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MASTER DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

AVENIR

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<u>Exhibit</u>	<u>Name of Exhibit</u>
"A"	Land Submitted
"B"	Initial Use Restrictions
"C"	Articles of Incorporation of Avenir Master Property Owners Association, Inc.
"D"	By-Laws of Avenir Master Property Owners Association, Inc.
"E"	Formula for Determining Assessments and Voting Rights

**MASTER DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR AVENIR**

THIS MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AVENIR (the “Declaration”) is made this 1st day of May, 2018, by Avenir Development, LLC, a Florida limited liability company (the “Declarant”).

PART ONE: INTRODUCTION TO THE COMMUNITY

Article I Creation of the Community

1.1 Purpose and Intent.

Declarant, as the owner of the real property described in **Exhibit “A”**, is recording this Declaration to establish a general plan of administration for Avenir, a planned community. This Declaration provides for the Community’s overall administration, maintenance and preservation and provides a flexible and reasonable procedure for its future expansion. An integral part of the plan of administration is the creation of the Avenir Master Property Owners Association, Inc., an association comprised of Avenir property owners, to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents.

This document does not and is not intended to create a condominium under Florida law.

Capitalized terms used in this Declaration are defined herein or in the related Articles of Incorporation for the Association.

1.2 Binding Effect.

This Declaration governs the property described in **Exhibit “A”** and any other property submitted to this Declaration in the future. This Declaration shall run with the title to such property and shall bind anyone having any right, title or interest in any portion of such property, their heirs, successors, successors-in-title and assigns.

Declarant, the Association, individual members, and their respective legal representatives, heirs, successors and assigns, may enforce this Declaration. This Declaration shall be effective for a minimum of twenty-five (25) years from the date it is recorded. After 25 years, this Declaration shall be extended automatically for successive ten (10) year periods unless at least seventy-five percent (75%) of the then-Owners sign a document stating that the Declaration is terminated and that document is recorded within the year before any extension. In such case, this Declaration shall expire on the date specified in the termination document.

In any event, if any provision of this Declaration would be invalid under the Florida Uniform Statutory Rule Against Perpetuities, that provision shall expire ninety (90) years after this Declaration is recorded. This Section does not permit termination of any easement created in this Declaration without the consent of the holder of such easement.

1.3 Governing Documents.

The Governing Documents create a general plan of administration for Avenir. The following diagram identifies and summarizes the Governing Documents, each as they may be amended:

Declaration (Recorded)	→	creates obligations which are binding upon the Association and all present and future owners of property in Avenir
Supplemental Declaration (Recorded)	→	adds property to Avenir; <i>may</i> impose additional obligations or restrictions on such property
Articles of Incorporation (filed with the Department of State)	→	establish the Association as a non-profit corporation under Florida law
By-Laws (Pre-turnover Board adopts)	→	govern the Association's internal affairs, such as voting rights, elections, meetings, officers, etc.
Design Guidelines (Declarant adopts)	→	establish architectural standards and guidelines for improvements and modifications to Parcels and Residential Units, including structures, landscaping and other items on Parcels and Residential Units
Use Restrictions (initial set attached as <u>Exhibit "B"</u>)	→	govern use of property and activities within Avenir
Board Resolutions and Rules (Board adopts)	→	establish rules, policies and procedures for internal governance and Association activities; regulate operation and use of Common Area

Additional restrictions or provisions which are more restrictive than the provisions of this Declaration may be imposed on any portion of Avenir, in which case, the more restrictive provisions will be controlling. If there are conflicts between Florida law, the Declaration, the Articles and the By-Laws, then Florida law, the Declaration, the Articles and the By-Laws (in that order) shall prevail.

The Governing Documents apply to all Owners and any occupants of property within Avenir. They also apply to tenants, guests, visitors and invitees. All leases must require that tenants and all occupants of the leased property are bound by and obligated to comply with the Governing Documents; provided, the Governing Documents shall apply regardless of whether specifically set forth in the lease.

If any court determines that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or other applications of the provision.

