, and no party has been granted any license, lease, or other right relating to the use or possession of said respective properties or any portion thereof that would extend beyond the Closing, except for tenants, occupants or licensees pursuant to the Leases and Contracts, the rights of Members and Permitted Exceptions.

#### Section 6.9 TAX MATTERS

To the knowledge of Seller, there is no action, suit, proceeding, audit, investigation or claim now pending against Seller or threatened against the Seller regarding any Taxes. To the knowledge of Seller's Representatives, on behalf of Seller, there are no ongoing audits or examinations of any of the tax returns of Seller specifically relating to the Purchased Assets. Seller shall execute such documents as Buyer may request for sales tax confirmations from the Florida Department of Revenue.

#### Section 6.10 LICENSES AND PERMITS

As of the Effective Date of this Agreement, to the knowledge of Seller, the Licenses and Permits to be transferred to Buyer at Closing are in good standing, with no lien, violations or other conditions restricting their use by Buyer once transferred and/or assigned to Buyer and, to the extent any such lien, violation or other condition exists, Seller shall use reasonable good faith efforts to ~~cure~~ such matters as a condition to Buyer's obligation to close on the transaction contemplated by this Agreement; provided, however, in no event shall Seller be obligated to institute legal proceedings to cure any such matter. In the event that there are any material violations relating to any Licenses and Permits as of Closing, Buyer shall be permitted to terminate this Agreement, whereupon the parties shall be relieved of any further obligation hereunder, except with respect to those matters which expressly survive such termination. Prior to Closing, Seller shall promptly deliver any written notice received by Seller relating to any liens, violations or other conditions restricting the use of the Licenses and Permits by Buyer following Closing.

#### Section 6.11 LITIGATION

As of the Effective Date of this Agreement, except as set forth on Exhibit O, to the knowledge of Seller, there are no pending legal actions or suits with respect to the Purchased Assets, nor are there any threatened legal actions or suits with respect to the Purchased Assets. Seller hereby agrees to indemnify and hold Buyer harmless for all losses and damages arising from any existing lawsuit listed on Exhibit O or from any loss or damage relating to any legal actions or suits with respect to the Purchased Assets based on matters arising prior to the Closing Date, to the extent that insurance proceeds are not available for such purposes. Notwithstanding the forgoing, if at any time during the term of this Agreement, to the knowledge of Seller's Representatives, any legal action or suit is filed against Seller with respect to the Purchased Assets or Seller receives written notice of any threatened legal action or suit with respect to the Purchased Assets, Seller agrees to deliver a written update to Exhibit O to Buyer disclosing such matters within ten (10) business days of receipt of written notice of any such legal action or suit ("Seller's Litigation Update"). Upon receipt of the Seller's Litigation Update, the Buyer shall have the option to terminate this Agreement if the Seller's Litigation Update discloses any

litigation which would materially and adversely affect Buyer's ownership, use and operation of the Purchased Assets, unless Seller provides an indemnification in favor of Buyer for such matter and/or otherwise provides evidence that Seller's insurance is sufficient to defend and satisfy any claim associated with such litigation, as determined by Buyer, in Buyer's sole discretion.

## ARTICLE 7

### COVENANTS OF SELLER

Seller covenants and agrees with Buyer that between the Effective Date and the Closing Date:

#### Section 7.1 CONTRACTS IN ORDINARY COURSE OF BUSINESS

After the Inspection Completion Date and provided Buyer has not elected to terminate this Agreement, no contract, agreement, obligation, lease, license, or commitment will be entered into, assumed, modified or terminated by or on behalf of Seller relating to the Purchased Assets without the prior written consent of Buyer, which consent shall not be unreasonably withheld or delayed, except for (i) as expressly provided for in such contract, agreement, obligation, lease or commitment; (ii) normal and ordinary contracts, agreements or commitments entered into in the ordinary course of business in an aggregate amount less than \$50,000.00, expressly hereby excepting emergencies as determined by the Club Manager in its commercially reasonable judgment, (iii) Inventory purchases which may continue to be made in accordance with past practices provided that the same may be terminated without payment of any fee or penalty, on sale of the Purchased Assets, and (iv) such other contracts and agreements as are consistent with Seller's past practices, provided, such contracts can be terminated upon no more than thirty (30) days' notice. In the event of any emergency, Seller shall notify Buyer of any such purchase within one (1) business day.

For purposes of this Section 7.1, Buyer's consent shall be deemed given if Buyer does not object or respond to Seller within ten (10) business days of receipt of Seller's request for consent in accordance with the notice provisions of this Agreement.

Notwithstanding the forgoing, Buyer recognizes and agrees that Seller and/or the Club has entered into or may during the term of this Agreement enter into agreements for events (the "Event Contracts") to be held at the Facilities after the Closing Date, provided, however, that such Event Contracts must be on terms and conditions consistent, including pricing, with those of past practices of the Seller. In such regard, Buyer agrees to accept and assume the Event Contracts to the extent to be performed after the Closing Date but (i) Seller will cause any preparations needed to be made before the Closing Date to be made in the ordinary course of business, (ii) with the costs paid to Seller from amounts pre-paid by the relevant party or by way of adjustment at Closing and (iii) Buyer shall be entitled to all proceeds of such Event Contracts. Buyer also acknowledges and agrees that in light of concerns over the sale of the Purchased Assets, Seller may have had to, or may have to, grant parties to Event Contracts the right to cancel same upon such sale and if so, Seller shall have no liability to Buyer in such regard.

#### Section 7.2 CONDUCT OF BUSINESS



Between the Effective Date of this Agreement and the Closing Date, Seller will not enter into any contract which is not cancelable on and as of the Closing Date other than as provided in Section 7.1 hereinabove, and will not transfer any of the Purchased Assets or create any additional lien or encumbrance thereon. Seller covenants and agrees prior to Closing to maintain the Land and Facilities thereon in the same condition and repair as of the Effective Date, normal wear and tear excepted, and in accordance with Seller's current practice through the Closing Date. Notwithstanding the provisions of this paragraph, in the event of substantial or material damage or destruction to the Land or the Facilities thereon or any material portion thereof prior to Closing, Seller shall have the option to cease its business operations at the applicable Facilities, including the maintenance thereof, and Buyer shall have the right to terminate this Agreement pursuant to Article 10. Seller shall use its commercially reasonable efforts to maintain the Licenses and Permits in full force and effect through the Closing Date.

#### Section 7.3 CONDITION OF ASSETS

All buildings, offices, and other structures and all machinery, equipment, fixtures, vehicles, and other property used in the Facility Operation will be kept and maintained in substantially the same operating condition, repair and working order as they are in on the Effective Date, reasonable wear and tear excepted, subject to the terms of Section 12.2.

#### Section 7.4 INSURANCE

Until Closing, Seller shall keep the Land and Improvements and all assets subject to this Agreement insured in accordance with existing policies. To the extent not already delivered to Buyer as of the Effective Date of this Agreement, Seller agrees to deliver to Buyer copies of such insurance policies and to provide any updates to such policies periodically through the Closing Date.

#### Section 7.5 GENERAL COOPERATION

From the Effective Date of this Agreement through the Closing, Seller will use good faith efforts to operate the Facilities in such a manner as to achieve a smooth transition consistent with the mutual business interests of Seller and Buyer. In this regard, Seller agrees that Seller will enter into good faith discussions concerning the Facilities, including, but not limited to, personnel policies and procedures, and other operational matters.

Seller agrees to use good faith efforts to promptly satisfy all conditions to Closing set forth in Section 4.3 to the extent such conditions are within the control and direction of Seller. Seller shall further use its good faith efforts to take all actions and to do all things necessary, proper, or advisable to consummate and make effective the transactions contemplated by this Agreement (including satisfying the closing conditions).

### ARTICLE 8

#### REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby warrants and represents to Seller that the following statements are true and correct as of the Effective Date of this Agreement and shall be true as of the Closing Date:

#### Section 8.1 ORGANIZATION

Buyer is a special purpose unit of local government established pursuant to Chapter 190, Florida Statutes and has or will have prior to Closing all necessary power and authority to perform this Agreement and the transactions contemplated hereby.

#### Section 8.2 APPROVALS

On or prior to the Closing Date, Buyer shall have taken all requisite action required to approve the execution and delivery of this Agreement and the performance of the transactions contemplated by this Agreement. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby do not and will not violate, conflict with, or result in a breach of or default under any of the terms, provisions or conditions of the organizational documents of Buyer, or any statute, regulation or any court or administrative order or process, or any agreement or instrument to which Buyer is a party or by which it, or its properties or assets is bound, or result in the creation of any lien, charge or encumbrance upon any, of the assets of Buyer under any of the foregoing.

Each of the other documents and instruments delivered pursuant to this Agreement, constitute, or upon execution and delivery in accordance with the terms of this Agreement, will constitute, valid obligations of Buyer legally binding upon Buyer and enforceable in accordance with their respective terms.

#### Section 8.3 NO BROKER

No broker or finder has acted for Buyer in connection with this Agreement or the transactions contemplated hereby and no broker or finder is entitled to any brokerage or finder's fee or other commission in respect thereof in any way on agreements, arrangements, or understandings made by or on behalf of Buyer.

### ARTICLE 9

#### COVENANTS OF BUYER

#### Section 9.1 BOOKS AND RECORDS

Solely for the purposes of collecting Seller's Receivables, filing of tax returns or responding to accounting inquiries which arise out of activity or operations prior to the Closing Date, Buyer agrees to preserve and protect all books and records, for one year after the Closing Date, delivered to Buyer by Seller pursuant to this Agreement and to afford to the officers, employees and authorized representatives of Seller, reasonable access during normal business hours to such books and records upon reasonable advance written notices Buyer further agrees that such officers, employees and authorized representatives of Seller shall be free to make copies of and to take notes from such books and records at Seller's expense.

## Section 9.2 GOOD FAITH EFFORTS; GENERAL COOPERATION

Buyer agrees to use good faith efforts to promptly satisfy all conditions to Closing set forth in Section 4.2 to the extent such conditions are within the control and direction of Buyer. Buyer shall further use its good faith efforts to take all actions and to do all things necessary, proper, or advisable to consummate and make effective the transactions contemplated by this Agreement (including satisfying the closing conditions).

## ARTICLE 10

### RISK OF LOSS

In the event that any material portion of the Land is taken by eminent domain or condemnation proceeding or if there occurs a casualty prior to Closing and such taking or casualty prior to Closing materially and adversely affects the use or utility of the Land or the Improvements for the Facility Operations, Buyer may within ten (10) days after Buyer receives written notice of such taking either (a) proceed to close notwithstanding the eminent domain or condemnation proceeding, if applicable, in which event Seller will assign to Buyer its entire right, title and interest in and to any award or right to receive insurance proceeds or condemnation awards, or (b) terminate this Agreement (except for matters which expressly survive termination hereof) by delivering written notice of termination to Seller and thereafter this Agreement will be null and void and the parties will have no further rights or obligations hereunder except with respect to the matters which expressly survive termination hereof. For the purposes of this Agreement, materially and adversely affecting the Land shall include only (aa) permanent or long-term (i.e., post-emergency conditions and after reasonable clean-up and repair time) material impairment of access to the Land, or (bb) permanent or long-term (i.e., post-emergency conditions and after reasonable clean-up and repair time) damages to the Real Property, the cost of which to repair or replace would exceed \$500,000.00

Upon any such termination of this Agreement as permitted under this Agreement, neither Buyer nor Seller shall have any liability to the other, except as otherwise expressly provided in this Agreement.

## ARTICLE 11

### DEFAULT

#### Section 11.1 BUYER'S DEFAULT

If, at or prior to Closing, Buyer fails or refuses to perform its obligations contained herein or in any document executed in connection herewith (and any such failure or refusal continues for more than five (5) business days after receipt of notice thereof from Seller, it being understood however that no such five (5) business day notice and opportunity to cure shall be required for a failure or refusal to make any payment of money required hereunder or to close the transactions contemplated by this Agreement on the Closing Date), then Seller may, as its sole and exclusive remedy under this Agreement, terminate this Agreement and thereafter this

Agreement will be null and void and the parties hereto will have no further rights or obligations hereunder except with respect to the matters which expressly survive termination hereof.

#### Section 11.2 SELLER'S DEFAULT

In the event that this transaction fails to close as a result of Seller's default (and any such failure or refusal continues for more than five (5) business days after receipt of notice thereof from Buyer, it being understood however that no such five (5) business day notice and opportunity to cure shall be required for a failure or refusal to make any payment of money required hereunder or to close the transactions contemplated by this Agreement on the Closing Date), then Buyer may, as its sole and exclusive remedy under this Agreement and subject to the limitations set forth in Section 12.15, seek one of the following (a) obtain specific performance of this Agreement relating solely to Seller's obligations to convey the Purchased Assets, if specific performance is a viable remedy; (b) waive the default and proceed to Closing, without any credit or deduction in the Purchase Price, unless agreed upon by the Seller, or (c) terminate this Agreement, in which case all obligations under this Agreement shall terminate except as otherwise provided in this Agreement.

### ARTICLE 12

#### MISCELLANEOUS

##### Section 12.1 SURVIVAL OF REPRESENTATIONS AND WARRANTIES

The representations and warranties of Seller set forth in Section 6 of this Agreement shall survive the Closing and the delivery of all required documents hereunder.

##### Section 12.2 CONDITION OF PURCHASED ASSETS

Buyer expressly acknowledges and agrees to the following provisions:

(i) Subject to the express representations and warranties made by Seller in this Agreement or in the closing documents to be delivered by Seller to Buyer at Closing pursuant to Section 4.9 of this Agreement, Buyer understands and agrees that Buyer's purchase of the Purchased Assets shall be "AS IS, WHERE IS, WITH ALL FAULTS," WITHOUT REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH REGARD TO PHYSICAL CONDITION, INCLUDING WITHOUT LIMITATION ANY LATENT OR PATENT ANOMALIES, CONDITIONS OF SOILS, EXISTENCE OR NONEXISTENCE OF HAZARDOUS SUBSTANCES OR POLLUTANTS, QUALITY OF CONSTRUCTION, WORKMANSHIP, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AS TO THE PHYSICAL MEASUREMENTS OR USABLE SPACE THEREOF, DESIGN, ACCURACY, COMPLETENESS, LOCATION, ADEQUACY OF THE SIZE OR CAPACITY IN RELATION TO THE UTILIZATION OR THE FUTURE ECONOMIC PERFORMANCE OR OPERATION OF, OR THE MATERIALS, FURNITURE OR EQUIPMENT WHICH HAS BEEN OR WILL BE USED IN, THE CLUB OPERATION OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING THEREFROM.

(ii) Buyer hereby acknowledges that Buyer will have an adequate opportunity to inspect the Purchased Assets to the Buyer's satisfaction and that Seller does not plan to conduct its own inspection and shall not be liable for any latent or patent anomalies in the Purchased Assets.

(iii) Buyer acknowledges that, except as expressly set forth in this Agreement or in the documents to be delivered by Seller to Buyer at Closing, neither Seller nor any representative or agent of Seller has made or will be deemed to have made, any representation or warranty as to any of the following: (aa) the physical or environmental condition (including surface and subsurface conditions), state of repair, income, expenses or operation of the Purchased Assets and surrounding property; (bb) title to the Real Property or the assignability, assumability, transferability or validity of any permits or government approvals relating to the Real Property or the use and operation hereof; (cc) the accuracy or completeness of any information provided by Seller with respect to title, survey, and other matters; (dd) compliance with local, state or federal statutes, ordinances, orders or regulations concerning the Real Property, the Facilities or the use thereof or the Licenses and Permits, or (ee) any matter or thing affecting or relating to the Real Property or the Facilities or this Agreement not expressly stated above.

### Section 12.3 MODIFICATIONS

This Agreement shall not be altered or otherwise amended except pursuant to an instrument in writing executed and delivered on behalf of each of the parties.

### Section 12.4 ASSIGNMENT

Neither Buyer nor Seller shall have the right to assign or transfer any of their rights and obligations under this Agreement, without the prior written consent of the other. Any purported assignment without the prior written consent of the other party shall be null and void. The provisions of this Paragraph shall survive the Closing of the transactions contemplated by this Agreement.

### Section 12.5 BURDEN AND BENEFIT

(a) This Agreement shall be binding upon, and to the extent permitted in this Agreement, shall inure to the benefit of, the parties and their respective successors and permitted assigns.

(b) It is the intent of the parties hereto that no third party beneficiary rights be created or deemed to exist in favor of any person not a party to this Agreement, unless otherwise expressly agreed in writing by the parties.

### Section 12.6 GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

Section 12.7 NOTICES

Whenever any notice, demand, consent, delivery or request is required or permitted hereunder, it shall be in writing and shall be deemed to have been properly given when delivered in fact (a) when deposited in the United States mail, with adequate postage prepaid and sent by registered or certified mail with return receipt requested, or (b) delivered by Federal Express or other nationally recognized overnight courier, or (c) sent by electronic mail transmission to the electronic mail address set forth below, with a copy mailed by overnight courier or (d) at such other addresses as are specified by written notice so given in accordance herewith. All notices and requests required or authorized hereunder shall be delivered as aforesaid to the respective parties hereto as follows:

To Seller:

AV Homes, Inc.

[REDACTED]

Attn:

[REDACTED]

With a copy to:

AV Homes, Inc.

[REDACTED]

with a copy to:

GrayRobinson, P.A.

[REDACTED]

To Buyer:

Moyer Management Group, Inc.

[REDACTED]

with a copy to:

Hopping Green & Sams PA

[REDACTED]

To Title Agent: First American Title Insurance Company

[REDACTED]

Notices personally delivered or sent by overnight courier shall be deemed given on the date of delivery, notices mailed in accordance with the foregoing shall be deemed given three (3) business days after deposit in the U.S. mail, Certified Mail, Return Receipt Requested. It is expressly understood and agreed to between the parties that counsel for the Buyer and Seller are authorized to give notice on behalf of their respective clients. Any party may change the addresses for notice by delivering such change of address in writing to the other.

Section 12.8 COUNTERPARTS AND FACSIMILE OR ELECTRONIC EXECUTION

This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which shall constitute one Agreement. It shall not be necessary for the same counterpart of this Agreement to be executed by all of the parties hereto in order for this Agreement to be fully binding so long as all of the parties have executed at least one counterpart. Signatures to this Agreement delivered in electronic or facsimile format shall be deemed to be original signatures.

Section 12.9 SEVERABILITY

In the event any term or provision of this Agreement is held illegal, unenforceable or inoperative as a matter of law, the remaining terms and provisions of this Agreement will not be affected thereby, but each such remaining term and provision will be valid and will remain in full force and effect.

Section 12.10 FURTHER ASSURANCES

In addition the closing documents and other items to be delivered pursuant to an express term of this Agreement, the parties hereby agree to execute and deliver such further and other transfers, assignments, and documents and to do all matters and things which maybe convenient or necessary from time to time to carry out the intentions of this Agreement as required; however, in the event any other transfers, assignments, documents or actions are required which are not the express obligation of a party pursuant to this Agreement, such party shall not be required to make any expenditure of funds to consummate such intentions.

#### Section 12.11 CAPTION

The captions are for convenience of reference only and shall not be construed as a part of this Agreement.

#### Section 12.12 BINDING EFFECT

This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

#### Section 12.13 GENDER

All terms and words used in this Agreement, regardless of the gender in which used, shall be deemed to include any other gender as the context or the use thereof may require.

#### Section 12.14 INTERPRETATION

This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that Seller and Buyer have contributed substantially and materially to the preparation of this Agreement. Wherever used in this Agreement, “any” means “any and all”; and “including” each are without limitation; “indemnify” that the indemnitor, to the extent allowable by law and specifically without waiving any available sovereign immunity protections, will defend, indemnify and hold the indemnitee harmless against any claims, demands, losses or liabilities asserted against or incurred by the indemnitee to any third party because of the subject matter of the indemnity; “may not” and other negative forms of the verb “may” each are prohibitory; and “will”, “must” and “should” each are mandatory.

Unless this Agreement expressly or necessarily requires otherwise (i) any action is at the sole expense of the party required to take it; and (ii) the scope of the indemnity includes any costs and expenses, including reasonable attorneys’ and paralegals’ fees and expert witness fees through all levels of proceedings incurred in defending any indemnified claim, or in enforcing the indemnity, or both.

Except expressly otherwise provided herein to the contrary, any time period provided for herein which shall end on a Saturday, Sunday or legal holiday shall extend to 5:00 P.M. of the next full business day. All time periods shall be based on Eastern Time, State of Florida, U.S.A.