Article II Concepts and Definitions

The terms used in the Governing Documents are given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms are defined as follows:

“Additional Association”: Any homeowners’ association, condominium association or other property owner’s association, if any, having jurisdiction over any portion of the property within Avenir concurrent with (but subject to) the jurisdiction of the Association.

“Affiliate”: Any Person which (either directly or indirectly, through one or more intermediaries) controls, is in common control with, or is controlled by, another Person, and any Person that is a director, trustee, officer, employee, independent contractor, shareholder, agent, co-venturer, subsidiary, personal representative or attorney of any of the foregoing. For the purposes of this definition, the term “control” means the direct or indirect power to direct or cause the direction of an entity’s management or policies, whether through the ownership of voting securities, by contract or otherwise.

“Agriculture Parcel”: Any parcel of real property now or in the future designated as an “Agriculture” use on the Master Plan.

“Articles”: The Amended and Restated Articles of Incorporation of Avenir Master Property Owners Association Inc., filed with Florida’s Department of State and attached to this Declaration as **Exhibit “C”** as they may be further amended.

“Association”: Avenir Master Property Owners Association, Inc., a Florida not-for-profit corporation, its successors or assigns.

“AV Broadband”: AV Broadband, LLC, a Florida limited liability company, its successors and assigns.

“Benefited Assessment”: Assessments charged against a particular Parcel or Residential Unit or particular Parcels or Residential Units for Association expenses as described in Section 8.5.

“Board of Directors” or **“Board”**: The body responsible for the general governance and administration of the Association, selected as provided in the By-Laws.

“Builder”: Anyone acquiring one or more Residential Parcels for the purpose of constructing Residential Units thereon for resale to consumers in the ordinary course of its business, or who purchases one or more Residential Parcels within Avenir for further subdivision, development, and/or resale in the ordinary course of its business.

“By-Laws”: The By-Laws of Avenir Master Property Owners Association, Inc., as they may be amended. A copy of the initial By-Laws is attached to this Declaration as **Exhibit “D”**.

“CDD”: The Avenir Community Development District.

“CDD Property”: Any and all real property within Avenir, including easements, which the CDD owns, leases or otherwise has the right to use or possess, including any area dedicated to or reserved for the CDD on any recorded plat or re-plat of Avenir.

“City”: The City of Palm Beach Gardens, Florida.

“Civic/Recreation Parcel”: Any parcel of real property now or in the future designated as a “Civic” or “Recreation” use on the Master Plan.

“Class “B” Control Period”: The period of time during which the Declarant, as the Class “B” Member, is entitled to appoint all of the members of the Board, as provided in the By-Laws.

“Common Area(s)”: All real and personal property, including easements, which the Association owns, leases or otherwise has a right to possess or use for the common use and enjoyment of the Owners, and any area dedicated to or reserved for the Association on any recorded plat or re-plat of Avenir. Common Area includes the Limited Common Area, as defined below. The Common Area is not intended to include either the Northern Mitigation Area or the Conservation Areas.

“Common Expenses”: The actual and estimated expenses the Association incurs, or expects to incur, for the general benefit of all Owners. Common Expenses include any reserves the Board finds necessary or appropriate.

“Common Maintenance Area(s)”: The Common Area, together with any other area for which the Association has or assumes maintenance or other responsibility.

“Communications Easement”: That certain Blanket Communications Easement Agreement recorded in Book 29442, Page 525, of the Official Records of Palm Beach County, Florida, as it may be amended from time to time.

“Communications Infrastructure Site”: Any portion of real property within Avenir to be used primarily or exclusively for Communications Services now or in the future. For example, a Communications Infrastructure Site may include property containing a cell tower or related communications equipment.

“Communications Services”: Those items defined as “Services” in the Communications Easement.

“Community” or **“Avenir”**: The real property described in **Exhibit “A”**, as it may be amended from time to time.

“Community-Wide Standard”: The standard of conduct, maintenance or other activity generally prevailing throughout the Community, or the minimum standards established pursuant to the Design Guidelines, Use Restrictions and Board resolutions, whichever is the highest standard. Declarant initially shall establish such standard. The Community-Wide Standard may

contain objective elements, such as specific lawn or house maintenance requirements, and subjective elements, such as matters subject to the Board's or the DRB's discretion. The Community-Wide Standard may or may not be set out in writing. The Community-Wide Standard may evolve over time as Avenir changes.