#### Section 12.15 LIMITATION ON LIABILITY

Obligations and liabilities of Seller and Buyer under this Agreement and any document executed in connection with or pursuant to the terms of this Agreement shall not constitute personal obligations of the officers, directors, employees, agents, trustees, partners, members, representatives, stockholders or other principals or representatives of Seller or Buyer, to the extent such party is an entity. Notwithstanding any provision to the contrary contained in this Agreement or any document executed in connection with or pursuant to the terms of this Agreement, in no event shall Seller be liable for any losses in excess of T [REDACTED] as a result of any [REDACTED]



obligations or liabilities contained in this Agreement which survives Closing and is discovered by Buyer following Closing; provided, however, that (1) in no event shall Seller have any liability to Buyer for any such losses the extent that insurance proceeds are available to Buyer in connection with such losses and (2) in no event shall the Liability Cap apply to (a) any of Seller's Retained Liabilities, (b) Seller's representations and warranties set forth in Section 6.1, 6.2, 6.6 and 6.7 of this Agreement or (c) any representations or warranties of Seller contained in the closing documents to be delivered by Seller to Buyer at Closing. Notwithstanding the foregoing, in the event that Buyer has actual knowledge of a breach by Seller prior to Closing and elects to Close, Buyer shall be deemed to have waived such breach and Seller shall have no liability for such breach following Closing.

#### Section 12.16 PUBLICITY

No party to this Agreement shall issue any press release to a newspaper or television station or other media outlet relating to the subject matter of this Agreement without the prior written approval of the other parties to this Agreement, unless necessary to obtain a third party consent to this transaction, unless required by law to accomplish the purpose of this Agreement, which shall include Buyer's right to publicize the sale and issuance of the Bonds, in connection with the applicable trust indenture, continuing disclosure agreement and limited offering memorandum relating thereto and in the ordinary course of the Buyer's operations. Notwithstanding anything contained herein to the contrary, Seller shall be permitted to make any disclosures regarding the transaction contemplated by this Agreement in connection with Seller's Securities and Exchange Commission filings, which Seller reasonably determines are required to be disclosed in connection with such filings.

#### Section 12.17 ENTIRE AGREEMENT

This Agreement and the exhibits attached hereto contain the entire agreement between the parties relating solely to the Purchased Assets. There are no promises, agreements, conditions, undertaking, warranties or representations, oral or written, express or implied between the parties other than as herein set forth. No waiver of any of the provisions of this Agreement or any other agreement referred to herein shall be valid unless in writing and signed by the party against whom enforcement is sought.

#### Section 12.18 TIME OF ESSENCE

Time is of the essence in respect to this Agreement.

#### Section 12.19 VENUE

Buyer and Seller agree that the venue for any matters arising out of or in connection with this Agreement shall only be in the Circuit Court in and for the County of Polk County, State of Florida.

#### Section 12.20 ATTORNEYS FEES

In connection with any litigation including appellate proceedings arising out of this Agreement, the substantially prevailing party shall be entitled to recover from the losing party, to

the fullest extent permitted by applicable law, its reasonable attorneys' and paralegals' fees and costs and expert witness fees and costs incurred in enforcing its rights and remedies hereunder, including costs of collection prior to instigating litigation, and in all appeals, and bankruptcy proceedings; provided, however, such obligation on the part of the Buyer is subject to and shall not negate or waive any protections or immunities provided to the Buyer under Florida law.

Section 12.21 SURVIVABILITY. The provisions of Sections 3.2 (Collection of Receivables), Article 4 (Closing), Section 5.3 (Buyer's Inspection Rights) and Section 12.4 (Assignment) expressly survive Closing of the transaction contemplated by this Agreement or any termination of this Agreement.

#### Section 12.22 RADON GAS

Radon is a naturally occurring radioactive gas that, when it is accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit. Seller represents that it has received no notice and is not otherwise aware of the presence of radon gas at the Property in excess of applicable governmental limitations.

#### Section 12.23 MOLD/ENERGY-EFFICIENCY

Mold is naturally occurring and may cause health risks or damage to property. If Buyer is concerned or desires additional information regarding mold, Buyer should contact an appropriate professional. Buyer acknowledges receipt of the Florida Energy-Efficiency Rating Information Brochure required by Section 553.996, Florida Statutes.

#### Section 12.24 EXHIBITS

All of the exhibits hereto referred to in this Agreement are hereby incorporated herein by reference and shall be deemed and construed to be a part of this Agreement for all purposes. During the Inspection Period, Seller and Buyer agree to use good faith, reasonable efforts to make minor modifications and revisions to the exhibits, which the parties deem necessary to reflect the intent of this Agreement; provided, however, that such modifications and revisions do not materially modify the intent of this Agreement. Any exhibits modified or revised pursuant to this Section 12.23 shall be attached to this Agreement prior to the expiration of the Inspection Period and shall be deemed to replace any previous exhibit attached hereto. If, despite using good faith efforts, the parties are not able to agree on the final version of any of the agreements attached as exhibits to this Agreement or other exhibits to this Agreement, each party shall have the option to terminate this Agreement prior to the expiration of the Inspection Period. As of the Effective Date of this Agreement the following Exhibits are attached hereto:

Exhibit A: List of Facilities

Exhibit B: Site Plan


Exhibit C: Legal Description of the Real Property

<u>Exhibit D:</u>	Tangible Personal Property
<u>Exhibit E:</u>	Contracts
<u>Exhibit F:</u>	Leases
<u>Exhibit G:</u>	Special Warranty Deed
<u>Exhibit H:</u>	Assignment and Assumption of Contracts & Leases
<u>Exhibit I:</u>	Bill of Sale
<u>Exhibit J:</u>	Reserved
<u>Exhibit K:</u>	Reserved
<u>Exhibit L:</u>	Reserved
<u>Exhibit M:</u>	Assignment and Assumption of Licenses and Permits
<u>Exhibit N:</u>	Reserved
<u>Exhibit O:</u>	Litigation
<u>Exhibit P:</u>	Reserved
<u>Exhibit Q:</u>	Reserved
<u>Exhibit R:</u>	Planned Community Improvements
<u>Exhibit S:</u>	Legal Description of Real Property on which Sales Center is Located
<u>Exhibit T:</u>	License Agreement

IN WITNESS WHEREOF, Seller and Buyer have each caused this Agreement to be duly executed on their respective behalves by their respective duly authorized officers as of the day and year below set forth.

SELLER:

**AVATAR PROPERTIES INC.,**  
a Florida corporation

By:   
Name: ROGER A. GREGG  
Title: PRESIDENT

Executed by Seller this 15<sup>th</sup> day of DEC, 2016.

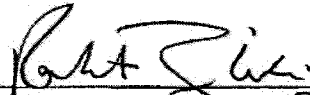
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BUYER:

**POINCIANA COMMUNITY  
DEVELOPMENT DISTRICT**, a special  
purpose unit of local government established  
pursuant to Chapter 190, Florida Statutes

Attest:

  
Secretary

By:   
Printed Name: Robert L. ...  
Title: CHAIRMAN

Executed by Buyer this 30<sup>th</sup> day of NOV, 2016.

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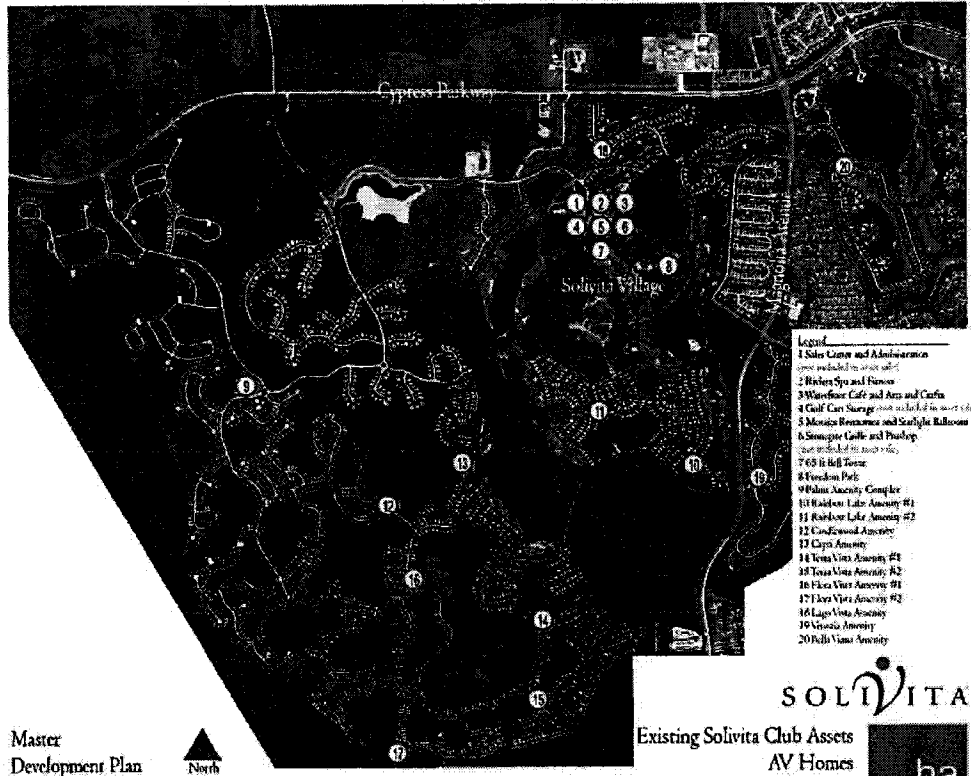
## **EXHIBIT A**

### **LIST OF FACILITIES**

1. Riviera Spa & Fitness Center/Indoor Pool & Track;
2. Waterfront Galleries/Café;
3. Mosaics Restaurant & Starlite Ballroom;
4. 65' Bell Tower;
5. Freedom Park;
6. Palms Amenity Complex;
7. Rainbow Lakes #1 Community Pool & Cabana;
8. Rainbow Lakes #2 Community Pool & Cabana;
9. Candlewood Community Pool & Cabana;
10. Capri Community Pool & Cabana;
11. Terra Vista #1 Community Pool & Cabana;
12. Terra Vista #2 Community Pool & Cabana;
13. Flora Vista #1 Community Pool & Cabana;
14. Flora Vista #2 Community Pool & Cabana;
15. Lago Vista Community Pool & Cabana;
16. Venezia Facility/Two (2) Tennis Courts, Community Pool & Cabana; and
17. Bella Viana Pool and Cabana

# EXHIBIT B

## SITE PLAN



## EXHIBIT C

### LEGAL DESCRIPTION OF THE LAND

#### PARCEL 1:

A PORTION OF TRACT C, TRACT LK-B AND VILLAGE DRIVE, SOLIVITA PHASE I, AS RECORDED IN PLAT BOOK 112, PAGES 1 THROUGH 14 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF TRACT C; THENCE ALONG THE NORTH LINE OF TRACT C S 72°46'36" E, A DISTANCE OF 15.48 FEET TO THE POINT OF BEGINNING; THENCE N 18°06'13" E, A DISTANCE OF 5.99 FEET TO THE SOUTH BACK OF CURB OF VILLAGE DRIVE, AS IT EXISTS ON MAY 26, 2016; THENCE ALONG SAID BACK OF CURVE LINE THE FOLLOWING THIRTEEN (13) COURSES; THENCE S 72°42'14" E, A DISTANCE OF 14.15 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A CHORD BEARING OF S 37°06'28" E, AND A CHORD LENGTH OF 4.65 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 71°03'10" FOR AN ARC LENGTH OF 4.96 FEET TO THE POINT OF TANGENCY; THENCE S 01°34'54" E, A DISTANCE OF 5.59 FEET; THENCE S 72°37'58" E, A DISTANCE OF 22.70 FEET; THENCE N 36°13'26" E, A DISTANCE OF 4.08 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 6.00 FEET, A CHORD BEARING OF N 71°36'27" E, AND A CHORD LENGTH OF 6.95 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 70°46'01" FOR AN ARC LENGTH OF 7.41 FEET TO THE POINT OF TANGENCY; THENCE S 73°00'33" E, A DISTANCE OF 35.64 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 6.00 FEET, A CHORD BEARING OF S 35°36'00" E, AND A CHORD LENGTH OF 7.29 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 74°49'05" FOR AN ARC LENGTH OF 7.83 FEET TO THE POINT OF TANGENCY; THENCE S 01°48'33" W, A DISTANCE OF 3.83 FEET; THENCE S 73°11'04" E, A DISTANCE OF 111.01 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 6.00 FEET, A CHORD BEARING OF N 57°00'02" E, AND A CHORD LENGTH OF 9.16 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 99°28'48" FOR AN ARC LENGTH OF 10.42 FEET TO THE POINT OF TANGENCY; THENCE S 73°15'38" E, A DISTANCE OF 24.02 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 6.00 FEET, A CHORD BEARING OF S 28°30'56" E, AND A CHORD LENGTH OF 8.45 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 89°29'16" FOR AN ARC LENGTH OF 9.37 FEET TO THE BOUNDARY LINE OF TRACT C; THENCE ALONG SAID BOUNDARY LINE THE FOLLOWING SEVENTY-SIX (76) COURSES; S 72°46'36" E, A DISTANCE OF 7.65 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 151.00 FEET, A CHORD BEARING OF S 50°16'35" E, AND A CHORD LENGTH OF 115.57 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 45°00'03" FOR AN ARC LENGTH OF 118.60 FEET TO THE POINT OF TANGENCY; THENCE S 27°46'33" E, A DISTANCE OF 78.82 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 106.40 FEET, A CHORD BEARING OF S 41°31'29" E, AND A CHORD LENGTH OF 50.86 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 27°29'52" FOR AN ARC LENGTH OF 51.35 FEET TO THE POINT OF TANGENCY; THENCE S 34°43'35" W, A DISTANCE OF 8.00 FEET; THENCE S 55°16'25" E, A DISTANCE OF 43.94 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 420.00 FEET, A CHORD BEARING OF S 74°56'51" E, AND A CHORD LENGTH OF 282.80 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 39°20'50" FOR AN ARC LENGTH OF 288.43 FEET TO THE POINT OF TANGENCY; THENCE N 85°22'44" E, A DISTANCE OF 231.84 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 1174.00 FEET, A CHORD BEARING OF N 80°07'57" E, AND A CHORD LENGTH OF 214.70 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A



CENTRAL ANGLE OF 10°29'34" FOR AN ARC LENGTH OF 215.00 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 748.00 FEET, A CHORD BEARING OF N 82°45'09" E, AND A CHORD LENGTH OF 204.75 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 15°43'58" FOR AN ARC LENGTH OF 205.39 FEET TO THE POINT OF TANGENCY; THENCE S 89°22'52" E, A DISTANCE OF 88.73 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 35.00 FEET, A CHORD BEARING OF S 44°49'15" E, AND A CHORD LENGTH OF 49.12 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 89°07'14" FOR AN ARC LENGTH OF 54.44 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 11572.61 FEET, A CHORD BEARING OF S 00°38'43" E, AND A CHORD LENGTH OF 155.41 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 00°46'10" FOR AN ARC LENGTH OF 155.41 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 2512.00 FEET, A CHORD BEARING OF S 01°17'16" W, AND A CHORD LENGTH OF 203.17 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 04°38'07" FOR AN ARC LENGTH OF 203.22 FEET TO THE POINT OF TANGENCY; THENCE N 86°13'25" W, A DISTANCE OF 41.85 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 71.09 FEET, A CHORD BEARING OF N 18°29'23" W, AND A CHORD LENGTH OF 32.76 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 26°38'34" FOR AN ARC LENGTH OF 33.06 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 50.00 FEET, A CHORD BEARING OF N 39°19'51" W, AND A CHORD LENGTH OF 13.09 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 15°02'21" FOR AN ARC LENGTH OF 13.12 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 84.02 FEET, A CHORD BEARING OF N 81°05'39" W, AND A CHORD LENGTH OF 94.56 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 68°29'15" FOR AN ARC LENGTH OF 100.44 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 134.63 FEET, A CHORD BEARING OF S 25°49'12" W, AND A CHORD LENGTH OF 168.88 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 77°41'03" FOR AN ARC LENGTH OF 182.54 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 80.79 FEET, A CHORD BEARING OF S 20°58'14" W, AND A CHORD LENGTH OF 84.29 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 62°53'20" FOR AN ARC LENGTH OF 88.68 FEET TO THE POINT OF TANGENCY; THENCE S 55°59'35" W, A DISTANCE OF 37.68 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 69.78 FEET, A CHORD BEARING OF S 25°17'47" W, AND A CHORD LENGTH OF 73.24 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 63°18'31" FOR AN ARC LENGTH OF 77.10 FEET TO THE POINT OF TANGENCY; THENCE S 07°59'37" E, A DISTANCE OF 164.10 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 50.00 FEET, A CHORD BEARING OF S 25°03'16" E, AND A CHORD LENGTH OF 29.34 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 34°07'24" FOR AN ARC LENGTH OF 29.78 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 101.38 FEET, A CHORD BEARING OF S 17°55'27" E, AND A CHORD LENGTH OF 82.94 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 48°17'28" FOR AN ARC LENGTH OF 85.45 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 294.00 FEET, A CHORD BEARING OF S 08°03'43" E, AND A CHORD LENGTH OF 122.00 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 23°56'59" FOR AN ARC LENGTH OF 122.89 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 69.00 FEET, A CHORD BEARING OF S 40°51'50" E, AND A CHORD LENGTH OF 49.07 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 41°39'29" FOR AN ARC LENGTH OF 50.17 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 8.00 FEET, A CHORD BEARING OF S 25°23'05" E, AND A CHORD LENGTH OF 9.47 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 72°34'49" FOR AN ARC LENGTH OF 10.13 FEET TO THE POINT OF TANGENCY; THENCE S 10°55'18" W, A DISTANCE OF 9.30 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 25.49 FEET, A CHORD

BEARING OF S 34°04'42" E, AND A CHORD LENGTH OF 36.05 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" FOR AN ARC LENGTH OF 40.04 FEET TO THE POINT OF TANGENCY; THENCE S 79°04'42" E, A DISTANCE OF 19.26 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 25.49 FEET, A CHORD BEARING OF N 55°55'18" E, AND A CHORD LENGTH OF 36.05 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" FOR AN ARC LENGTH OF 40.04 FEET TO THE POINT OF TANGENCY; THENCE N 10°55'18" E, A DISTANCE OF 9.67 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 8.00 FEET, A CHORD BEARING OF N 46°03'38" E, AND A CHORD LENGTH OF 9.21 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 70°16'40" FOR AN ARC LENGTH OF 9.81 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 58.00 FEET, A CHORD BEARING OF N 43°40'11" E, AND A CHORD LENGTH OF 70.66 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 75°03'35" FOR AN ARC LENGTH OF 75.98 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 139.00 FEET, A CHORD BEARING OF N 03°13'17" W, AND A CHORD LENGTH OF 45.22 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 18°43'20" FOR AN ARC LENGTH OF 45.42 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 459.00 FEET, A CHORD BEARING OF N 07°45'42" W, AND A CHORD LENGTH OF 77.15 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 09°38'30" FOR AN ARC LENGTH OF 77.24 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 459.00 FEET, A CHORD BEARING OF N 04°45'55" E, AND A CHORD LENGTH OF 123.10 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 15°24'44" FOR AN ARC LENGTH OF 123.47 FEET TO THE POINT OF TANGENCY; THENCE N 09°22'10" E, A DISTANCE OF 179.55 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 100.00 FEET, A CHORD BEARING OF N 04°51'48" W, AND A CHORD LENGTH OF 48.04 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 27°47'48" FOR AN ARC LENGTH OF 48.51 FEET TO THE POINT OF TANGENCY; THENCE N 18°45'47" W, A DISTANCE OF 46.28 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 98.65 FEET, A CHORD BEARING OF N 05°25'46" E, AND A CHORD LENGTH OF 76.05 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 45°20'38" FOR AN ARC LENGTH OF 78.07 FEET TO THE POINT OF TANGENCY; THENCE N 37°40'51" E, A DISTANCE OF 22.10 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 71.09 FEET, A CHORD BEARING OF N 20°17'23" E, AND A CHORD LENGTH OF 32.81 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 26°40'49" FOR AN ARC LENGTH OF 33.10 FEET; THENCE S 86°13'25" E, A DISTANCE OF 41.10 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 2512.00 FEET, A CHORD BEARING OF S 08°04'57" W, AND A CHORD LENGTH OF 362.28 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°16'13" FOR AN ARC LENGTH OF 362.59 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 615.87 FEET, A CHORD BEARING OF S 05°00'06" W, AND A CHORD LENGTH OF 154.72 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 14°25'56" FOR AN ARC LENGTH OF 155.13 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 615.87 FEET, A CHORD BEARING OF S 16°02'52" E, AND A CHORD LENGTH OF 294.50 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 27°39'59" FOR AN ARC LENGTH OF 297.38 FEET TO THE POINT OF TANGENCY; THENCE S 29°52'51" E, A DISTANCE OF 240.43 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 1383.00 FEET, A CHORD BEARING OF S 29°32'12" E, AND A CHORD LENGTH OF 16.61 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 00°41'18" FOR AN ARC LENGTH OF 16.61 FEET; THENCE N 50°09'34" W, A DISTANCE OF 42.99 FEET; THENCE N 50°09'34" W, A DISTANCE OF 83.32 FEET; THENCE N 41°29'57" W, A DISTANCE OF 64.75 FEET; THENCE N 51°19'59" W, A DISTANCE OF 67.92 FEET; THENCE N 50°12'11" W, A DISTANCE OF 72.10 FEET; THENCE N 11°20'58" W, A DISTANCE OF 33.90 FEET; THENCE N 64°44'04" W, A DISTANCE OF 46.63 FEET; THENCE N 75°01'19" W, A DISTANCE OF 51.56 FEET; THENCE N 62°28'18" W, A DISTANCE OF 55.60 FEET; THENCE N 39°53'09" W, A DISTANCE OF 58.26 FEET; THENCE N 04°50'55" W, A DISTANCE OF 48.23 FEET; THENCE N

23°27'39" W, A DISTANCE OF 86.87 FEET; THENCE N 39°42'55" E, A DISTANCE OF 51.60 FEET; THENCE N 29°00'01" W, A DISTANCE OF 64.13 FEET; THENCE S 42°49'28" W, A DISTANCE OF 54.60 FEET; THENCE N 71°22'57" W, A DISTANCE OF 64.27 FEET; THENCE S 17°17'32" E, A DISTANCE OF 56.36 FEET; THENCE S 17°17'32" E, A DISTANCE OF 16.44 FEET; THENCE N 63°30'46" W, A DISTANCE OF 371.35 FEET; THENCE S 84°18'05" W, A DISTANCE OF 94.49 FEET; THENCE N 46°10'03" W, A DISTANCE OF 745.80 FEET; THENCE N 44°18'11" W, A DISTANCE OF 34.66 FEET; THENCE N 32°55'06" W, A DISTANCE OF 150.92 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 116.47 FEET, A CHORD BEARING OF N 30°07'16" E, AND A CHORD LENGTH OF 85.37 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 42°59'53" FOR AN ARC LENGTH OF 87.40 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 97.66 FEET, A CHORD BEARING OF N 14°31'12" W, AND A CHORD LENGTH OF 76.76 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 46°17'02" FOR AN ARC LENGTH OF 78.89 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 114.50 FEET, A CHORD BEARING OF N 23°42'52" W, AND A CHORD LENGTH OF 55.20 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 27°53'42" FOR AN ARC LENGTH OF 55.75 FEET TO THE POINT OF TANGENCY; THENCE LEAVING THE SAID BOUNDARY LINE OF TRACT C N 09°46'01" W, A DISTANCE OF 105.48 FEET; THENCE N 14°17'23" E, A DISTANCE OF 75.77 FEET; THENCE N 18°06'13" E, A DISTANCE OF 17.72 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT:

A PORTION OF TRACT C, SOLIVITA PHASE I, AS RECORDED IN PLAT BOOK 112, PAGES 1 THROUGH 14 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF TRACT C; THENCE N 89°22'52" W, A DISTANCE OF 88.73 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 748.00 FEET, A CHORD BEARING OF S 82°45'09" W, AND A CHORD LENGTH OF 204.75 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 15°43'58" FOR AN ARC LENGTH OF 205.39 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 1174.00 FEET, A CHORD BEARING OF S 80°07'57" W, AND A CHORD LENGTH OF 214.70 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°29'34" FOR AN ARC LENGTH OF 215.00 FEET TO THE POINT OF TANGENCY; THENCE S 85°22'44" W, A DISTANCE OF 231.84 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 420.00 FEET, A CHORD BEARING OF N 74°56'51" W, AND A CHORD LENGTH OF 282.80 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 39°20'50" FOR AN ARC LENGTH OF 288.43 FEET TO THE POINT OF BEGINNING; THENCE S 38°46'25" W, A DISTANCE OF 109.75 FEET; THENCE S 36°25'53" W, A DISTANCE OF 79.94 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 100.00 FEET, A CHORD BEARING OF N 50°39'19" W, AND A CHORD LENGTH OF 15.64 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°58'09" FOR AN ARC LENGTH OF 15.65 FEET TO THE POINT OF TANGENCY; THENCE N 46°10'15" W, A DISTANCE OF 47.42 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 140.00 FEET, A CHORD BEARING OF N 36°57'31" W, AND A CHORD LENGTH OF 44.82 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 18°25'27" FOR AN ARC LENGTH OF 45.02 FEET TO THE POINT OF TANGENCY; THENCE N 27°44'48" W, A DISTANCE OF 72.02 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 60.00 FEET, A CHORD BEARING OF N 05°10'28" W, AND A CHORD LENGTH OF 46.06 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 45°08'40" FOR AN ARC LENGTH OF 47.28 FEET TO THE POINT OF TANGENCY; THENCE N 17°23'52" E, A DISTANCE OF 155.79 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 25.00 FEET, A CHORD BEARING OF N 43°16'11" E, AND A CHORD LENGTH OF 21.82 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 51°44'36" FOR

AN ARC LENGTH OF 22.58 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 151.00 FEET, A CHORD BEARING OF S 45°04'45" E, AND A CHORD LENGTH OF 89.82 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 34°36'24" FOR AN ARC LENGTH OF 91.20 FEET TO THE POINT OF TANGENCY; THENCE S 27°46'33" E, A DISTANCE OF 78.82 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 107.00 FEET, A CHORD BEARING OF S 41°31'29" E, AND A CHORD LENGTH OF 50.86 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 27°29'52" FOR AN ARC LENGTH OF 51.35 FEET TO THE POINT OF TANGENCY; THENCE S 34°43'35" W, A DISTANCE OF 8.00 FEET; THENCE S 55°16'25" E, A DISTANCE OF 43.94 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

A PORTION OF TRACT D, TRACT E AND VILLAGE DRIVE, SOLIVITA PHASE I, AS RECORDED IN PLAT BOOK 112, PAGES 1 THROUGH 14 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF TRACT E; THENCE S 72°46'36" E, ALONG THE SOUTH LINE OF TRACT E A DISTANCE OF 13.99 FEET TO THE POINT OF BEGINNING; THENCE N 18°06'13" E, A DISTANCE OF 44.22 FEET; THENCE S 72°46'36" E, A DISTANCE OF 21.93 FEET; THENCE N 18°06'13" E, A DISTANCE OF 43.52 FEET; THENCE S 72°46'36" E, A DISTANCE OF 74.73 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 68.91 FEET, A CHORD BEARING OF N 70°19'22" E, AND A CHORD LENGTH OF 61.86 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 53°20'04" FOR AN ARC LENGTH OF 64.15 FEET TO THE POINT OF TANGENCY; THENCE S 83°00'35" E, A DISTANCE OF 83.32 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 110.00 FEET, A CHORD BEARING OF S 52°00'25" E, AND A CHORD LENGTH OF 113.32 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 62°00'21" FOR AN ARC LENGTH OF 119.04 FEET TO A POINT BEING ON THE BACK OF CURB LINE EXTENDED OF A CURB ON THE NORTH SIDE OF A PARKING AREA; THENCE LEAVING SAID CURVE RUN ALONG SAID BACK OF CURB AS EXISTING MAY 26, 2016 THE FOLLOWING FIVE (5) COURSES; S 62°06'30" W, A DISTANCE OF 85.43 FEET; THENCE S 27°12'43" E, A DISTANCE OF 13.54 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 4.00 FEET, A CHORD BEARING OF S 17°35'49" W, AND A CHORD LENGTH OF 5.64 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 89°37'03" FOR AN ARC LENGTH OF 6.26 FEET TO THE POINT OF TANGENCY, THENCE S 62°24'20" W, A DISTANCE OF 38.10 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 6.00 FEET, A CHORD BEARING OF S 84°45'42" W, AND A CHORD LENGTH OF 4.56 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 44°42'42" FOR AN ARC LENGTH OF 4.68 FEET TO THE POINT OF TANGENCY, SAID POINT BEING ON THE BACK OF CURB LINE ON THE VILLAGE DRIVE, AS BUILT IN MAY, 2016; THENCE ALONG SAID BACK OF CURB LINE THE FOLLOWING SEVEN (7) COURSES; N 72°52'57" W, A DISTANCE OF 92.56 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 4.00 FEET, A CHORD BEARING OF N 35°25'40" W, AND A CHORD LENGTH OF 4.87 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 74°54'34" FOR AN ARC LENGTH OF 5.23 FEET TO THE POINT OF TANGENCY; THENCE N 02°01'36" E, A DISTANCE OF 5.55 FEET; THENCE N 72°42'40" W, A DISTANCE OF 88.83 FEET; THENCE S 30°24'55" W, A DISTANCE OF 4.92 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 4.00 FEET, A CHORD BEARING OF S 68°51'53" W, AND A CHORD LENGTH OF 4.97 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 76°53'56" FOR AN ARC LENGTH OF 5.37 FEET TO THE POINT OF TANGENCY THENCE N 72°41'09" W, A DISTANCE OF 61.66 FEET; THENCE N 18°06'13" E, A DISTANCE OF 4.49 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

A PORTION OF TRACT M TRACT LK-B AND VILLAGE DRIVE, SOLIVITA PHASE I, AS RECORDED IN PLAT BOOK 112, PAGES 1 THROUGH 14 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF TRACT M; THENCE ALONG THE NORTH LINE OF TRACT M N 72°46'36" W, A DISTANCE OF 16.96 FEET TO THE POINT OF BEGINNING; THENCE S 17°22'52" W, A DISTANCE OF 20.25 FEET; THENCE S 72°51'52" W, A DISTANCE OF 62.84 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 60.00 FEET, A CHORD BEARING OF S 35°06'05" W, AND A CHORD LENGTH OF 73.49 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 75°31'35" FOR AN ARC LENGTH OF 79.09 FEET TO THE POINT OF TANGENCY; THENCE S 02°39'43" E, A DISTANCE OF 26.17 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 65.00 FEET, A CHORD BEARING OF S 54°09'16" W, AND A CHORD LENGTH OF 108.80 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 113°37'58" FOR AN ARC LENGTH OF 128.91 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 55.00 FEET, A CHORD BEARING OF S 85°55'10" W, AND A CHORD LENGTH OF 46.58 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 50°06'11" FOR AN ARC LENGTH OF 48.10 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 45.00 FEET, A CHORD BEARING OF S 77°38'22" W, AND A CHORD LENGTH OF 25.97 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 33°32'36" FOR AN ARC LENGTH OF 26.34 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 100.00 FEET, A CHORD BEARING OF N 57°52'23" W, AND A CHORD LENGTH OF 93.02 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 55°25'55" FOR AN ARC LENGTH OF 96.75 FEET TO THE POINT OF TANGENCY; THENCE N 30°09'26" W, A DISTANCE OF 30.43 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 52.99 FEET, A CHORD BEARING OF N 44°48'32" W, AND A CHORD LENGTH OF 26.81 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 29°18'13" FOR AN ARC LENGTH OF 27.10 FEET; THENCE N 17°10'24" E, A DISTANCE OF 9.78 FEET TO THE NORTH BOUNDARY LINE OF TRACT LK- B; THENCE LEAVING SAID LINE N 17°10'24" E, A DISTANCE OF 206.11 FEET TO THE SOUTH BACK OF CURB LINE OF VILLAGE DRIVE AS IT EXISTS ON MAY 26, 2016, PER THE AFORESAID PLAT OF SOLIVITA PHASE I THENCE ALONG SAID BACK OF CURVE LINE THE FOLLOWING THIRTEEN (13) COURSES; S 72°49'23" E, A DISTANCE OF 150.96 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 3.00 FEET, A CHORD BEARING OF S 35°15'21" E, AND A CHORD LENGTH OF 3.66 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 75°08'06" FOR AN ARC LENGTH OF 3.93 FEET TO THE POINT OF TANGENCY; THENCE S 02°18'42" W, A DISTANCE OF 5.89 FEET; THENCE S 72°54'12" E, A DISTANCE OF 68.18 FEET; THENCE N 31°44'38" E, A DISTANCE OF 5.48 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 3.00 FEET, A CHORD BEARING OF N 69°09'17" E, AND A CHORD LENGTH OF 3.65 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 74°49'18" FOR AN ARC LENGTH OF 3.92 FEET TO THE POINT OF TANGENCY; THENCE S 73°26'04" E, A DISTANCE OF 12.20 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A CHORD BEARING OF S 34°12'19" E, AND A CHORD LENGTH OF 5.06 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 78°27'30" FOR AN ARC LENGTH OF 5.48 FEET TO THE POINT OF TANGENCY, THENCE S 05°01'26" W, A DISTANCE OF 4.78 FEET; THENCE S 72°31'24" E, A DISTANCE OF 67.43 FEET; THENCE N 29°14'38" E, A DISTANCE OF 5.09 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 4.00 FEET, A CHORD BEARING OF N 68°16'12" E, AND A CHORD LENGTH OF 5.04 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 78°03'08" FOR AN ARC LENGTH OF 5.45 FEET TO THE POINT OF TANGENCY; THENCE S 72°42'14" E, A DISTANCE OF 15.73 FEET; THENCE LEAVING THE BACK OF CURB LINE S 17°22'52" W, A DISTANCE OF 6.06 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH TRACT AC-4

PARCEL 2:

TRACT A-1, SOLIVITA PHASE 7G-1, PLAT BOOK 143, PAGES 13-15, POLK COUNTY, FLORIDA.

PARCEL 3:

TRACT H, SOLIVITA PHASE 1, PLAT BOOK 112, PAGES 1-14, POLK COUNTY, FLORIDA.

PARCEL 4:

TRACT L, SOLIVITA PHASE I, PLAT BOOK 112, PAGES 1-14, POLK COUNTY, FLORIDA.

PARCEL 5:

TRACT A, SOLIVITA PHASE IVB, PLAT BOOK 121, PAGES 2-6, POLK COUNTY, FLORIDA.

LESS AND EXCEPT:

BEGIN AT THE NORTHWEST CORNER OF TRACT A, SOLIVITA PHASE IVB, AS RECORDED IN PLAT BOOK 121, PAGES 2 THROUGH 6 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; SAID POINT BEING ON A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 73.00 FEET, A CHORD BEARING OF S 71°48'40" E AND A CHORD DISTANCE OF 39.47 FEET; THENCE ALONG SAID CURVE, ALSO BEING THE RIGHT OF WAY LINE OF VINEYARD WAY PER SAID PLAT, THROUGH A CENTRAL ANGLE OF 31°22'12" FOR AN ARC DISTANCE OF 39.97 FEET; THENCE LEAVING SAID CURVE AND SAID RIGHT OF WAY LINE S 01°20'51" E A DISTANCE OF 30.97 FEET, THENCE N 89°40'06" W A DISTANCE OF 38.48 FEET TO THE WEST LINE OF SAID TRACT A; THENCE ALONG THE WEST LINE N 00°19'54" E A DISTANCE OF 43.06 FEET TO THE POINT OF BEGINNING.

ALSO LESS AND EXCEPT:

COMMENCE AT THE NORTHWEST CORNER OF TRACT A, SOLIVITA PHASE IVB, AS RECORDED IN PLAT BOOK 121, PAGES 2 THROUGH 6 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA, SAID POINT BEING ON A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 73.00 FEET, A CHORD BEARING OF S 67°45'29" E AND A CHORD DISTANCE OF 49.31 FEET; THENCE ALONG SAID CURVE ALSO BEING THE RIGHT OF WAY LINE OF VINEYARD WAY PER SAID PLAT, THROUGH A CENTRAL ANGLE OF 39°28'35" FOR AN ARC DISTANCE OF 50.30 FEET; TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 73.00 FEET, A CHORD BEARING OF S 37°23'14" E AND A CHORD DISTANCE OF 28.94 FEET; THENCE ALONG SAID CURVE ALSO BEING THE RIGHT OF WAY LINE OF VINEYARD WAY PER SAID PLAT THROUGH A CENTRAL ANGLE OF 21°15'56" FOR AN ARC DISTANCE OF 27.09 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 177.00 FEET A CHORD BEARING OF S 22°37'44"E AND A CHORD DISTANCE OF 25.47 FEET; THENCE ALONG SAID CURVE ALSO BEING THE RIGHT OF WAY LINE OF VINEYARD WAY PER SAID PLAT THROUGH A CENTRAL ANGLE OF 08°15'04" FOR AN ARC DISTANCE OF 25.49 FEET TO THE CUSP OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 28.95.00 FEET A CHORD BEARING OF N 30°12'59" W AND A CHORD DISTANCE OF 51.97 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 127°41'59" FOR AN ARC DISTANCE OF 64.52 FEET TO THE POINT OF BEGINNING.

PARCEL 6:

TRACT A, SOLIVITA PHASE 2A, PLAT BOOK 115, PAGES 9-11, POLK COUNTY, FLORIDA.

PARCEL 7:

TRACT A, SOLIVITA PHASE 2C, PLAT BOOK 118, PAGES 12-16, POLK COUNTY, FLORIDA.

PARCEL 8:

TRACT A, SOLIVITA PHASE 2D, PLAT BOOK 118, PAGES 17-20, POLK COUNTY, FLORIDA.

PARCEL 9:

TRACT A, SOLIVITA PHASE IVC SECTION 1, PLAT BOOK 124, PAGES 15-18, POLK COUNTY, FLORIDA.

TOGETHER WITH:

A PORTION OF TRACT LD-8, SOLIVITA PHASE IVC SECTION 2, PLAT BOOK 124, PAGES 33-38, POLK COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF TRACT LD-8; THENCE ALONG THE WEST LINE OF TRACT LD-8 N 07°34'03" W, A DISTANCE OF 17.36 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE WEST LINE OF TRACT LD-8 N 07°34'03" W, A DISTANCE OF 20.31 FEET, THENCE LEAVING THE WEST LINE OF TRACT LD-8 N 82°25'57" E, A DISTANCE OF 16.55 FEET, S 07°34'03" E. A DISTANCE OF 20.31 FEET; THENCE S 82°25'57" W. A DISTANCE OF 16.55 FEET THE POINT OF BEGINNING.

PARCEL 10:

TRACT B, SOLIVITA PHASE IVC SECTION 2, PLAT BOOK 124, PAGES 33-38, POLK COUNTY, FLORIDA.

TOGETHER WITH:

A PORTION OF TRACT C-A, SOLIVITA PHASE IVC SECTION 2, PLAT BOOK 124, PAGES 33-38, POLK COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF TRACT B, SOLIVITA PHASE IVC SECTION 2, PLAT BOOK 124, PAGES 33-38, POLK COUNTY, FLORIDA; THENCE ALONG THE SOUTH LINE OF TRACT B RUN S 81°26'56" W A DISTANCE OF 16.32 FEET TO THE POINT OF BEGINNING; THENCE LEAVING THE SOUTH LINE OF TRACT B RUN S 08°33'43" E A DISTANCE OF 17.66 FEET; THENCE S 86°13'58" W A DISTANCE OF 21.49 FEET; THENCE N 08°33'04" W, A DISTANCE OF 15.87 FEET TO THE SAID SOUTH LINE OF TRACT B; THENCE ALONG THE SOUTH LINE OF TRACT B RUN N 81°26'56" E, A DISTANCE OF 21.42 FEET TO THE POINT OF BEGINNING.

PARCEL 11:

TRACT R-1, SOLIVITA PHASE 1E, PLAT BOOK 128, PAGES 27-30, POLK COUNTY, FLORIDA.

PARCEL 12:

TRACTS A AND B, SOLIVITA PHASE IIIA, PLAT BOOK 127, PAGES 10-13, POLK COUNTY, FLORIDA.

PARCEL 13:

TRACT G-2, SOLIVITA PHASE VIA, PLAT BOOK 131, PAGES 30-35, POLK COUNTY, FLORIDA.