"Conservation Areas": All protected or conservation areas in Avenir as required by the City or the SFWMD, including, but not limited to the Southwest Mitigation Area, upland preserves, wetland preservation areas, any protected archeological sites, or other preservation or conservation areas, as shown on the Master Plan, the Permits or as identified on any plat filed for Avenir. However, the Conservation Areas do not include the Northern Mitigation Area, which is adjacent to the northern boundary of Avenir.

"County": Palm Beach County, Florida.

"Declarant": Avenir Development, LLC, a Florida limited liability company, or any of its successors or assigns that is designated as Declarant in a recorded instrument the immediately preceding Declarant executes. On all matters, Declarant may act through its designated Affiliates.

"Design Guidelines": The Community's architectural, design and construction guidelines and review procedures adopted pursuant to Article IV.

"Design Review Board" or **"DRB"**: The committee established to review plans and specifications for the construction or modification of improvements and to administer and enforce the architectural controls described in Article IV.

"Governing Documents": Shall have the meaning given to such term in Section 1.3.

"Hotel Parcel": Any parcel of real property now or in the future designated as a "Hotel" use on the Master Plan.

"Limited Common Area(s)": A portion of the Common Area primarily benefiting one or more, but less than all, Owners, as more particularly described in Article XII.

"Master Plan": The Avenir Planned Community Development Master Plan approved by the City, as it may be amended from time to time, which includes all of the property described in **Exhibit "A"**. Declarant is not obligated to submit property shown on the Master Plan to this Declaration. In addition, Declarant may submit property to this Declaration which is not shown on the Master Plan. The Master Plan is subject to change, in Declarant's discretion, without notice or consent except as may be required by law.

"Member": Each Person subject to membership in the Association as described in Section 6.2. There are two membership classes, Class "A" and Class "B."

"Mortgage": A mortgage, a deed of trust, a deed to secure debt or any other form of security instrument affecting title to any Residential Unit or Parcel. The term "Mortgagee" shall refer to a beneficiary or holder of a Mortgage.

“Non-Residential Parcel”: A portion of the real property comprising Avenir that is intended for independent ownership, development and use for any permitted non-residential purpose, including, without limitation, neighborhood businesses, churches, and schools, or congregate care facility containing multiple apartments or residences with shared facilities, all of which apartments or residences are owned by a single Parcel Owner and leased or otherwise operated on a commercial basis, whether or not for profit.

“Northern Mitigation Area”: That certain preserve and mitigation area located immediately north of Avenir, which is intended to be conveyed to a governmental entity.

“Office/Professional/Medical Parcel”: Any parcel of real property now or in the future designated as “Office”, “Professional” or “Medical” use on the Master Plan.

“Owner” or **“Parcel Owner”**: One or more Persons who hold the record title to any portion of a Parcel or Residential Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. In the event any of the Parcels shown on the current Master Plan are subdivided into more than one Parcel, then each owner of each of the subdivided Parcels shall be a Parcel Owner hereunder.

“Parcel(s)”: An inclusive term referring to the parcels shown on the Master Plan, including the Town Center Parcel, Residential Parcel, Police/Fire/City Annex Parcel, Agriculture Parcel, Civic/Recreation Parcel, Office/Professional/Medical Parcel, Park Parcel, Hotel Parcel, School Parcel and Workplace Parcel, and any Non-Residential Parcel(s). In the event any of the Parcels shown on the current Master Plan are subdivided into more than one Parcel, then each such subdivided Parcel shall also constitute a Parcel hereunder.

“Park Parcel”: Any parcel of real property now or in the future designated as a “Park” use on the Master Plan.

“Permits”: The South Florida Water Management District Environmental Resource Permit associated with Application No. 160822-4, as amended from time to time and the Army Corps of Engineers Permit associated with Application No. SAJ-2015-00146(SP-KDS), as amended from time to time.

“Person”: An individual, a corporation, a partnership, a limited liability company, a trustee or any other legal entity.

“Plat”: Any recorded subdivision plat or condominium declaration for all or any portion of Avenir.