PARCEL 14:

TRACT FD-2 OF THE PLAT OF SOLIVITA PHASE 5B AS CURRENTLY PROPOSED AS OF MAY 25, 2016; BEING A PORTION OF POINCIANA NEIGHBORHOOD 1 EAST VILLAGE 4, AS RECORDED IN PLAT BOOK 56, PAGES 25 THROUGH 31 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SOLIVITA PHASE 5F, AS RECORDED IN PLAT BOOK 157, PAGES 33 THROUGH 47 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; THENCE ALONG THE WEST LINE OF SOLIVITA PHASE 5F RUN S 02°51'55" W A DISTANCE OF 10.00 FEET TO A POINT ON THE PROPOSED NORTH RIGHT OF WAY LINE OF VILLAGE CENTER ROAD, SAID POINT BEING ON A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 805.00 FEET, A CHORD BEARING OF S 82°37'59" W, AND A CHORD LENGTH OF 285.99 FEET; THENCE ALONG THE NORTH RIGHT OF WAY LINE THE FOLLOWING THREE COURSES: RUN ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 20°27'51" FOR AN ARC LENGTH OF 287.52 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 791.00 FEET, A CHORD BEARING OF S 82°30'03" W, AND A CHORD LENGTH OF 277.42 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 20°11'58" FOR AN ARC LENGTH OF 278.87 FEET TO THE POINT OF TANGENCY, THENCE S 02°36'02" W A DISTANCE OF 55.03 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE NORTH RIGHT OF WAY LINE THE FOLLOWING TWO COURSES: RUN N 87°23'58" W, A DISTANCE OF 518.24 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 415.00 FEET, A CHORD BEARING OF N 72°16'15" W, AND A CHORD LENGTH OF 216.62 FEET, THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 30°15'26" FOR AN ARC LENGTH OF 219.16 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 21.00 FEET, A CHORD BEARING OF N 09°20'48" W AND A CHORD LENGTH OF 31.11 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 95°35'30" FOR AN ARCH LENGTH OF 35.04 FEET TO THE POINT OF TANGENCY, THENCE N 38°26'57" E, A DISTANCE OF 251.89 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 600.00 FEET, A CHORD BEARING OF N 34°06'43" E AND A CHORD LENGTH OF 90.75 FEET, THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°40'29" FOR AN ARCH LENGTH OF 90.84 FEET TO THE POINT OF TANGENCY, THENCE S 63°15'31" E, A DISTANCE OF 115.14 FEET, THENCE S 83°26'12" A DISTANCE OF 355.67 FEET; THENCE N 90°00'00" E, A DISTANCE OF 64.45 FEET; THENCE S 00°00'00" W, A DISTANCE OF 10.93 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 250.00 FEET, A CHORD BEARING OF S 07°39'15" E, AND A CHORD LENGTH OF 66.60 FEET, THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 15°18'29" FOR AN ARCH LENGTH OF 66.79 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 479.00 FEET, A CHORD BEARING OF S 06°21'14" E, AND A CHORD LENGTH OF 149.11 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 17°54'31" FOR AN ARC LENGTH OF 149.72 FEET TO THE POINT OF TANGENCY, THENCE S 02°36'02" W, A DISTANCE OF 55.03 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 21.00 FEET, A CHORD BEARING OF S 47°36'02" W, AND A CHORD LENGTH OF 29.70 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" FOR AN ARC LENGTH OF 32.99 FEET TO THE POINT OF BEGINNING.



**EXHIBIT D**  
**TANGIBLE PERSONAL PROPERTY**

**See attached**

**Solivita Inventory May, 2016**

<b>Mediterranean Skyline - Aegean</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Card Tables	Black	38" X 38"	11
Card Tables	Black	34" X 34"	1
Card Tables	Blue/Gray	33.5" X 33.5"	10
Poker Tables	Hexagon, Wooden w/ Leather Top	52.5" X 52.5"	4
Poker Table Covers	Black	52.5" X 52.5"	4
Poker Table	Round, Wooden w/ Green Felt	54" X 54"	2
Easels	Quartet Folding, Black	27" X 34"	1
Trash Can	Continental Brand, Tan	28.5" H X 20"W	2
Chairs	Card Chairs/Red & Gold		41
Picture	Palm Tree, Matted	32" X 37"	1
Picture	Flower, Matted	31" X 42"	1
Picture	Iris, Matted	23" X 27"	2
Picture	Green Garden, Matted	31" X 42"	1
Picture	Floral, Matted	35" X 35"	1
Picture	Palm Frons, Matted	35" X 35"	1
Picture	Walkway, Matted	31.25 X 31.25	1
Wall Clock		14"	1
<b>Mediterranean Skyline - Baltic</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Picture	Playing Dominoes	17" X 24"	1
Picture	Green Garden, Matted	31" X 42"	1
Picture	Palm Frons, Matted	35" X 35"	1
Picture	Canal, Matted	42" X 31"	1
Trash Can	Continental Brand, Tan	28.5" H X 20"W	2
TV	Tube, Toshiba w/ Remote	28"	1
VCR/DVD Player	Magnavox, w/ Remote		1
TV Cart	Rolling, Quartet	44" X 33"	1
<b>Mediterranean Skyline - Caspian</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Card Table	Wood Top	36" X 36"	10
Card Chairs	Red/Gold Design		43
Garbage Cans			11
Picture	Boat, Matted	42.5 X 25.5	1
Picture	Canal, Matted	42" X 31"	1
Clock	Rooster	11"	1
Projector Screen	Vutec	96" H X 120" W	1

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Mediterranean Skyline - Closet			
Item	Type	Specifics	Number on Site
Empty Christmas Boxes			20
Projector	Bretford	62"W	1
Bins	Rubbermaid		approx. 50
Bin	Pool Inflatable		1
Bins	Cardboard		12
Bins	Floral		7
Bins	Flag & Bunting		3
Bins	Fall Festival		3
Bins	Themed		16
Bingo Spinner			1
Disco Ball	Cardboard		1
Chair	Red/Gold Design		1
Celebrity Cutouts			4
Tiki Umbrellas	Grass		7
Wooden Plank w/ Solivita Logo			1
Cardboard Surfboards			3
Astroturf			1 Box
Astroturf			2 Rolls
Hay/Strawball	9" X 8" X 20"		2
Banners			1 Bin
Poker Tables	Hexagon, Wooden w/ Leather Top	52.5" X 52.5	2
Yard Signs	Large		5
Yard Signs	1/2 Size		23
Scarecrows			4
Fall Décor			1 Bin
Apple Baskets	Round		50
Fluorescent Light Bulbs	Sylvania		13
Baskets	Wicker	Misc.	3
Fencing	Orange		2 Rolls
Lantern Pots			10
Dad's Dad Guitars			2
Branches			5 Bins
Eifel Tower w/ Lights		9' Tall w/ 27" Bottom	1
Projector	Pro Extra Infocus X Sanyo		1
Cabinet	Gray, 5 door with 4 shelves		1
Curtains	Jeweled		1 Bin
TV	Tube, Toshiba w/ Remote	32"	1

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DVD Player			1
Cart	Rolling	54"	1
Remote	Sony		1
TV	Flat screen, Sharp, w/ Remote	52"	1
VCR/DVD Player	Magnaum w/ Remote		1
DVD Player	Phillips HDMI w/ Remote		1
Flat screen Mount Card		66"	1
Guitar	Plastic	Large	1
<b>Mediterranean Skyline - Hallway</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Bulletin Board	1 Fabric and 3 Cork	3'H X 4'W	4
Bulletin Board	Fabric	3'H X 2'W	2
<b>Mediterranean Skyline - Employees Only Room</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Desk	Gray Top, 3 Drawers	66 X 38 X 29.5	1
Stage Skirts	Storage Bin Full		1 Bin
<b>Mediterranean Skyline - Small Storage Room</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Ballroom Chair Dolly			1
Yarn Bins			4
Storage Cabinets	Metal	26 X 15 X 23	4
File Cabinet	2 Drawer	26 X 15 X 23	1
Poker Chips/Card Sets			6
Card Table	Gray	33.5" X 33.5"	1
Poker Chips in Bin	Lot of extra chips		1
Misc. Puzzles			21
Easel	Painting		1
Cabinet	Wood, locking, 2 Door	44" X 44"	1
Board Game Tables			3
Picture	Dining Table, Matted	48" X 39.5"	1
Picture	Cottage, Matted	48" X 39.5"	1
Mahjong Set in Case			9
Scrabble Sets			3
Mahjong Tiles in Bin	Extra Tiles		1
CD Radio	Emerson		1
Plastic ware			2 Bins
Cabinet	Gray	6' X 3'	1
Poker Table Tops	Runner	82" X 40"	3

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### Solivita Inventory May, 2016

Lifestyles Office			
Item	Type	Specifics	Number on Site
Microwave	Rival 700 Watt		1
Bulletin Board	46" X 35"		2
Clock			1
TV	Westinghouse 32"		1
Picture	Lighthouse, Matted, Framed	34" X 24"	1
Dry Erase Board		34" X 36"	1
Credenza	2 Doors & 6 Drawers	69"	3
Desk	6 Drawers	72"	2
Desk Chairs	Leather		6
Desk	5 Drawers	66"	1
Bookcase	4 Shelves, 2 Doors	72"H X 29"W	1
Lateral File Cabinet	4 Drawers		4
Apple Credit Card Ipad	Square		1
Credit Card Receipt Printer	Star		1
Cash Register			1
Card Table			1
Ballroom Chair			1
Desk	4 Drawers	49"	1
Bookcase	3 Shelves	40"H X 36"W	1
Cabinet	2 Drawers	31"H X 36"W	1
Sofa Table	With Bottom Shelf	36"H	1
Chair/Floor Mats			5
Crate	Storage, Black		1
Copy Machine	Richo-Aficia		1
Laminator	Fellowes		1
Computer Monitors	HP	20"	6
Computer Keyboards	HP		4
Computer Mouse			6
Computer Monitor Stands	With 1 Drawer		6
Computer Terminals/Towers	HP		6
Chairs	Desk-side		8
Table			1
Phones	Aastra Multi-Line		6
Computer Monitor		18"	1
Computer Monitor		20"	2
Waste Basket	Small		5

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Waste Basket	Large		3
Lifestyles Office Bathroom			
Item	Type	Specifics	Number on Site
Artificial Plant	Small		1
Decorative Blns			12
Screens			2
Dry Erase Boards	Portable		2
Door Mirror	Large		1
Lifestyles Office Hallway			
Item	Type	Specifics	Number on Site
Picture	Flowers, Matted, Framed	33" X 27"	1
Artificial Plant	Tall		1
Desk	2 Drawer	70"	1
Office Chair	Fabric		1
Lifestyles Office Small Back Office			
Item	Type	Specifics	Number on Site
Computer Monitor	16"		1
Computer Keyboards			2
Computer Mouse			2
DVD/Music Players			5
Battery Backup Surge Protector			1
Speaker		26" X 30"	1
Lifestyles Office Small Open Office			
Item	Type	Specifics	Number on Site
Trash Cans	Large		2
Trash Can	Xlarge		1
Handicap Ramp			2
Decorative Bin			1
Picture Frames		28" X 40"	2
Lifestyles Office Jana's Office			
Item	Type	Specifics	Number on Site
Tables		6'	2
Chairs			4
Office Chair	Fabric		1
Decorative Bin			1
Decorative Tote	Large		1
Bulletin Board		36" X 48"	1
Bookcase	4 Shelves	72" X 36"	1
Table	2 Drawers	59"	1
Desk	3 Drawers	48"	1

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Desk	2 Drawers	80"	1
Computer Keyboards	HP		1
Computer Monitors	HP	19"	2
Computer Monitor Stands			2
Artificial Plant			2
Picture	Sailboat, Matted, Framed	18" X 43"	1
Lifestyles Office Sheri's Office			
Item	Type	Specifics	Number on Site
Dry Erase Board		48" X 35"	1
Credenza	6 Drawers, 2 Doors	72"	1
Safe	Century		1
Solivita Map Pictures		50" X 37"	1
Desk	2 Drawers	72"	1
Desk	2 Drawers	46"	1
Trash Can	Small		1
Trash Can	Large		1
Computer Monitor	Dell	27"	1
Computer Keyboard	Microsoft		1
File Cabinet	12 Drawer (3 sections with 4 drawers each)		1
Utility Cart		500#	1
Utility Cart		727#	1
AV Equipment			

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**Solivita Inventory May, 2016**

<b>Library</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Bookcase	Wood	6 Shelf - 3'W X 6'H X 10"D	12
Waste Basket		16"H	2
Tables	Round, Wood	4' Diameter	2
Tables	Round, Wood	2' Diameter	2
Chairs	Wood/Metal	Standard	8
Lounge Chair	Cushioned		2
Couch	Cloth	5.5' L	2
Side Table	Wood	15.5" X 15.5"	1
Decorative Wall Clock	Buchanan Clock Co.		1
Decorative Plants	Silk, Green Ivy	Small	3
Fire Extinguisher	Lanerex		1
Fire Extinguisher Cabinet	Larsens		1
Bulletin Board	Cork, Wood Framed	58"H X 94.5"W	1
Bulletin Board	Cork, Wood Framed	58"H X 4'1"W	2
Desk Chairs	Leather, Rolling		4
Chair/Floor Mats	Clear, Plastic		4
Computer Monitors	HP Compaq LA2006X	20" Screen	4
Computer Keyboards	Dell		4
Computer Mouse	Dell		4
Computer Terminals	Dell WYSE		4
Tables	Wood	43" X 36"	4
Mouse Pads			4
Laser Jet Printer	HP 600 M601		1
Step Stool	2-Step, Plastic		1
Plant Pot	Plastic	17"	1
Decorative Print/Painting	Matted, Wood Frame	17" X 17"	1
Books	Hardback & Paperback		approx. 1600

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**Solivita Inventory May, 2016**

<b>Art Gallery</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Tables		6'	10
Card Tables			7
Bar Stools			57
Ballroom Chairs			31
Easels	Wood		12
Easels	Metal		4
Plant Holder	Ceramic	3'	2
Cabinets	Wood	6'H X 3'W X 1'9"D	2
Case	Glass	6'H X 3'W X 1'4"D	2
Mirror	Adjustable	3'9"H X 3'6"W	1
Waste Basket	Plastic w/ Lid	2'3"H	1
Fire Extinguisher	Amerex		1
Fire Extinguisher Cabinet	Larsens		1
Cabinets	1 Door Wood/Vinyl	3'5"H X 3'W X 1'D	2
Paper Towel Dispenser			
Soap Dispenser			
Patio Chairs	Aluminum		7
Patio Table	Tempered Glass, Aluminum	3'6"	2
Patio Umbrella	Outdoor	48"	2
Umbrella Case	Metal		2
<b>Ceramics Gallery</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Tables	Plastic	6'	9
Tables	Wood	6'	2
Card Tables		3' X 3'	3
Ballroom Chairs	Standard		38
Water Filtration Dispenser	AccuPure FM1500 DWS		1
Clay Slab Roller	North Start		1
Plant Pot	Ceramic	2'	1
Plant Pot	Ceramic	16"	1
Cabinet	Glass & Wood - 2 bottom drawers	7'H X 4'11"W X 21"D	1
Shelves/Cabinet	Open shelving cabinet	3'5"W X 3'5"H	3
Plant Pot	Ceramic	1'9"	1
Wall Clock			1
Fans	Hunter		4
Garbage Can	Round, w/lid & wheels	2'8"H	1

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Cabinet with Doors	Metal, 5 shelves	6'5"H X 3'1"W X 1'7"D	1
Book Shelf	Open	6'H X 2'7"W X 1'D	1
Quartet Easel			1
Broom			1
Telephone	Meridian		1
Mailbox Cabinet	12 Shelf	1'H X 2.5'W X 1'D	1
Fire Extinguisher	Amerex		1
Fire Extinguisher Cabinet	Larsens		1
AED Defibrillator			1
AED Defibrillator Cabinet			1
Bulletin Board	Wood Framed	4'H X 6'W	1
Soap Dispenser	Hillyard		1
Paper Towel Dispenser	Tork		1

#### Ceramics Gallery - Kiln Room

Item	Type	Specifics	Number on Site
Kilns	Skutt Model KM-1227, Automatic		2
Fire Extinguisher	Buckey		1
Broom			1
Dust Pan			1
Shelves	Metal, Open	6'H X 3'W X 2'D	1

#### Computer Gallery

Item	Type	Specifics	Number on Site
Computer Chairs	Cloth, Rolling		8
Computer Monitors	HP Compaq LA2006X	20.5"	8
Computer Keyboards	Dell KB212B		8
Computer Mouse	Dell M8111-P		8
Mouse Pads			8
Computer Terminals	Dell WYSE		8
Computer Desks	Bretford		8
Printer Desks	Bretford		2
Computer Printer	HP LaserJet 600 M601		1
Waste Basket		17"	1
Wireless Router	Cisco		1
Wall Clock			1
Dry Erase Boards		2' X 3'	3
Telephone	Viking Emergency Use		1
Fire Extinguisher	Amerex		1
Fire Extinguisher Cabinet	Larsens		1

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<b>Computer Gallery Closet</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Shelving	Aluminum	6'H X 5'W X 2'D	2
Step Stool	Cosco, 2 Step		1
Dry Erase Board	With Stand, Boone	2' X 3'	1
CERT Equipment			1
Cabinet	5 Shelf, Metal w/ Doors	6'H	1
Decorating Supplies	Balloons, Basket Shred, Fabric, Prize Trinkets, Vases, Net Lights, Paint Supplies, Costumes, Mardi Gras Beads, Wrapping Paper, Chalk, Crayons, Tiki Torches, Asst. Bags, Ribbon, Carnival Supplies (Easter, Spring, Luau, Beach) etc.	58 Bins	
Carts	2 Drawer, Rolling	3'H X 2'W	1
Carts	2 Drawer, Rolling	3'H X 1.5'W	2
<b>Magnolia Room</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Card Tables		3' X 3'	3
Chairs	Wood w/ Cloth Seat		12
Plant Holder	Metal		1
Bookcase	Wood	3'H X 2.5'W X 15"D	1
Fire Extinguisher	Amerex		1
Fire Extinguisher Cabinet	Larsens		1
Oil Painting	Floral, Unframed	3'5" X 3'5"	1
Print	Matted, Metal Frame	34" X 34"	1
Cabinet	Metal, 5 shelves	6'H	1
Board Games			21
Mahjong Set in Case			2
Chess Set w/ Carrying Bag			4
Waste Basket		13"	1
Ceiling Fan	Hunter		1
<b>Billiard Gallery</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Billiard Tables	Wood		4
Bar Stools	Cloth		10
Ballroom Chairs	Standard		20
Pool Cue Holder	Wood		5
Pool Cues			13
Pool Bridge Cues			8

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Lighted Chandelier			3
Wall Clock			1
Bulletin Board	Cork, Plastic Framed	1'5"H X 2'W	4
Bulletin Board	Cork, Metal Framed	4'H X 8'W	1
Fire Extinguisher	Amerex		1
Fire Extinguisher Cabinet	Larsens		1
Mirror	Wood Framed	4'8'H X 5'W	1
Flat Screen TV w/ Remote	LG	42"	1
Flat Screen TV Wall Mount			1
Telephone	Viking Emergency Use		1

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### Solivita Inventory May, 2016

Bistro			
Item	Type	Specifics	Number on Site
Double Deck Pizza Oven	55", Electric, Baker's Pride	EP-2-8-3836	1
One Section Roll In Cooler	Specification Series/TRUE	STR1RRI-1S	1
3 Compartment Sink	73"		1
Sandwich Prep	42", Beverage Air		1
Sandwich Prep	54", TRUE		1
36" Square Dining Tables			3
42" Round Dining Tables			5
36" Bar Table			2
Bar Stools			4
Dining Room Chairs			27
Bakery Display			1
Custom Fabricated Prep Table	Wood Top		1
Prep table	42"		2
Patio Table			5
Patio Chair			20
Umbrella			5
10" Touch Screen Monitor			1
Mini Compact Computer	Dell		1

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**Solivita Inventory May, 2016**

Mosaics			
Item	Type	Specifics	Number on Site
Commercial Gas Range	Economy 6 Burners, 2 Ovens, 24" Griddle, Southbend		1
36" Salamander Broiler	Southbend		1
42" Char Broiler			1
Double Deck Full Size Gas Convection Oven	Blodgett		1
Braising Skillet 30 Gallon	Groen	Model# HFP/2E-3	1
Hot Holding Cabinet Double Stack	Alto-Shaam	Model# BQ2/192	1
VF-35S Gas Fryer - 35Lb Vat	Pitco		1
VF-35S Gas Fryer - 35Lb Vat	Pitco		1
Legacy 60 Qt Commercial Planetary Floor Pizza Mixer	Hobart	Model# HL662-1STD	1
Globe G12 12" Manual Gravity Feed Slicer	Globe	Model# 3600	1
42" Prep table			1
42" Prep table			1
42" Prep table			1
42" Prep table			1
Camcarrier Food Pan Carrier	Cambro	Model# 300MPC	1
Portable Bar			1
Portable Bar			1
7.1cu. ft Chest Freezer	Haier	Model# HCM071LC	1
Giant Hood System			1
Ansel Fire Suppression System			1
Dishwasher Conveyor	Hobart, High Temp		1
Steak Knives	Regency		230
Butter Knives	Regency		280
Teaspoons	Regency		280
Dinner Forks	Regency		265
Salad Forks	Regency		350
Soup Spoons	Regency		215
Soup Spoons, Old			65
Salad Forks, Old			130
Butter Knives, Old			50
Teaspoons, Old			55
10" Dinner Plates	Killington		448

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7" B&B Plates	Killington		416
Glass Salad Plates	Libbey		336
Small Rectangle Tapas Plates			66
Family Style Oval Plates			41
Large Rectangle Plates			38
Large Square Plates			17
Small Square Plates			56
Large Soup Bowls			7
Salad/Soup Bowls			246
Egg Shaped Bowls			18
Banquet Glasses	Libbey		400
Pint Glasses	Libbey		36
6oz Martini Glasses	Libbey		120
Sheet Pans			142
11" Sautee Pans			23
Hotel Pans			32
1/6 Pans			22
1/3 Pans			22
Large Sauce Pot			4
Pan Rack	Speed Rack		16
1/2 Pan Rack	Speed Rack		4
10" Touch Screen Monitor			2
Mini Compact Computer	Dell		2
Glass Chiller Freezer			2
54"x42" Dining Tables			12
Dining Room Chairs			72
Patio Chairs			24
Patio Tables			6
Television			3
Low Top Tables			2
Arm Chairs			4
High Top Tables			3
High Top Chairs			8
6' Tables			4
Dining Chairs			80
Dining Tables			12
Patio Tables			6
Patio Chairs			19
Patio Speakers			9
Trash Cans			3
Ceiling Fans			5

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<b>Curtains</b>			<b>18</b>
<b>Metal Rods</b>			<b>9</b>
<b>Bar Chairs</b>			<b>9</b>

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### Solivita Inventory May, 2016

Clubhouses			
Item	Type	Specifics	Number on Site
Chaise Lounges		181 Torino	25
Club Chairs		181 Torino	55
Small Tables		181 Torino	14
Large Tables		181 Torino	12
Umbrellas		181 Torino	7
Clocks		181 Torino	1
Trash Cans		181 Torino	2
Inside Tables		181 Torino	4
Inside Chairs		181 Torino	23
5 Gallon Fountain		181 Torino	1
Ceiling Fans		181 Torino	
Television		181 Torino	1
Microwave		181 Torino	1
Under Counter Refrigerator		181 Torino	1
Chaise Lounges		Venezia	34
Club Chairs		Venezia	39
Small Tables		Venezia	16
Large Tables		Venezia	8
Umbrellas		Venezia	5
Clocks		Venezia	1
Trash Cans		Venezia	4
Inside Tables		Venezia	13
Inside Chairs		Venezia	52
5 Gallon Fountain		Venezia	1
Ceiling Fans		Venezia	2
Wooden Bench		Venezia	1
Television		Venezia	1
Microwave		Venezia	1
Refrigerator		Venezia	1
Ice Maker		Venezia	1
Picture	33" X 33"	Venezia	1
Picture	33" X 44"	Venezia	1
Chaise Lounges		Bella Viana	24
Club Chairs		Bella Viana	44
Small Tables		Bella Viana	16
Large Tables		Bella Viana	7
Umbrellas		Bella Viana	6

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Clocks		Bella Viana	1
Trash Cans	2 each in Lobby, Multi-Purpose Room & Pool Deck	Bella Viana	6
Tables	Small	Bella Viana	16
Tables	Large	Bella Viana	7
Chairs	Standard, Inside	Bella Viana	48
5 Gallon Fountain		Bella Viana	1
Ceiling Fans	4 on Pool Deck, 4 In Multi-Purpose Room	Bella Viana	12
Wooden Bench		Bella Viana	1
Television		Bella Viana	1
Microwave		Bella Viana	1
Refrigerator		Bella Viana	1
Ice Maker		Bella Viana	1
Picture	33" X 44"	Bella Viana	2
Lamps		Bella Viana	2

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### Solivita Inventory May, 2016

Housekeeping			
Item	Type	Specifics	Number on Site
Cleaning Rags	Old		40
Cleaning Rags	New		50
Broom	Large		10
Broom	Small		10
Dust Pan			10
Dust Mop	Small		15
Dust Mop	Medium		8
Dust Mop	Large		18
Mops	Microfiber		20
Mops	Regular		20
Mop Sticks			10
Mop Buckets			8
Dust Mop Sticks	Small		5
Dust Mop Sticks	Medium		4
Dust Mop Sticks	Large		5
Garbage Cans	For Events		22
Vacuums	Standard		6
Hand Truck	Flat		2
Hand Truck	Regular		2
Leaf Blower			3
Wet Vac			2
Vacuums	Backpack		2
Scrubber Machine	Large, Battery Operated		1
Scrubber Machine	Small, Battery Operated		1
Carpet Cleaner	Walk Behind, Electric		3
Pressure Washer	Electric		2
Floor Blower	Electric		2
Golf Carts	Electric		2
Washer			1
Dryer			1
Refrigerator	Office, Side-by-Side		1
Signs	Wet		8
Housekeeping carts			4

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**Solivita Inventory May, 2016**

<b>Riviera - Men's Dry Side Locker Room</b>			
<b>Item</b>	<b>Type</b>	<b>Specifcs</b>	<b>Number on Site</b>
Double Toilet Tissue Holders			3
Soap Dispenser			1
Paper Towel Holders			2
Hand Dryer			1
Wall Mounted Deodorizer			2
Tissue Box			3
Tissue Box Holders			0
Hair Dryer			1
Red Emergency Phone			1
Clocks			1
Balance Scale			1
Soap Holder			4
Soap Dispenser			4
Rubber Mats			4
Heating Unit for Sauna			1
Coat Hooks--Wall Mounted			1
Shower Rods			7
Shower Curtains			4
Towel Hooks			4
Handicap Seat			1
Individual Lockers			100
Carpets			3
Metal Benches			1
Wooden Benches			3
Paintings			3
Trash Basket			1
<b>Riviera - Women's Dry Side Locker Room</b>			
<b>Item</b>	<b>Type</b>	<b>Specifcs</b>	<b>Number on Site</b>
Double Toilet Tissue Holders			6
Sanitary Napkins Receptacle			6
Soap Dispenser			1
Paper Towel Holders			2
Hand Dryer			1
Wall Mounted Deodorizer			2
Tissue Box			3

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Tissue Box Holders			3
Hair Dryer			1
Red Emergency Phone			1
Clocks			2
Balance Scale			1
Soap Holder			4
Soap Dispenser			4
Rubber Mats			4
Heating Unit for Sauna			1
Coat Hooks--Wall Mounted			1
Shower Rods			7
Shower Curtains			4
Towel Hooks			4
Handicap Seat			1
Individual Lockers			98
Carpets			3
Metal Benches			3
Paintings			3
Trash Basket			1

**Riviera - Men's Wet Side Locker Room**

Item	Type	Specifics	Number on Site
Double Toilet Tissue Holders			2
Paper Towel Dispensers w/ Trash Bins			2
Soap Dispenser			1
Hair Dryer			1
Hand Dryer			1
Tissue Box			2
Rectangle Wooden Benches			2
Clock			1
Trash Basket			1
Rubber Mats			3
Wall Mounted Deodorizer			1
Curtain Rods			3
Shower Curtains			3
Soap Holders			3
Soap Dispenser			3
Towel Hooks			3
Handicap Shower Seat			1
Lockers			44

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<b>Riviera - Women's Wet Side Locker Room</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Double Toilet Tissue Holders			3
Sanitary Napkin Receptacle			3
Paper Towel Dispensers with Trash Bins			2
Soap Dispenser			1
Hair Dryer			1
Hand Dryer			1
Tissue Box			1
Rectangle Wooden Benches			2
Square Benches			2
Clock			1
Trash Basket			1
Rubber Mats			3
Wall Mounted Deodorizer			1
Curtain Rods			3
Shower Curtains			3
Soap Holders			3
Soap Dispenser			3
Towel Hooks			3
Handicap Shower Seat			1
Lockers			46
<b>Riviera - Aerobics Room</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Dumb Bells	1 Pound		12
Dumb Bells	2 Pounds		13
Dumb Bells	3 Pound		31
Dumb Bells	4 Pound		38
Dumb Bells	5 Pounds		48
Dumb Bells	6 Pounds		39
Dumb Bells	7 Pounds		28
Dumb Bells	8 Pounds		32
Dumb Bells	9 Pounds		8
Dumb Bells	10 Pounds		13
Dumb Bells	12 Pounds		8
Dumb Bells	15 Pounds		6
Medicine Balls	4 Pounds		19
Medicine Balls	2 Pounds		8

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Medicine Balls	8 Pounds		7
Medicine Balls	4.5 Pounds		5
Medicine Balls	6 Pounds		13
Ankle Weights	1 Pound		8
Ankle Weights	2.5 Pounds		16
Ankle Weights	4 Pounds		10
Ankle Weights	5 pounds		6
Ankle Weights	3.75 lbs		7
Bands	Medium Resistance		52
Bands	Light Resistance short		12
Bands	Heavy Resistance short		18
Bands	Medium Resistance short		25
Bands	Rip core base		2
Bands	Rip core bars and base		16
Bands	Rip Core bands		4
Body Bars	6 LBS		18
Body Bars	3 LBS		11
Body Bars	12 LBS		7
Body Bars	1 LBS		3
Body Bars	9 LBS		10
Body Bars	15 LBS		6
Body Bars	18 LBS		3
Swiss Balls	Yellow		8
Swiss Balls	Hunter green		23
Swiss Balls	Neon green		5
Swiss Balls	Red		8
Swiss Balls Rack			1
Mats	Aeromats		1
Mats	BI fold mats		20
Mats	Gold gym mats		28
Mats	Techno gym mats		6
Step Risers			37
Slo-Mo Balls			38
QVC Pipes			30
Yoga Blocks			14
Balance Cushions			18
Stepper Base			10
Table tennis Tables			6
Chairs			44
Ballet Bars			2
Televisions	Toshiba, Wall Mounted		3

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Ceiling Fans			8
Trash Can			2
Water Cooler			1
Sollvita Rug			1
Hand Sanitizer			1
Paper Towel Holder			1
Clock			1
Fire Extinguisher			1
Sound System	Bluetooth, Video, DVD, iPod, iPad Capabilities		1
VCR	Toshiba		1
TV Remote	Toshiba		1
Agility Ladder			1
Shelves			2
Trays			3
Tennis balls			60
Tennis paddles			7
Resistance Band Hangers	Wall Mounted		2
Bins			3
Plastic bucket	Black w/ PVC Pipes		1
Dumb bell racks			2
Mat hooks	Wall Mounted		2

**Riviera - Walking Track**

Item	Type	Specifics	Number on Site
Benches			3
Stretching Table			1
Stretching Posters			2
Club Poster Frames			29
Sign (one mile=20 laps)			1
Potted Plants			17
Heavy Bag			1
Gold's Gym Mat			1
Black Mat			1
12lb. Weight Bar			1
6lb. Weight Bar			1
PVC Pipes			3
Coat Rack			1
Weight Rack			1
Weights	1 Pound		2
Weights	2 Pounds		4

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Weights	3 Pounds		6
Weights	5 Pounds		2
Weights	6 Pounds		2
Weights	7 Pounds		4
Weights	8 Pounds		2
Clocks			2
Trash Can	Tall, White		1
Dry Erase Board	Directional, White		1
Hand Sanitizer Dispenser			1
Hanging Office Signs			3
<b>Riviera - Hallway</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Paintings			2
Club Poster Frames			5
Potted Plants			3
Sconce wall lights		In Stairwell	2
<b>Riviera - RSF2</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Card Tables			15
Chairs	Red, Padded		25
Tables	6'		2
Chairs	Brown, Padded		5
Chairs	Orange, Plastic		34
Easel			1
Podium			1
Projector	Ceiling Mounted		1
Roll Down Screen			1
Venetian Blinds			5
Television	Toshiba, w/ Remote	32", Model # CZ32T31, Serial # 34517944	1
VCR	Toshiba, w/ Remote	Model # M785, Serial # 63281862	1
DVD Player	Magnavox	Model # MDV3300/F7	1
Rolling Cart	2 Tier		1
Display Stand			1
Flag Pole			1
Flag			1
Wall Hangings	Upholstered		12
Paper Towel Dispenser			1

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Hand Sanitizer Dispenser			1
Microwave			1
Trash Can	Tall		1
Clock			1
Audio Box			1
Lock			1
Cassette & CD Player			1
Amplifier			1
Occupancy Permit	Framed		1
Room Setup	Lucite Framed		1

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<b>Riviera - Closets</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
TV Stand	On Wheels w/ Lower Cabinet		1
Cords In Lower Cabinet			3
Dollies for Plastic Chairs			2
Replacement Carpet Squares			13
Training CPR Defibrillators			13
Infant CPR Training Dummies			4
Adult COR Training Dummies			10
Duffle Bag	Black		1
Duffle Bag	Blue & Grey, "Compact 10"		1
Red Duffle Bag			2
5 Tier Storage Unit			1
First Aid & CPR Training Pack			10 boxes
Defibrillator Instruction Booklets			3
Red Cross CPR Instruction Manuals			9
Heart Defibrillator Smart Pad	Adult		10
Heart Defibrillator Smart Pad	Child		2
Lysol Disinfecting Wipes			1
Replacement Training Pads	Phillips		4
External Mannequin Adapter			1
Packing Paper			1 Package
Woven Basket			1
Round Flag Pole Stand			1
<b>Riviera - Storage Closet</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Pilgrim & Patriot T-Shirts	X-Large		188
Pilgrim & Patriot T-Shirts	Large		120
Pilgrim & Patriot T-Shirts	Medium		24
Pack the Pantry Sign			1
Relay For Life Sign			3
<b>Riviera - ELF Closet</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
First Aid Supplies			1 Box

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Guest Pass Receipt Books			1 Box
Clock			1
Soft Ball Bases			1 Box
Cornhole Boards			4
Mesh Net			1
Ceiling Tiles			2 Boxes
Mastik			1 Bucket
Rubber Mat Floor Tiles			15
Rubber Floor Mat	Roll Out		1 Roll
Bottled Water			12 Cases
Mesh Netting			1 Large Roll

**Riviera - Main Gym Areas**

Item	Type	Specifics	Number on Site
Press		MH20E12000394	1
High Pull		MH30E12000360	1
Low Pull		MH95E12000324	1
Overhead Press		MH15E12000330	1
Step/Squat		MH67E12000326	1
Adductor		MB0512000395	1
Abductor		MB1011100043	1
Upper Body Cable Station			1
Lower Back		MB4512000294	1
Abdominal Crunch		MB6512000456	1
Leg Curl		MB3512000704	1
Leg Extension		MB3012000797	1
Multipower/Smith Machine		M95310100130	1
Nustep #1		434152	1
Nustep #2		434153	1
Top Machine		DA773W12000146	1
Elliptical		DA533W12001226	1
Vario		DAF73W12001530	1
Vario		DAF73W12001532	1
Vario		DAF73W12001600	1
Vario		DAF73W12001500	1
Treadmill		DAK81W12000373	1
Treadmill		DAK81W12000380	1
Treadmill		DAK81W12000375	1
Treadmill		DAK81W12000374	1
Treadmill		DAK81W12000372	1
Treadmill		DAK81W12000377	1

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Treadmill		DAK81W12000383	1
Treadmill		DAK81W12000371	1
Treadmill		DAK81W12000376	1
Treadmill		DAK81W12000379	1
Recumbent Bike		DAD33W12001418	1
Recumbent Bike		DAD33W12001417	1
Recumbent Bike		DAD33W12001408	1
Recumbent Bike		DAD33W12001403	1
Recumbent Bike		DAC33W12001890	1
Recumbent Bike		DAC33W12001889	1
Flexibility Anterior		ME0510000174	1
Flexibility Posterior		ME1010000204	1
Decline Bench		D1229054459007N	1
Adjustable Bench		PA0412002583	1
Adjustable Bench		PA0412002577	1
Dumbbells	20 LBS		2
Dumbbells	25 LBS		2
Dumbbells	30 LBS		2
Dumbbells	35 LBS		2
Dumbbells	40 LBS		2
Dumbbells	45 LBS		2
Dumbbells	50 LBS		2
Dumbbells	55 LBS		2
Dumbbells	60 LBS		2
Dumbbells	65 LBS		2
Dumbbells	20 LBS		2
Dumbbells	15 LBS		2
Dumbbells	12 LBS		4
Dumbbells	5 LBS		4
Dumbbells	10 LBS		2
Dumbbells	8 LBS		4
Dumbbells	12 LBS		1
Dumbbells	7 LBS		4
Dumbbells	4 LBS		4
Dumbbells	3 LBS		2
Dumbbells	2 LBS		2
Dumbbells	1 LBS		2
Dumbbells	8 LBS		2
Dumbbells	6 LBS		2
Dumbbells	9 LBS		2
Steps			7

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Bosu Ball			1
Stability Ball	Large, Green		1
Stability Ball	Small, Red		1
Treadmill Floor Mats			10
Chairs			2
Resistant Bands	Red		6
Xercuff's	1 Each Red, Green, Blue, Yellow		4
Balance Disks	Blue		2
Foam Pad			1
Soft Foam Rollers	Blue		2
Gym Foam Mat	Light Brown		2
Gym Mat	Black		2
Barbell Pad	Black		1
Weight Tree			1
Weight Clips			8
Weight Ball Rack			1
Olympic Weight Plates	45 LBS		4
Olympic Weight Plates	25 LBS		2
Olympic Weight Plates	10 LBS		6
Olympic Weight Plates	5 LBS		2
Olympic Weight Plates	2.5 LBS		3
Ankle Weights	2 LBS		2
Ankle Weights	3.75 LBS		4
Ankle Weights	5 LBS		1
Ankle Weights	2.5 LBS		1
Kettle Balls	30 LBS		1
Kettle Balls	20 LBS		1
Kettle Balls	15 LBS		2
Kettle Balls	10 LBS		2
Soft Kettle Balls	7 LBS, Blue		1
Soft Kettle Balls	5 LBS, Purple		1
Body Bars	18 LBS		1
Body Bars	24 LBS		1
Body Bars	15 LBS		1
Body Bars	12 LBS		2
Body Bars	6 LBS		1
Body Bars	PVC BAR		2
Weight Balls	9 LBS		2
Weight Balls	8 LBS		2
Weight Balls	4 LBS		2
Weight Balls	6 LBS		1

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Weight Balls	2 LBS		1
Soft Mini Fitness Balls			2
Cable Attachments	Cambered Olympic Curl Bar		1
Cable Attachments	Pull Down Bar		1
Cable Attachments	Straight Short Bar		1
Cable Attachments	Lateral Grip Pull Down Bar		1
Cable Attachments	V-BAR		1
Cable Attachments	Long Rope		1
Cable Attachments	Short Rope		1
Cable Attachments	Plastic Stirrup Handles		2
Cable Attachments	Adjustable Weight Belt		1
Cable Attachments	Ankle Straps		2
Cable Attachments	Cambered Handle Attachments		2
Cable Attachments	Long Nylon Stirrup Handles		2
Cable Attachments	Short Nylon Stirrup Handle		1
Cable Attachments	Triceps Press Down Bar		1
Cable Attachments	Dual Press Bar		1
Cable Attachments Storage Bin	Wooden, 4 Compartment		1
AED		B12E-00557	1
Paper Towel Dispenser	Wausau Paper		2
Book Rack			1
Coat Rack/Umbrella Holder			1
Gym Wipe Holder			1
Wall TV	Sharp		2
Wall TV	Samsung		1
Wall TV	Spectrie		1
Wall TV	Aquos		1
Water Dispenser			1
Hand Sanitizer Dispenser	Hillyard		1
Large Trash Can			1
Small Trash Can			1
Wall Poster	Stretching for a Healthy Back		1
Wall Clock			2
Hand Sanitizer Dispenser	Pro Link		2
Ceiling Fans			6
Fire Extinguisher			1
<b>Riviera - Assessment Room</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Black bookcase			1

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Scale			1
Desk			1
Computer	1 Open, 1 Covered	Serial # MXL1512VKY	1
Computer Monitor		Serial # 3CQ131C84N	1
Computer Keyboard		Serial # BAUYF0BHH1K5BC	1
Speakers			2
File cabinet	4 Drawer		1
Desk chairs			3
Telephone			1
body fat analyzer			1
Blood pressure cuff			1
Bingo cage set			1
Weights	10 LBS		1
Weights	3 LBS		3
Weights	6 LBS		1
Weights	5 LBS		1
Mat			1
White board			1
Letter holders			3
File Folders	Wall Mounted		2
Venetian Blinds			5
Pencil Holder			1
Business Card Holder			2
Scotch Tape Dispenser			1
Stapler			1
Sit & Reach Test Box Measuring Device	ACUFLEX, Flexibility Tester		1
Trash Can	TRASH		1
Orange safety cone			1
CPR Training Defibrillator			1
Canvas Pouch	GREEN		1
Stretching Poster			1
Desk Calendar			1
Staple Remover			1
Microphone Headsets			3
Power Cord			1
Battery Pack			1
PGX4 Receiver		0212070134 - 03	1
Mouse Pad			2
Scissors			1

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Back-up/Surge Protector	Battery Powered		1
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**Riviera - Unisex Room**

Item	Type	Specifics	Number on Site
Lockers			2
Wooden bench			1
Chairs	Padded		1
Folding Table			1
Wall hooks			2
Wall mounted Mirror			1
Trash can			1

**Riviera - Indoor Pool**

Item	Type	Specifics	Number on Site
Benches			3
Chairs			14
Tables			7
Aqua Lift			1
Potted plants			6
Noodles			74
Dumbbell Water Weights			116
Kick Boards			32
Blue Paddles			84
Lifesaver			2
Volleyball Net			1
Water Weighted Net Holders			2
Croquet Sets			2
Pool Hook			2
Clock			1
Chrome Trash Can			1
Large Blue Aquatic Clock			1
Large Bags	Mesh		3
Water Volleyballs			6
Water exercise balls			36
Signs	Length of Pool and Pool Rules		2
Cups			13 Boxes
Clear Bins	4 Filled with Sleeves of Cups		7
Rubber Mats			6
Solivita Rug			1
Equipment Storage Racks	3 Tall and 2 Wide		5
Storage Racks	Resistance & Weight Storage		2

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Life Vest			1
Red Emergency Phone			1
Riviera - Outdoor Pool			
Item	Type	Specifics	Number on Site
Large Round Tables			6
Chairs			41
Lounge Chairs			27
Small Round Tables			8
Small Rectangle Tables			15
Umbrellas	Anchored by Spas		2
Umbrellas	Free Standing		2
Umbrellas	Table		6
Potted plants			9
Lifesavers			2
Pool Net			2
Pool Hook			1
Clocks			2
Trash Cans			4
Riviera - Director's Office			
Item	Type	Specifics	Number on Site
Computer		MXL6321IMV	1
Monitor		3CQ131C84H	1
Keyboard		BCYRUOAHH3M8Q1	1
Mesh Pencil Holder			1
Business Card Holder			1
Scissors			1
3 Hole Punch			1
Printer		SNCNB6G389XV	1
Bookcase			1
Potted Plant			1
Foam Roller			1
Balance			1
Venetian Blinds			7
Filing cabinet	2 Drawer		1
Paintings			2
Desk			1
Chairs	2 Stationary, 1 on Wheels		3
File Holder			1
Scotch Tape Dispenser			1

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Stapler			1
Trash Basket			
Telephone			1
Letter Tray			1
Keyboard Tray			1
Distance Wheel			1
Stereo Transmitters			2
Power Strip			1
Riviera - Main Lobby			
Item	Type	Specifics	Number on Site
Message board			2
Trash can			1
Sofa chairs			3
Side table			1
Easel with Dry Erase board attached			1
Locker	with 16 small drawers		1
Potted Plants			11
Multi Colored Wall Décor Squares	Mounted on the wall		12
Ottomans	2 Leather and one cloth fabric		3
Sofa	Black leather		4
Filing cabinet	with 4 shelves		1
Fire Extinguisher			1
Easels			4
Pillows			8
Glass Tables			2
Magazine Holder			1
Podium			2
clock			1
Coat hanger/Umbrella Holder			1
Rugs	Solivita logo		3
Mounted Glass Cabinet			1
Riviera - Lobby Hallway			
Item	Type	Specifics	Number on Site
Message Board			1
Trash Can			3
Doormat	Solivita Logo		1
Potted Plants			4

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Coffee Cabinet	Wooden, Wall Mounted		1
Keurig			1
Glass Cabinet	4 Shelves		1
Water Fountain	Wall Mounted		1
Soap Dispenser			1

**Riviera - Fitness Front Desk**

Item	Type	Specifcs	Number on Site
Computer	SLV-DT-038	MXL6231JPR	1
Monitor			1
Keyboard			1
Printer	LASERJET 500 COLOR M551 PRINTER		1
Mouse			1
Ipad	SLV-IPAD-003	DMPRL3SCG5WT	1
Square Stand		ELM 10401	1
APG Cash Drawer			1
Receipt Printer	Star TSP100		1
Desk Phone	AASTRA		1
Desk Fan	Feature Comforts		1
Black File Cabinet	Four Drawers		1
Beige Locking Cabinet			1
First Aid Box	Stocked		1
Lockbox for Keys	Stocked With Tools		1
Tool Bag			1
Easy Reach Ladder			1
Slip & Fall Floor Sign			2
Pool Closed Quick Sign	Inclement Weather		1
Office Chair	Black		1
Chair			1
Plastic sign holder	Clear Desk Sign Holders		4
Clear Plastic Containers	Used of Lost and Found Items		2
Pencil Holder	Mesh, Metal		1
Letter Holder	Mesh, Metal		1
Staplers			2
Day Pass Stamp			1
Automatic Pencil Sharpener	X-ACTO		1
Paper/Business Card Holder	Mesh, Metal		1
Brochure Holder	Clear Plastic		1
Desk Top Folder Holder	3 sections		1
Treadmill Book Holders			4

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HDMI to Video Adapter			1
Mini-DVI to VGA Adapter			1
Projector cables and remote			1
Work Camera	Canon, With Charger and Case		1
Guest Pass Holder Blins	Plastic		2
Container Holding ID Badge Lanyards	Plastic		1
Computer Surge Protector/Battery Backup	Battery Powered		2
Shuffle Board Puck Holder	Plastic		1
Shuffle Board Pucks			8
Shuffle Board Sticks			13
Pong Pal Picker Upper Tubes			2
Waste Bucket	Mesh, Metal		1
Trash Can	Small		1
Orange Cone			1
Battery For Aqua Lift			1
Tennis Balls			3
Clear Bag w/ Tennis Balls	1/2 Full		1
Bungee Cords			4
Metal Holder			1
Pickle Balls			12
Table Tennis Racquets			7
Pickle Ball Racquets			8
Bocce Ball Set	In Box		1
Bocce Ball Sets	In Buckets		2
Tennis Ball Sets			6
Portable First Aid Box			2
Desk top Filing trays			23
Wireless Microphone	SHURE <sup>®</sup>		1
Plastic containers, small	Lost and Found Storage		2
Receipt Books			1 Box
First Aid Ice Packs			1 Box
Batteries			Box
Master Lock Looped End Cable			1
Large Flash Light			1
Microphone Transmitter & Headset	Old		1
Remote Controls			4
USB			1
Single Hole Punch			1

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Nikon Camera			1
Paper Trays			2
3 Hole punch			1
2 Hole Punch			1
Long Reach Full Strip Stapler			1
Ruler	Clear		1
Paper cutter			2
Folder Organizer	5 Slots		1
Flash Light			1
Billiard Ball sets			6
Box of Billiard Ball Chalk			1
Business Card Holder			1 Box
Pen holder			1
Ink Cartilages	Black, Yellow, Magenta, Cyan		4
Clip Boards			6
Clock			1
Sound System	3 Receivers		1
Cash box			1

**Riviera - Breakroom**

Item	Type	Specifics	Number on Site
Clock			1
Round Table			1
Chairs			1
Office chair			1
Trash Can			1
Message Board			1
Paintings			2
Toaster	Black and Decker		1
Coffee Maker	Keurig		1
Metal Shelf			1
Small Table			1
Basket	Wooden		1
Mini Fridge	Sanyo	218080	1
Microwave	Emerson	20605042GG	1

**Riviera - Fitness Desk**

Item	Type	Specifics	Number on Site
Laundry Basket			1
Trash Can			1
Hp Computer	SLV-DT-48	MXL6231JNY	1

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Mouse HP			1
Computer Monitor	HP	PN: 537924/001	1
Surge Protector/Battery Backup	APC		1
Speakers			2
Remotes	Clisco		4
Remotes	Sharp		1
Remotes	Samsung		1
Remotes	Spectre		1
Stapler			1
Clip Boards			3
Heater	DeLonghi	900057	1
Telephone	ASTRA	0D12231800	1
Paper Holders			4
Paper Trays			3
Ball Inflator	Champion Sport		1
HoneyWell Modems			2
NetGear Modem			1
Mannequin			1
Desk Organizer			2
Plastic Crates			3
Clock			1
Tape Holder			1
Short's	Black		1
Patriot and Pilgrim Shirts			46
Walk for Cure shirts			5
Desk Sign Holders	Clear Plastic		2

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**Solivita Inventory May, 2016**

<b>Palms - Main Gym Areas</b>			
<b>Item</b>	<b>Type</b>	<b>Specfics</b>	<b>Number on Site</b>
Recumbent Bike		DAD33V15000080	1
Recumbent Bike		DAD33V15000082	1
Water fountains			2
Wicker sofa chairs			3
Wicker sofa			2
Lamp			1
Flower pots			2
Mounted flower pots			2
Fire Extinguisher			1
Wooden round tables			2
Easel			2
Exercise Bike		DAC33V14001670	1
Exercise Bike		DAC33V14001708	1
Top Machine		DA773V14000065	1
Nustep		T4462215	1
Elliptical		DA593V15000191	1
Elliptical		DA593V15000189	1
Elliptical		DA593V15000199	1
Elliptical		DA593V15000187	1
Vario		DAF33V15000103	1
Vario		DAF33V15000100	1
Vario	Wooden Plant Holder	DAF33V15000102	1
Vario		DAF33V15000101	1
Treadmill		DAK8AV15000295	1
Treadmill		DAK8AV15000297	1
Treadmill		DAK8AV15000210	1
Treadmill		DAK8AV15000193	1
Treadmill		DAK8AV15000294	1
Treadmill		DAK8AV15000216	1
Treadmill		DAK8AV15000306	1
Treadmill		DAK8AV15000333	1
Leg Press	Computer Is HP PRO		1
Flexibility Anterior	Dell Keyboard	ME0514100344	1
Flexibility Posterior		ME1015100005	1
Leg Curl	HP LE1901wm	M99015100028	1
Leg Extension		M99115100003	1
Multi Hip		M96715100019	1

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Arm Curl		M99214100230	1
Vertical Traction		M97115100004	1
Chest Press		M97014100609	1
Arm Extension		M9451400196	1
Shoulder Press		M96914100512	1
Lower Back		M95814100246	1
Total Abdominal		M98315100048	1
Cable Station			1
Portable Decline Bench	Adjustable	PG0314000526	1
Portable Adjustable Bench		PG0414002763	1
Portable Adjustable Bench		PG0414002726	1
Portable Adjustable Bench		PG0414002765	1
Smith Machine		MBA315100029	1
Power Rack			1
Wall Clock			1
Scale			1
Hand sanitizer dispensers			3
Coat/Umbrella hanger			1
Metal File Cabinet			1
Sign in podium			1
AED		B12E-00567	1
Emergency Box	Push to Call		1
Wipe Holder			1
Water dispenser			1
Small Personal Locker's Cabinet			1
Storage Cabinet			1
Plant Holder			1
Hanging wall décor			4
Large trash cans			2
Small trash can			1
Lamp			1
Work Desk			1
Office Chair			1
Framed wall Mirror			1
Plant			1
Unframed Wall Mirror			4
Computer		MXL1512VL3	1
Keyboard		KB212-BCN-DDJ454-71581-48T-04H9-A01	1

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Computer mouse		CT-FBNWLOD(W1KMBW	1
Computer Monitor		3CQ131C83W	1
Wall TVs			4
Desk Phone			1
Fire Extinguisher			2
Ceiling Fans			6
Weight Ball Rack			1
Weight Tree			2
Smith Machine	Wooden, 4 Compartments		1
Equipment Storage Bin			
Medicine Balls	4 LBS		1
Medicine Balls	8 LBS		1
Medicine Balls	10 LBS		1
Bosu Ball			1
Balance Balls	Small		2
Ankle Weights	4 LBS		2
Ankle Weights	2.5 LBS		3
Weight Bar	9 LBS		2
Weight Bar	6 LBS		1
Weight Bar	4 LBS		1
Weight Bar	12 LBS		1
PVC Pipe			1
Abdominal Roller			1
Gym floor mats			5
Steps			3
Soft Foam Roller			2
Hard Foam Roller			1
Stability Balls			1
Stability Balls			1
Treadmill Floor Mats			8
Barbell Pad			1
Weight Clips			5
Resistant Bands			5
Kettle Bells	25 LBS		
Kettle Bells	20 LBS		2
Kettle Bells	15 LBS		2
Kettle Bells	12 LBS		2
Kettle Bells	10 LBS		2
Kettle Bells	20 LBS		1
Dumb Bells	55 LBS		2
Dumb Bells	50 LBS		2
Dumb Bells	45 LBS		2

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Dumb Bells	60 LBS		2
Dumb Bells	65 LBS		2
Dumb Bells	70 LBS		2
Dumb Bells	40 LBS		2
Dumb Bells	35 LBS		2
Dumb Bells	30 LBS		2
Dumb Bells	25 LBS		2
Dumb Bells	20 LBS		2
Dumb Bells	15 LBS		2
Dumb Bells	12 LBS		2
Dumb Bells	10 LBS		4
Dumb Bells	8 LBS		2
Dumb Bells	7 LBS		2
Dumb Bells	6 LBS		2
Dumb Bells	5 LBS		4
Dumb Bells	4 LBS		2
Dumb Bells	3 LBS		4
Dumb Bells	1 LBS		2
Pull Up Assistance Bands	80 LBS, Gray		1
Pull Up Assistance Bands	70 LBS, Orange		1
Pull Up Assistance Bands	Blue		1
Pull Up Assistance Bands	Purple		1
Weight Plates	45 LBS		12
Weight Plates	35 LBS		6
Weight Plates	25 LBS		10
Weight Plates	10 LBS		9
Weight Plates	5 LBS		10
Weight Plates	2.5 LBS		7
Bars	Olympic		1
Bars	Hexagon		1
Cable Machine Attachments	Stirrup		2
	Ankle Straps		2
	Pull Down Bar		1
	Straight Short Bar		1
	Cambered Bar		1
	Long Rope		1
	Short Rope		1
	V-Grip		1
	Long Nylon Stirrups		2
	Short Nylon Stirrups		2

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<b>Palms - Amenity Room</b>			
<b>Item</b>	<b>Type</b>	<b>Specfics</b>	<b>Number on Site</b>
Chandeliers	Six Light		4
Mirror	Wood Frame	80" X 35"	1
Wall Sculpture		40" Diameter	3
Flag Pole	Indoor Colonial; Flying Eagle Set	3 X 5	1
Fire Extinguisher			1
Projector Screen	Brand: DA Lite	19"	1
Projector	Brand: Benq	Serial # HPD32DO203300S Model: MX521	1
Audio Box	Brand: Gemini	20" X 20"	1
Audio amplifier	Brand: Crown Four input 80 Watt mixers/Amplifier	Model: 180Ma	1
Wireless Microphone Receiver	Brand: Shur	Model:PGX4	2
Wireless Microphone	Brand: Shur	Model:PGX4	2
Panel Drapes	Blackout drapes	138" X 52"	18
Window Valance	Box pleated cotton	80" X 30"	5
Window Valance	Box pleated cotton	37" X 30"	2
Window Valance	Box pleated cotton	130" X 30"	1
Window Valance	Box pleated cotton	234" X 30"	1
Pleaded Shade	Tan Light Filtering Pleaded Shade	92"X 71"	8
Pleaded Shade	Tan Light Filtering Pleaded Shade	21" X 71"	8
Pleaded Shade	Tan Light Filtering Pleaded Shade	94" X 30"	2
Trash Can	Half moon/rounded		3
<b>Palms - Amenity Room Kitchen</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Counter Top Microwave	1200 watts	FGU4112541/Model: GT4175SPS-2	1
Whirlpool Refrigerator	Side by Side	SU4929430/Model: ED2FHEXS504	1
Whirlpool dishwasher	3 Cycle	FU1915745/Model:DU8505 WP	1
Cabinets	Upper Cabinets, 36" X		3

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	38"		
Cabinets	Upper Cabinets 18" X 36"		2
Cabinet Drawers	Cabinet drawers 21"		8
Cabinet Drawer	12"L		1
Cabinet Drawers	18"L		5
Cabinet Drawers	Lower Cabinet, 12"L		1
Cabinet Drawers	Double Door, 36"W		2
Cabinet Drawers	Under the Sink 36"W		1
Sink w/ Moen faucet	Double Sink		1
Cabinet	Lower, 17"W		1
Cabinets	Lower, 44"W		2
Cabinet	Lower, 12"W		1
Soap dispenser	Wall Mounted		1
Paper Towel Dispenser	Stainless - wall mounted		1
Divider	Wood Sliding, 12.5'W		1
Bar Top	Wood Sliding 12' X 20'		1
Countertop	Corian, Gold 16' X 24'		1
Countertop	Corian, Gold 7.5'		1
Back Splash			1
Trash Can	Half Moon		1
Fire Extinguisher	Brand: ANSUL SENTRY	DF772740	1

**Palms - Pool**

Item	Type	Specifcs	Number on Site
Patio Chairs	Brown metal frame		88
Patio Lounge chairs	Brown metal frame		76
Patio Tables	Brown metal w/ glass top		13
Patio Tables	Brown metal w/ glass top		40
Patio Tables	Brown metal w/ glass top		13
Patio Umbrellas	burgundy		17
Bench w/ Back	Brown Wooden		4
Bench w/o Back	Brown Wooden		20
Patio Chairs w/ Cushions	Light brown cushions w/brown metal frame (Tropitone)		12
Patio Tables	Light brown Mexican Clay tables	R05PZ5440MEX	2
Nexgrill with oven	Charmglow Gourmet Series Stainless steel	Model 720-0536	1

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Fire Extinguisher			1
Clock	2 on pool deck, 2 at hot tubs		4
Trash Cans	Pool Deck (2), Fire pit (1), by Tables (2), Bocce Courts (1), Bathroom (1)		7
Life Preserver	Pool Deck		2
Pool Grabber	Hook on Long Pole		2
Pool Net	Mesh		1
High back Benches	By Tennis Court		4
Noodles	Float noodles		2
Pairs Barbells			10
<b>Palms - Pool Storage</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Exercise Slipping Block	2' X 3'		27
Electric Debris Bag Machine			1
Pool Net, Pole			1
Orange Plastic Fencing			1
Door			1
Ladder			1
Umbrella Base			2
Umbrellas			2
Paint			1
Light Bulb			1
Spa Wand			1
Old Signs			1
Rolling Cart			1
Metal Box Carrier With Wheel			1
<b>Palms - Assessment Room</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Gym Floor Matt			1
Hanging Wall Décor			1
Fat Loss Monitor		2013070633UF	1
Scale		5050100083	1
File Cabinet			1
Blood Pressure Monitor		ZBP500AR (BP3A11)	1

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Champion Sports Inflator	120Volt	EP1500	1
Wall Poster	Stretching Basics		1
Cushioned Chairs			2
Plug In Energizer Battery Pack			1
Agility Cones			2
<b>Palms - Lobby</b>			
Item	Type	Specifics	Number on Site
Samsung Flat screen TV	48"	SNAJ723CPPCO9725B	1
Chandelier	12 Lights w/ Shades		4
Window Drapes	10' X 6', Burgundy Velvet, Blackout		4
Window Drapes	10' X 4', Burgundy Velvet, Blackout		8
Window Finials	Multi, Heavy Duty		8
Window Tiebacks	Multi, Heavy Duty		10
Window Curtain Rods	2 - 5' rods, 1 - 1' rod, 2 - 16' rods		
Curtain Rod Brackets	Dark Wood		10
Mirror	44" X 54", Wood Framed		2
Wall Sconces with glass lights	Steel, Single Glass Shade		8
Picture	2' X 3', Wood Framed		4
Picture	4' X 3', Wood Framed		3
Wall Sculpture	4' X 3', Steel Framed		3
Wall Sculpture	44" X 51", Steel Framed		1
Clay Potted Plants	30" Diameter, Clay/Resin		5
Table Lamp	33", Brown Base, White Shad		2
Floor Rug	8' X 10', Oriental		3
Yamaha Grand Piano	DGBICD	12107	1
Yamaha Piano Bench	30" X 14", Storage Bench	CA28685	1
Card Tables	36" X 36", Dark Wood		3
High Back Chairs	Wood, Upholstered		12
Coffee table	49", Round, Wood		1
Coffee table	52" X 36", Wood		1
Rounded Ottoman Footstool	37", Dark Wood		1
Square Ottoman Footstool	3' X 3', Dark Wood		1

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Round Table	44", Dark Wood		1
Round Table	23", Dark Wood		3
Round Table	29", Dark Wood		1
Side Table	18" X 60", Dark Wood		1
Podium	47", Light Wood		1
Couch	7', Brown Leather		1
Couch	8', Fabric		1
Sofa Chairs	Faux Leather		2
Queen Ann Chairs	Fabric		6
TV Cabinet with Lift	90" X 31" X 40", Funlite	Model# FC-FMP-3500	1
Chest with drawers	2' X 4', Wood		1
Coat Rack	SAFCO	83854	1
Sanitizer Dispenser			1
Fire Extinguisher	Amerex		1
Magazine Bench	2' X 5', Wood w/ Leather Cushions		1
Keurig Coffee maker			1
AED	Phillips		1
Wall Flower Arrangements			5
Vase Flower Arrangements			8

**Palms - Reception Desk**

Item	Type	Specifcs	Number on Site
Computer Monitor	HP, 19"	3CQ131C84W Model:LE1901	1
Desktop computer	HP Pro 3400 series MT/ Windows 7 Intel core 13	MXL1512VK7	1
Desktop Keyboard	Brand: HP	BDMGHOCUB9BOJE KU-1156	1
Desktop Mouse	Brand: HP	FBNWLOD9W1KM78	1
Computer Chair	Black mesh with nylon base		1
AASTRA Office Phone	AASTRA	OD1438744D/6731i	2
File Drawer	Two wooden drawers		1

**Palms - Office**

Item	Type	Specifcs	Number on Site
Computer Monitor	HPL1901WN	3CQ131C849	1

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Desktop Computer Tower	HP Pro 3400 series MT	MXL1512VK7 X2938UT#ABA	1
Desktop Mouse	HP	CT-FBNWLOD9W1KM7Y	1
Desktop Keyboard	Gear Head	BDMGH0CVB9B0JE KB8500U	1
Printer	HP Color LaserJet Pro MFP M476dn	CNB8H6H22N6	1
Linksys Modem		KEG0047005465 SD208	1
Office Desk	Three Drawers, Wood, 72" X 33.5"		1
File Drawer	5 Drawer, Wood, 6' X 26.5"		1
Computer Chair	Black mesh with nylon base		1
AASTRA Office Phone	AASTRA/ Model 6731i	OD1438144D 6731i	1
Omnitech Shredder	Paper Shredder	FK101218735 OT-NXC8PA	1
Whirlpool Fridge	Stainless/Double Doors, 6.5 Cubic Feet	SU3229324 BBSFHAXSSO2	1
Micro Wave	Brand:Oster (1000 WATT)	TAB61104117023	1
Bulletin Board	Thumb Tack Backing		1
Supply Stand	3 Drawer		1
Ingelo Paper Cutter	Brand: Ingenlo		1
Picture Frame	Brown Wood Frame		2
Window Valance	Red Felt Fabric		1
Blinds	Dark Wood		1

**Palms - Office Closet**

Item	Type	Specifics	Number on Site
Shelves	Wood, White		5
Audio Cable	Standard	8715G001-A	1
VGA Cable	Standard	5K06202501HL	1
HDMI to VGA Projector Adapter	Brand:Belkin	2286896783	1
Mini DVI to VGA Adapter	Brand:Apple	54759705535	1
Ethernet Cable	Standard		1
AC- Power Cord	Standard	7A125V	1
Low voltage Computer	Standard		1

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cable			
Dynex USB Mouse	Brand: Dynex	11H24A003619	1
Portable Projector Screen	Manual Control		1
Dell Projector	Model 1800MP	CN-OMJ81750081 17LMT91	1
Boone Portable Expo Board	Expo marker Board		1
SentrySafe	Drop Box Safe		1
Key Box	Key Hangers		1
GreenGuard First Aid Kit	Multi purpose aid kit		1
UltraSteel Tool Kit	110 Pieces	2342043659	1
Ice Coolers	Brand: Island Breeze		2

**Palms - Entrance Area**

Item	Type	Specifics	Number on Site
Solivita Rug	Grey with 'Solivita' Logo	5' X 6'	1
Trash Can	Squared	32" X 18"	8
Clay Pot	Heavy Clay	24"	9
Clay Pot	Heavy Clay	26"	8
Plant Pot Legs	4 legs per pot		46
Clock	Standard Clock	14"	2
Back Bench	Wood; Back and Arms		1
Bench	Wood; No back		2
Message board	Brand: united Vision	3' X 4'	2
Letter board	Brand: AARCO product Inc.	2' X 3'	1
Bike Rack	Metal rack	Large	2
Flag Poles	N/A	20'	3
Water Fountain	Drink		1
Community Flag	Solivita	24" X 54"	1
Country Flag	American Flag	24" X 54"	1
State Flag	Florida	24" X 54"	1
Urn Plants	Artificial	32"	1
AED Equipment	Philips Heart starter Defibrillator		1

**Palms - Aerobic Room**

Item	Type	Specifics	Number on Site
Dumb Bells	2 LBS		18
Dumb Bells	3 LBS		23

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Dumb Bells	4 LBS		30
Dumb Bells	5 LBS		19
Dumb Bells	6 LBS		23
Dumb Bells	7 LBS		26
Dumb Bells	8 LBS		11
Dumb Bells	9 LBS		9
Dumb Bells	10 LBS		23
Dumb Bells	12 LBS		10
Dumb Bells	15 LBS		2
Barbell Plates	7.5 LBS		43
Barbell Plates	5 LBS		40
Barbell Plates	2.5 LBS		90
Barbell Plates	Bars		20
Medicine Balls	4 LBS		12
Medicine Balls	6 LBS		4
Medicine Balls	8 LBS		4
Medicine Balls	10 LBS		2
Ankle Weights	1 LB		1
Ankle Weights	2.5 LBS		13
Ankle Weights	4 LBS		8
Body Bars	4 LBS		8
Body Bars	6 LBS		10
Body Bars	9 LBS		11
Body Bars	12 LBS		4
Body Bars	15 LBS		2
Single Loop Bands	Yellow		7
Single Loop Bands	Pink		7
Single Loop Bands	Red		4
Single Loop Bands	Blue		2
Single Loop Bands	Green		1
Long Bands	Red		23
Long Bands	Green-Heavy		3
Long Bands	Green- Light		1
Long Bands	Blue		3
Swiss Balls	Red		8
Swiss Balls	Neon Green		9
Swiss Balls	Dark Green		7
Swiss Balls	Slo-mo Balls		28
Swiss Balls	Bosu Balls		2
Stepper Risers			180

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Platform Steppers			47
Mats	Purple, Yoga		8
Mats	Bi-fold Black Mats		19
Mats	Aeromats		19
Collars for Plate Holders	Plastick Lock Jaws		35
Collars for Plate Holders	Metal Holders		39
TRX Straps			7
White Ball Stands			3
Yoga Blocks			9
Foam Rollers			13
Bar and plate holders			1
Dumb bell rack			2
yoga Lamps			4
folding Table			1
Sound system	Bluetooth, Video, DVD, IPod and IPad Capabilities		1
Chair			1
Bins			4
Stations			2
Bar holder/Rack			1
Shelf			1
Medicine Ball Rack			1

**Palms - Main Aerobic Room**

Item	Type	Specifics	Number on Site
Chairs			34
TRX straps with hooks	Wall Mounted		7
wooden Bench			3
Cushioned Bench			3
coat hooks			2
Rip core Base			1
Rip core Bars			10
Water filter unit			1
Trash Can			1
Clock			1
Hand Sanitizer			1
Fire Extinguishers			2
Ceiling fans			8

**Palms - Business Center**

Item	Type	Specifics	Number on Site
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HP LASERJET PRINTER	600M601	CNCCG3S0Y2	1
HP COMPAQ MONITOR LA2006X	HSTND-3201-C, 20"	3CQ2990GTC	1
HP COMPUTER KEYBOARD	KB212-B	CN-04G481-71616-39N-04IX-A00	1
DELL MOUSE		CN-011D3V-73826-49C-0BT8	1
DELL WYSE	X16-83932	00039-703-397-836	1
HP COMPAQ MONITOR LA2006X	HSTND-3201-C, 20"	3CQ2990GTV	1
HP COMPUTER KEYBOARD	KB212-B	CN-0DJ454-71581-48T-046G-A01	1
DELL MOUSE		CN-011D3V-73826-49C-0CRK	1
DELL WYSE	X16-83932	00039-703-8755-573	1
HP COMPAQ MONITOR LA2006X	HSTND-3201-C, 20"	3CQ2290G4V	1
HP COMPUTER KEYBOARD	KB212-B	CN-0DJ-454-71581-48K-026M-A01	1
DELL MOUSE		CN-011D3V-73826-49C-0BT6	1
DELL WYSE	X16-83932	00039-703-397-889	1
COMPUTER CHAIRS			3
COMPUTER CHAIRS			1

**Palms - Women's Fitness Locker Room**

Item	Type	Specifics	Number on Site
Individual Lockers			10
Shower Rod			1
Shower Curtain			1
Bench			1
Rubber Floor Mats			3
Soap dispenser			2
Paintings			6
Sanitary Napkin Receptacle			1
Double Toilet Tissue holder			6
Paper Towel Dispenser			1
Paper Towel Dispenser w/ Trash Can			1

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Handicap Shower Sea			1
Trash Can			1
Toilet Paper Dispenser	Wall Mounted		6
Trash Cans	Wall Mounted		6
Towel Hooks	Wall Mounted		2

**Palms - Men's Fitness Locker Room**

Item	Type	Specfics	Number on Site
Individual Lockers			10
Shower Rod			1
Shower Curtain			1
Bench			1
Rubber Floor Mats			3
soap dispenser			2
paintings			1
Sanitary Napkin Receptacle			0
Double Toilet Tissue holder			2
Paper towel dispenser			1
Paper towel dispenser with trash can			1
Handicap shower seat			1
Trash Can			3
Wall mounted toilet seat paper dispenser			2
Wall mounted trash cans			1
Mounted towel hooks			2

**Palms - Main Lobby Men's Bathroom**

Item	Type	Specfics	Number on Site
Paper Towel Dispenser	Wall Mounted		1
Paper Towel Dispenser w/ Trash Can	Wall Mounted		1
Toilet Seat Cover Dispenser	Wall Mounted		2
Double Toilet Tissue Holder	Wall Mounted		2
Trash Can	Half Moon		1
Picture Frames	35" X 31"		2
Flower Arrangements			1

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Iron Wall Art			1
<b>Palms - Main Lobby Women's Bathroom</b>			
Item	Type	Specifics	Number on Site
Paper Towel Dispenser	Wall Mounted		1
Paper Towel Dispenser w/ Trash Can	Wall Mounted		1
Toilet Seat Cover Dispenser	Wall Mounted		2
Double Toilet Tissue Holder	Wall Mounted		2
Trash Can	Half Moon		1
Supply Dispenser	Wall Mounted		2
Picture Frames	35" X 31"		1
Flower Arrangements			1
Wall Art			1
<b>Palms - Cabana Men's Bathroom</b>			
Item	Type	Specifics	Number on Site
Rubber Floor Mats			3
Soap Dispenser			2
Wall mounted mirror			1
Double Toilet Tissue holder	Wall Mounted		3
Paper Towel Dispenser	Wall Mounted		2
Trash Can	Wall Mounted		3
Paper Towel Dispenser w/ Trash Can	Wall Mounted		1
Trash Cans/Half Moon			1
Toilet Seat Cover Dispenser	Wall Mounted		3
Trash Cans	Wall Mounted		2
Sturdy Station For Bables			1
<b>Palms - Cabana Women's Bathroom</b>			
Item	Type	Specifics	Number on Site
Rubber Floor Mats			3
Soap dispenser			2
Wall mounted mirror			1
Double Toilet Tissue holder	Wall Mounted		3
Paper Towel Dispenser	Wall Mounted		2

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Disposable Trash	Wall Mounted		3
Paper Towel Dispenser w/ Trash Can			1
Trash Cans	Half Moon		1
Toilet Seat Cover Dispenser	Wall Mounted		3
Trash Cans	Wall Mounted		2
Sturdy Station For Babies			1

**Palms - Amenity Room Storage**

Item	Type	Specifics	Number on Site
Event Tables	Eight Top Tables	60"	10
Event Tables	Ten Top Tables	72"	8
Event Tables	Card Tables	38" X 38"	18
Event Tables	Rectangular Banquet table	30" X 72"	17
Event Chairs			144
Fire Extinguishers			1
Helium tank			1
Microphone Stand	Adjustable, Metal		2
Easels	Metal		3
Podium	Wood		1
TV Stand	Brand: Vutec		1
Power Music tower	15 Amp/ Middle Atlantic	DD-915R	1
Mood Music Steaming Box	'DXM Pro fusion is'	0101431C209637043	1
Crown Audio Amplifier	Amplifier	1160MA	1
Crown Audio Amplifier	Amplifier	180MA	1
Crown Audio Amplifier	Amplifier	14M	1
Crown Audio Amplifier	Amplifier	CTS600	1
Magnavox DVD Player	MWD 200F	03067711A/MWD200F	1
JVC TV	Standard	10812258/AV27430	1

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**Solivita Inventory May, 2016**

<b>Membership Club</b>		
<b>Item</b>	<b>Type</b>	<b>Number on Site</b>
ID Card Hole Punch		1
ID Card Hole Punch		1
ID Card Printer	Fargo 550	1
ID Card Printer	Fargo DTC1250e	1
ID Card Printer	Fargo DTC1250e	1
ID Card Printer - Ribbon	F-550	1
ID Card Printer - Ribbon	F-1250e	1
ID Card Printer - Ribbon	F-1250e	1
ID Card Printer	F-550 Clean Rollers	1 Box
ID Cards - Blank	\$3.43 ea.	400
Laptop - HP Elite Book 8470p		1
Lanyards - Guest Pass		175
Lanyards - Solivita Resident		300

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**Solivita Inventory May, 2016**

<b>Palms Tennis</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Display Case & Chalk Board			1
Clock			1
Wooden Bench	Brown		1
Large Trash Can			1
Sign With Tennis Rules			1
Clay Court Rake			2
Tennis Court Shoe Brush			1
Wooden Benches	White		4
Tennis Nets			2
Small Trash Cans	At the End of Courts		2
Score boards			2
10.5 Line Sweepers			4
Drag Brooms			3
Elite Drag Broom			1
Screens			12
<b>Palms Pickleball</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Nets			4
Screens			10
Benches			2
AED	A15J-06460		1
Large Trash Cans			2
Clocks			2
Display Case			1
Sign w/ Pickleball Rules			1
Squeegee			2
Brushes			2
Roll Squeegee	Roldri		2
Carpets			3
<b>Bocce Ball Courts</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Metal Ball Holders			8
Benches	Wooden, Brown		4
Complete Sets of Bocce Balls			2
Large Trash Can			1
<b>Freedom Park Tennis Courts</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>

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Bleachers			2
White Benches			10
Trash Cans			5
Wind Screens			37
Shade Wind Screens			20
(4) Wind Screen	w/ Leather		1
Rollers			14
Brooms			14
Rakes			2
Tennis net			5
Set Score Cards			5
Shoe Brushes			6
Benches			4
Water fountain with canopy			1
Large Garbage can			1
Bulletin Board	With 4 Glass Door		1
Bike Racks			2

**Freedom Park Playground**

Item	Type	Specifics	Number on Site
Bench			1
Playground Equipment			1 Set

**Freedom Park Dog Park**

Item	Type	Specifics	Number on Site
Benches			10
Trash Cans	Regular		4
Trash Can	Large		1

**Freedom Park Bocce Ball Courts**

Item	Type	Specifics	Number on Site
Har-Tru bocce courts			4
Ball holders			16
Benches			10
Umbrella			1
Umbrella stand			1
Brooms			2
Brush			1
Scoreboards			2
Awnings			1
Clock			1

**Freedom Park Shuffle Board Courts**

Item	Type	Specifics	Number on Site
Concrete courts			6

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Benches			5
Canopies			2
Large Garbage can			1
Scoreboards			6
Broom			1
Squeegee			1

**Freedom Park Softball Field**

Item	Type	Specifics	Number on Site
Bases	1st Base is a Safety Plate		3
Home plate			1
Batter box green carpet			2
Electric scoreboard			1
Scoreboard			1
Solivita wind screen			2
Benches			1
Clock			1
Shovel			1
Plastic rake			1
Metal rakes			3
Brooms			2
Garbage cans			2
Metal big rakes			2
Orange mats			2
Bleachers with canopy			2
Shelves			4
Roller			1
Red cones			2
Bat racks			6
Safety plate			1
Pen holders			2
Green mats			2
Screen wind net			1
Tee off stand			1
Bike rack			1

**Freedom Park Pavilion Between Tennis & Pickleball Courts**

Item	Type	Specifics	Number on Site
Clock			1
Canopy			1
Trash cans			2
Ceiling fans			2
Concrete round tables			3

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Concrete seats			9
Freedom Park Pavilion by Pickleball Courts 4 and 7			
Item	Type	Specifics	Number on Site
Bike racks			2
Grills			4
Picnic Tables with Benches	Metal		2
Fans			2
Set bleachers			1
Benches outside courts			3
large trash can			1
Freedom Park Pickleball Courts 1-7			
Item	Type	Specifics	Number on Site
Pickleball nets			7
Court numbers			7
Small trash cans			5
clocks			3
Benches			6
Windscreens			6
Mats			3
Squeegees			4
Rollers			3
Brooms			2
Windsock			1
Bulletin Board	Outdoor Rated, 3 Panel, Glass Enclosed		1
Freedom Park Pickleball Courts 8-13			
Item	Type	Specifics	Number on Site
Pickleball nets			6
Trash cans			4
White benches			4
Clocks			2
Wind screens			12
Large broom			1
Rollers			4
Squeegee			6
Picnic tables			2
Freedom Park Cooperstown Pavilion			
Item	Type	Specifics	Number on Site
Bulletin Board	Outdoor Rated, Enclosed		1
Water Fountains			2
Trash cans			3

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Grills			2
Cooperstown signs			2
Fans			3

**Freedom Park Wimbledon Pavillion**

Item	Type	Specifics	Number on Site
Wimbledon signs			2
Water fountains			2
Fans			3
Grills			2
Trash cans			2

**Freedom Park Shed**

Item	Type	Specifics	Number on Site
Bags Turface			35
Course Sand	50 LB Bags		5
lime	50 LB Bags		5
Florida Blend Clay w/ Binder	Bags		16
Course Blend Har- Tru	75 LB Bags		12
Hydroblend w/o Binder	50 LB Bags		38
Hot Water Heater			1
Utility Sink			1
Chalk Boxes	1 Small/1 Large		2
Wide Har-Tru Brooms	For Courts		4
Scorekeeper Chair			1
Nail Dragger			1
Wheel Barrows			2
Spool String			1
Ladder	Metal		1
Tennis Nets	Old		3
Windscreen			1
Trash Can	Large		1
Roller			1
Court Pac Pro Machine		SN: 6037/Model#2500PU	1
Hand Rake	For Softball Field		1
Hand Rakes Har Tru			3
Plastic Bin	Miscellaneous Maintenance Items		1
Plastic Bin	30 Bowling Pins		1
Water Hoses			2
Shovel			1
Kiddie Pools			3

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Plinko Board			1
Tennis Ball Machine w/ Remote	Lobster Pro		1
Storage Locker	Metal		1
Rake for Softball Field	Metal		1
Plastic Kid's Bat			1
Rubber Mallets	YOLF		4
Plastic Rings	YOLF		6
Softballs			16
Shuffleboard Discs	Yellow		8
Shuffleboard Discs	Black		8
Horseshoes			14
Scoreboard remote			1
Water fountain			1
Bulletin Board	Outdoor Rated, 3 Panel		1
Rollers			3
Pickleball Net	New		1
Leaf Blowers			3
Set Score Cards	New		1

**Venezia Tennis Courts**

Item	Type	Specifics	Number on Site
Asphalt Tennis Courts			2
Water Fountain			1
Large Trash Can- outside gate			1
White Benches			4
Awning on court			1
Tennis Nets			2
Windscreens on gates			2
Windscreens on Fence			13
Sets score cards			2
Small trash cans			2
Rollers			2
Squeegee			1

**Basketball Court**

Item	Type	Specifics	Number on Site
Basketball Goal			1
Pad for goal post			1
Basketball Net			1
Trash Can			1
Ball Catching Net	12' X 20'		1

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**Solivita Inventory May, 2016**

<b>Starlite Ballroom Hallway</b>			
<b>Item</b>	<b>Type</b>	<b>Specifics</b>	<b>Number on Site</b>
Bench		cloth benches	5
Sanctions		Silver	4
Sanctions		Black	11
High Top tables	Core-a-gators	round	4
pictures		20 x 30	8
piano with bench	Baby Grand	black	1
photo picture		36 x 48	1
<b>Ballroom Inside and Storage</b>			
Chairs		attaching Ballroom chairs	487
Round tables	Core-a-gators	8 top-60'	27
Round tables	Core-a-gators	10 top-72'	5
banquet tables	Core-a-gators	6 ft banquet tables gray	37
banquet tables	Core-a-gators	6 ft banquet tables white	4
Card tables		Black	6
Card tables		White	15
Stairs		rolling	1
Clothing rack			1
Curtains		Black	7
Curtains	Side stage	15 1/2' high by 24'	2
Curtains	Back of stage	19 1/2 'high by 16' blue	1 front and two sides
Curtains	Storage area	8' 6" by 9'	1
Podium		wooden	1
Garbage Cans		Gray	7
Garbage Cans		Brass	3
Pictures		37x57	2
Flags		American and Florida	2
Quarter Round tables		wooden	2
Chair hand truck			3
Mirrors		12X48	2
Easels		Black	4
Easels		Gold	2
Cart for the tables			7
<b>Ballroom Outside Storage</b>			
Cart for the chairs			5
Event Chairs		hard plastic folding chairs	200

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Round tables	Core-a-gators	10 tops	3
Round tables		8 tops wooden white	7
Round tables		8 tops wooden gray	18
Garbage cans		Large	2
Stairs		Man made wooden	1
<b>Ballroom Audio Visual</b>			
Stage Lights	Source Four LED Lustr+2	7461A1051	2
Video Cameras w/power cables		Sol HFG30 – #1, Sol HFG30 – #2, Sol #2 older	3
Damaged Video Camera		Sol #1 older	
Tripods		With shoes	3
Video Switcher w/power cables		V-40HD Multi-format	1
Communication headsets		1 master and 3 slaves	4
Monitor combo	Sonic	View 16" HDTV/DC	2
Mics for video camera	RODE		3
Transmitter and Receivers	PSET Avenview	HDMC 61 PSET	4
Hyper deck Shuttle			1
Electric extension cords			3
5 outlet electric splitter cable			1
HDMI cables			14
Audio Cables		White	4
connecting wire		large reel of 5 colors	1
Recorder	H264 Pro		1
Docking station	Voyager Q		1
GB	Kingston SSD 240 GB		1
Surround sound speakers	JBL A160735	Model # 8330	10
Sub Speakers	JBL K-19T-003122-A	Model # 19CST	8
Ceiling Speakers	JBL		41
3 Speakers together in Ballroom	QSC Liners	Model# KLA12	2 sets
AC (Split Units)	Team Alr		2
Sequential Switch System		SACR 191	2
Speaker Monitor	Switch- Selector		1
Speaker Selector		RDL RCX-5C	1
CD/Cassette	DENON		1
Pre-Amplifiers	Crown	28M	3
5 CD Changer	DENON	DCM/390	1
5 CD Changer	DENON	DCM/360	1
Pre-Amplifiers	DENON	14M	1
Amplifier	JBL	MPC600T	1

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Amplifier	Crown	CTS600	1
Auditory Assistance Transmitter	PPATH		1
Hearing Impaired receivers	Williams Sound	Personal PA-FM	9
DVD Player	DENON	Dn-V210	1
AV Surround System Pre-Amplifier	DENON	DN-A7100	1
Modem	SISCO	472HDC	1
CD/DVD Player	Phillips	VAS	1
AMP	MPX600		2
AMP	MPX300		3
Equalizer	DBX	Limited Model 2231	1
Equalizer	DBX	Limited Model 2031	1
Equalizer	DBX	Limited Model 2215	1
Portable speakers	JBL	EON	2
DVR/CD	ARM Electronics	Rec Model #DVR4CD	1
Monitor Screen	Gateway		1
TV Monitor	RCA		1
Back up power cord	APC	POWER 400	1
Network Switch	Dell Power Connect	2724	1
Network Switch	Dell Power Connect	2224	1
Power Sum Panel (Network)	Lucent	1100 PSE	1
Poe Hub	Lucent		1
Internet Modems	Honeywell		2
Snake	Sound Barrier	32 Channel	1
Surge Protector	APC		1
Stage Lighting	Midget II		2
Projector	In Focus DLP	Model #IN5552L	1
Projector Screen		20 by 14	
Subwoofers			2
Halogen overhead Stage Lights			10
LED overhead stage lights			6
LED overhead Light strips			2
Projection Stage Lights			10
Wired microphones w/mute	Shure	SM58	2
Wired microphones	Shure	SM58	3
Wired microphones	BG 2.1		1
Microphone holders	Shure		2
Microphone cords		Male end	3
microphone cords			9
VGA Cords for computer			3
Power cord		computer	1
Projection lamp bulbs		Model # POA-CMP39	4

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Wireless microphones	Shure		4
Lavallere	Shure		1
Sound Board	Spirit	Follo Notepad RW5353	1
<b>Ballroom Stage Extensions</b>			
Spot Light risers		4 ft square	4
rectangle extension		4 by 2	1
Stage Extension		4ft by 8 ft	14
Extension stabilizers		40"	6
Extension stabilizers		43"	6
Extension stabilizers		41"	4
Extension stabilizers		39 1/2"	14
Extension stabilizers		21 1/4"	3
Extension stabilizers		8' 4"	6
Extension stabilizers		7' 5"	6
Legs		32 1/2"	52
Legs		40"	40
Legs		13 1/2"	48
Legs		29"	14
Legs		40 1/2"	13
Legs		5 1/2"	22
Cross Bar leg holders			91
Clamps			37

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Satellite Pool							
Satellite Pool	Address	Chaise Lounges	Club Chair	sm table	large table	umbrella	clock
Rainbow Lakes #1	333 Rock Spring Dr	19	29	3	8	6	1
Rainbow Lakes #2	305 Crystal River Dr	19	29	4	6	6	1
Terra Vista #5	153 Glendora Rd.	19	24	4	8	8	1
Terra Vista #6	764 Shorehaven Dr	17	27	4	6	6	1
Flora Vista #7	1149 Glendora Rd.	17	27	5	6	6	1
Flora Vista #8	381 Davinci Pass	21	24	4	6	6	1
Capri #4	154 Acadia Dr	19	29	6	6	7	1
Candlewood #3	320 Bell Tower Crossing West	16	32	2	6	6	1

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Maintenance			
Item	model	serial	total
<b>TOOLS</b>			
500 gallon water tank			1
5' diamond plate tool box			1
4000 psi pressure washer	Honda	5CP3120	1
4000 psi pressure washer	Honda	EZ4040G	1
pressure washer hose reel			4
pressure washer lance	Giant	21290c	2
pressure washer tips	various		12
pressure washer 50' hose			4
sand blasting cabinet	Central Pneumatic	42202	1
wood plainer	Dewalt	2008-28-CTO94316	1
sliding miter saw	Dewalt	7749	1
14" wood band saw	Dayton	4TJ91	1
Metal band saw	Delta	RF92	1
heavy duty bench grinder	Ryobi	999	1
table top vice grip			1
13" drill press	Dayton	32993C	1
Fas-Kit-misc-screws-boxes			12
Retracta auto wind hose reel	Retracta		1
A-frame work horse	Delta		4
24 outlet electrical tree stand	custom made		1
4' shop fan		BF42BD	1
Genie scissor lift	GS1930		1
12' Ladder			1
10' Ladder			1
8' Ladder			2
6' Ladder			2
3.5 amp oscillating tool	Rockwell	RK5131K	1
Oscillating saw	Ridgid	CS12455DC29c42	1
23 Gauge pin nail	Central Pneumatic	68022	1
Angle grinder/sander	Rockwell	RK5100K	1
Biscuit Joiner	Ryobi	BB0811-97957	1
Turbo dryer Sahara 1		Floor fan	1
floor work lights	ultitech		1
Sander	Dewalt	D26451	1
Heat Gun	Chicago	96289	1
Finish nail gun		Fn2506	1

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Circular Saw		Dewalt	854249	1
Oscillating Saw		Ridgid	CS12455DC29642	1
Electrical Blower		Homelite	6T42100-A	1
Sander		Dewalt		1
Router		Bosch		1
Shop Vac		Ridgid		1
Tempo/501 electrical wire tracker		Greenlee		1
Dewalt	circular saw 12"	Dewalt	DW716	1
Dewalt	circular saw 10"	Dewalt	DWE74911	1
Imglo	compressor			1
Porter Cable Drill		PC	PCE201	1
Orbital Sander		Dewalt	D26451	1
Jig Saw		Dewalt	DW317	1
Circular Saw 7 1/4"		Dewalt	DWE5755B	1
Sonic Crafter Trim saw		Rockwell	RK513K	1
Pneumatic Nail Gun		Central Pneumatic	24 gal	1
Pneumatic Nail Gun		Central Pneumatic	18 gal	1
Drill		Dewalt	DWD115	1
Drill		Dewalt	DCF85	1
Drill		Dewalt	DCD771	1
Ratchet Set		Various	misc	80 pc
Kawasaki	Mule Work Golf Cart	Green		1
One man scissor lift		JLG 15AMI		1

Maintenance Vehicles				
MAKE	ASSIGNED	MODEL	VIN	
Closed utility trailer/ Housekeeping		Pace	vin# 53BPTEA18EU010710	
Open utility trailer/ Maintenance			vin# 1XNV612T1E1053330	1
Open utility trailer/ Maintenance			Vin# 5D1S1UA11DG006464	1
Open utility trailer/ Maintenance			Vin# 5D1DA1319AG003285	1
CHEVY	Solivita Maintenance	C/K 2500	1GCGC24K6RE204802	1
CHEVY	Solivita Housekeeping	ASTRO	1GCDM19W61B113752	1
CHEVY	Solivita Maintenance	ASTRO	1GCDM19W41B112681	1
CHEVY	Solivita Maintenance	ASTRO	1GCDM19X45B115899	1

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CHEVY	Solivita Maintenance	EXPRESS	1GCFG15X761135612	1
FORD	Solivita Maintenance	BUCKET	1FDXF46P26EB56978	1
CHEVY	Solivita Maint Director- lease	Silverad o	3GCPCREC6EG224194	1
CHEVY	Solivita Maintenance- lease	EXPRESS	1GCSGAFX5E1134695	1

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**EXHIBIT F**

**LEASES**

(Other than reflected on Exhibit E)

**Contract Name**

**Nature of Contract**

**Term of Lease**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**EXHIBIT G**

**FORM OF SPECIAL WARRANTY DEED**

Prepared By and Return to:

GrayRobinson, P. A.  
Attn Joseph P. Covelli, Esquire  
401 East Jackson Street, Suite 2700  
Tampa, FL 33602

**SPECIAL WARRANTY DEED**

THIS INDENTURE, made this \_\_\_ day of \_\_\_, 2016, between AVATAR PROPERTIES, INC., a Florida corporation, whose address is 8601 N. Scottsdale Rd, Suite 225, Scottsdale, AZ 85253 (hereinafter called the "Grantor"), and POINCIANA COMMUNITY DEVELOPMENT DISTRICT, a special purpose unit of local government established pursuant to Chapter 190, Florida Statutes, whose address is \_\_\_\_\_ (hereinafter called the "Grantee").

**WITNESSETH:**

Grantor, for and in consideration of the sum of Ten and No/100 U.S. Dollars (\$10.00), lawful money of the United States of America, to it in hand paid by the Grantee at or before the ensealing and delivery of these presents, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold, alienated, remised, released, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, remise, release, convey and confirm, unto Grantee and its successors and assignees forever, all that certain parcel of land lying and being in the County of Polk, State of Florida, as more particularly described on Exhibit "A" hereto (the "Property").

This conveyance is made subject to:

1. Taxes for the year 2016 and thereafter;
2. Zoning and other regulatory laws and ordinances; and
3. All defects, liens, encumbrances, adverse claims and other matters appearing in Exhibit B attached hereto and incorporated by reference. [TO INCLUDE THE LIST OF PERMITTED EXCEPTIONS]

TOGETHER WITH all the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the above described Property, with the appurtenances, unto the said Grantee, its successors and assigns, in fee simple forever.



**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

## EXHIBIT H

### ASSIGNMENT AND ASSUMPTION OF CONTRACTS AND LEASES

**THIS ASSIGNMENT AND ASSUMPTION OF CONTRACTS AND LEASES** (this "Assignment") is made, entered into, and effective as of \_\_\_\_\_, 2016 (the "Effective Date"), by and between **AVATAR PROPERTIES, INC.**, a Florida corporation ("Transferor") and **POINCIANA COMMUNITY DEVELOPMENT DISTRICT**, a special purpose unit of local government established pursuant to Chapter 190, Florida Statutes ("Transferee").

### RECITALS

A. Transferor owns the real property in Polk County, Florida described in Exhibit A, which is attached hereto and incorporated herein by this reference (the "Property"); and

B. Transferor has conveyed the Property to Transferee simultaneously herewith in accordance with the terms and conditions of that certain Asset Sale and Purchase Agreement executed between Transferor and Transferee (together, the "Agreement"); and

C. Transferor has agreed to sell, convey, transfer, assign, set over, and deliver to Transferee, all of Transferor's right, title and interest in all outstanding labor, service, equipment, supply, maintenance, concession, utility and operating contracts and leases, included vendor agreements, capital leases, operating leases, and any amendments thereto, to which Transferor is a party and which relate to the Property and the improvements and structures located thereon, which on the Effective Date include those "leases" described on Exhibit B-1 and all "other agreements" described on Exhibit B-2, which are attached hereto and incorporated herein by reference (collectively, the "Contracts"); and

D. Transferee has agreed to assume the duties of Transferor under the Contracts arising from and after the Effective Date.

### AGREEMENTS

NOW, THEREFORE, in consideration of the recitals, the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Transferor and Transferee agree as follows;

1. **Assignment.** As of the Effective Date, Transferor does hereby grant, bargain, convey, transfer, assign, set over, abandon and deliver, unto Transferee, all of Transferor's right, title, and interest in and to the Contracts, to the extent such Contracts are assignable.

2. **Assumption of Contracts.** Transferee hereby assumes the obligations, liabilities and duties of Transferor under or arising out of the Contracts and shall faithfully perform and comply with all of the covenants, terms, provisions and agreements contained in or pertaining to the Contracts to be performed, and complied with, by Transferor thereunder, but solely to the

extent arising from and after the Effective Date. Transferor agrees that Transferor shall retain all obligations and liabilities under the Contracts which arose prior to the Effective Date and Transferor further agrees that Transferor shall defend, indemnify and release the Transferee for any obligations and liabilities arising under the Contracts which arose prior to the Effective Date.

3. **"AS IS" Transfer.**

(a) Except to the extent of the representations and warranties contained in the Agreement which expressly survive Closing, the Contracts are being transferred "AS-IS, WHERE-IS" "WITH ALL FAULTS" AS OF THE EFFECTIVE DATE AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTEES, EITHER EXPRESS OR IMPLIED EXCEPT AS TO REPRESENTATIONS AND WARRANTIES OF TRANSFEROR SET FORTH IN THE AGREEMENT, IN THE CONVEYANCE AND TRANSFER DOCUMENTS EXECUTED BY TRANSFEROR AT CLOSING OF THE TRANSACTION CONTEMPLATED IN THE AGREEMENT OR HEREIN. EXCEPT TO THE EXTENT OF THE REPRESENTATIONS AND WARRANTIES CONTAINED IN THE AGREEMENT WHICH EXPRESSLY SURVIVE CLOSING, TRANSFEREE HAS, AT ITS SOLE COST AND EXPENSE, CONDUCTED AND IS RELYING EXCLUSIVELY UPON ITS OWN INDEPENDENT INVESTIGATION IN THE EVALUATION OF THE CONTRACTS.

(b) Transferee further acknowledges that Transferee (i) had ample opportunity to and has, in fact, fully inspected and examined the Contracts, (ii) knows the Contracts in all respects, (iii) is not relying upon any representations, statements or warranties that have at any time been made by the Transferor or the Transferor's agents as to the Contracts in any respect except as set forth in this Agreement, (iv) accepts the Contracts "AS IS" and under their present term and condition, and (v) acknowledges that the consideration given by Transferee takes into account all aspects of the Contracts.

4. **Further Assurances.** The parties hereby agree, without further consideration, to take any and all further action, including, without limitation, the execution, acknowledgement and delivery of any and all further deeds, assignments, conveyances, assumptions, other assurances, documents and other instruments of transfer or assumption and take such other actions consistent with the foregoing that the other party may reasonably request in order to effect the intent and purposes of this Assignment and the transactions contemplated hereby.

5. **Successors and Assigns.** This Assignment shall be binding upon: the Transferor and each of its successors and permitted assigns (if any) and the Transferee and each of its successors and permitted assigns (if any). This Assignment shall inure to the benefit of: the Transferor, the Transferee, and the respective assigns and successors (if any) of each of the Transferor and the Transferee.

6. **Waiver.**

(a) No failure on the part of any person to exercise any power, right, privilege or remedy under this Assignment, and no delay on the part of any person in exercising any power, right, privilege or remedy under this Assignment, shall operate as a waiver of such

power, right, privilege or remedy; and no single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy.

(b) No person shall be deemed to have waived any claim arising out of this Assignment, or any power, right, privilege or remedy under the Assignment, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such person; and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given.

**7. Construction.**

(a) For purposes of this Assignment, whenever the context requires: the singular number shall include the plural, and vice versa; the masculine gender shall include the feminine and neuter genders; the feminine gender shall include the masculine and neuter genders; and the neuter gender shall include the masculine and feminine genders.

(b) As used in this Assignment, the words "include" and "including" and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words "without limitation."

**8. Governing Law; Miscellaneous.**

(a) This Assignment shall be governed by and construed in accordance with the laws of the State of Florida without regard to conflict of law principles.

(b) In the event legal proceedings are instituted to enforce or interpret this Assignment or any provision hereof, the substantially prevailing party shall be reimbursed all reasonable attorneys' fees and expenses incurred in connection therewith.

(c) This Assignment may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Assignment effective as of the Effective Date.

**TRANSFEROR:**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

**AVATAR PROPERTIES, INC.,**  
a Florida corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

**TRANSFeree:**

**POINCIANA COMMUNITY  
DEVELOPMENT DISTRICT,**  
a special purpose unit of local government  
established pursuant to Chapter 190, Florida  
Statutes

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**EXHIBIT A**

**LEGAL DESCRIPTION**

EXHIBIT B-1

Leases

AGREEMENT  
DESCRIPTION

AGREEMENT  
DATE

CURRENT PARTIES

COMMENTS

EXHIBIT B-2

Other Agreements

<u>AGREEMENT DESCRIPTION</u>	<u>AGREEMENT DATE</u>	<u>CURRENT PARTIES</u>	<u>COMMENTS</u>
----------------------------------	---------------------------	------------------------	-----------------

## EXHIBIT I

### BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that **AVATAR PROPERTIES, INC.**, a Florida corporation (hereinafter referred to as the "Grantor"), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, does hereby grant, bargain, sell, transfer, assign and deliver to **POINCIANA COMMUNITY DEVELOPMENT DISTRICT**, a special purpose unit of local government established pursuant to Chapter 190, Florida Statutes (hereinafter referred to as the "Grantee"), its successors and assigns, all of Seller's right, title and interest, if any, in and to the personal property of the Grantor located upon or comprising part of the real property described on Exhibit A attached hereto and incorporated herein (the "Real Property") or the improvements and structures located on the Real Property ("Improvements"), to the extent assignable, including, without limitation, the following (collectively, "Personal Property"):

i. Grantor's rights in and to the fixtures, furniture and equipment and any and all other personal property pertaining to the Real Property and Improvements as more fully described in the Asset Sale and Purchase Agreement between the parties, including but not limited to the tangible personal property more particularly described on Exhibit B;

ii. Grantor's rights in and to any and all certificates of occupancy, licenses, permits, and other governmental approvals and other issued entitlements pertaining to the Real Property and the Improvements, and the use thereof;

iii. Grantor's rights under any existing warranties pertaining to the Real Property and the Improvements that are assignable;

iv. Grantor's rights, entitlements, development rights and any other appurtenances to the Real Property and the Improvements, including, but not limited to, rights of ingress and egress, any and all subsurface rights, mineral rights, riparian and littoral rights, together with all pertinent rights and interest pertaining to adjacent streets and roadways;

v. Grantor's rights in and to all inventories, supplies, materials and stock in trade, including, but not limited to, all inventories of food, beverages, goods and merchandise held for consumption or sale and other maintenance and laundry supplies.

Except to the extent of the representations and warranties contained in the Agreement which expressly survive Closing, the Personal Property is being transferred "AS-IS, WHERE-IS" "WITH ALL FAULTS" AS OF THE EFFECTIVE DATE AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTEES, EITHER EXPRESS OR IMPLIED EXCEPT AS TO REPRESENTATIONS AND WARRANTIES OF TRANSFEROR SET FORTH IN THAT CERTAIN ASSET SALE AND PURCHASE AGREEMENT EXECUTED BETWEEN GRANTOR AND GRANTEE (TOGETHER, THE "AGREEMENT"), IN THE CONVEYANCE AND TRANSFER DOCUMENTS EXECUTED BY GRANTOR AT CLOSING OF THE TRANSACTION CONTEMPLATED IN THE AGREEMENT OR HEREIN. GRANTEE HAS, AT ITS SOLE

COST AND EXPENSE, CONDUCTED AND IS RELYING EXCLUSIVELY UPON ITS OWN INDEPENDENT INVESTIGATION IN THE EVALUATION OF THE PERSONAL PROPERTY.

Notwithstanding the forgoing, Grantor represents and warrants to the Grantee that Grantor has not previously conveyed, assigned, or pledged its interest in the Personal Property and that the Personal Property is conveyed free and clear of liens and encumbrances created by, through or under Seller.

TO HAVE AND TO HOLD to the Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, the Grantor has executed this Bill of Sale to be effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2016 ("Effective Date").

EXECUTED IN THE PRESENCE OF:

GRANTOR:

\_\_\_\_\_  
(Signature)

AVATAR PROPERTIES, INC.,  
a Florida corporation

\_\_\_\_\_  
(Printed Name)

By: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_

\_\_\_\_\_  
(Printed Name)

Title: \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as \_\_\_\_\_ of Avatar Properties, Inc., a Florida corporation, on behalf of the company, who is personally known to me or has produced \_\_\_\_\_ (state) driver's license or \_\_\_\_\_ as identification.

My Commission Expires:

\_\_\_\_\_  
Notary Public (Signature)

(AFFIX NOTARY SEAL)

\_\_\_\_\_  
(Printed Name)

ACCEPTED AND ACKNOWLEDGED:

\_\_\_\_\_, a \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_