“PCD”: The Avenir Planned Community Development Order, adopted by the City as Resolution 4, 2016, as it may be amended from time to time.

“Police/Fire/City Annex Parcel”: Any parcel of real property now or in the future designated as a “Police” or “Fire” or City Annex” use on the Master Plan.

“Public Records”: The Public Records of the County.

“Regular Assessment”: Annual assessments levied to fund Common Expenses for the general benefit of all Parcels and Residential Units, as determined in accordance with Section 8.1.

“Residential Parcel”: A parcel of vacant land within Avenir intended for residential development. Such parcel shall be a Residential Parcel until such time as a subdivision plat or declaration of condominium is recorded in the Public Records relating to all or a portion of such Residential Parcel. After recording of a subdivision plat or declaration of condominium, the portion of the Residential Parcel which is the subject of such plat or declaration of condominium shall no longer be a Residential Parcel (but shall be deemed to contain that number of Residential Units reflected therein) and the remaining portion, if any, intended for residential development shall continue to be treated as a Residential Parcel.

“Residential Unit”: A platted residential lot or residential condominium unit within Avenir, whether developed or undeveloped, intended for development, use, and occupancy as an attached or detached residence for a single family in a manner consistent with this Declaration. The term shall, unless otherwise specified, include (by way of illustration, but not limitation) condominium units, townhouse units, cluster homes, patio or zero lot line homes, and single-family detached houses. The term shall include all portions of the lot owned as well as any structure thereon.

“School Parcel”: Any parcel of real property now or in the future designated as a “School” use on the Master Plan.

“Seacoast”: Seacoast Utility Authority.

“SFWMD”: South Florida Water Management District.

“Southwest Mitigation Area”: That certain preserve and mitigation area located in the southwest portion of Avenir, as identified in the Master Plan and Permits.

“Special Assessment”: Assessments charged against all Owners in accordance with Section 8.3.

“Supplemental Declaration”: A recorded instrument which subjects additional property to this Declaration, identifies Common Area and Limited Common Area, and/or imposes additional restrictions and obligations on the land described in such instrument. Any such Supplemental Declaration may also supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to specific property within Avenir, in order to reflect the different character and intended use of such property.

“Surface Water Management System”: All lakes, wetlands, canals and drainage facilities comprising the surface water management system for Avenir, as generally described in the Permits and regardless of whether the Association, CDD or any other Person owns, operates or maintains such system. The Surface Water Management System does not include any portion of the Northern Mitigation Area or the Southwest Mitigation Area.

“Town Center Parcel”: Any parcel of real property now or in the future designated as a “Town Center” use on the Master Plan.

“Use Restrictions”: The initial use restrictions, rules, and regulations set forth in **Exhibit “B”**, as they may be changed in accordance with Article III or otherwise amended.

“Voting Member”: The person entitled to cast the vote attributable to a particular Residential Unit, Parcel or Additional Association on matters requiring a vote of the membership (except as otherwise specifically provided in this Declaration and in the By-Laws). Each Member shall designate a Voting Member in writing to the Secretary of the Association prior to any vote being taken. Absent such writing, the Member’s vote shall be suspended if more than one Person seeks to exercise it. The term “Voting Member” shall also refer to an alternate Voting Member acting in the absence of the Voting Member and to any Parcel Owners authorized personally to cast the votes for their respective Parcel pursuant to Section 6.3.

“Wetland Mitigation Plan”: That certain Avenir Compensatory Wetland Mitigation Plan prepared by EW Consultants, Inc., which is to be included with the SFWMD Environmental Resource Permit for Avenir.

“Workplace Parcel”: Any parcel of real property now or in the future designated as a “Workplace” use on the Master Plan.

PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

Article III Use Restrictions

3.1 Framework for Regulation.

As part of the general plan of administration for Avenir, the Governing Documents establish a framework of covenants, easements and restrictions which govern the Community. This includes the initial Use Restrictions set forth in **Exhibit “B”**. Within that framework, the Board and the Members must be able to respond to unforeseen problems and changes affecting the Community. This Article establishes procedures for modifying and expanding the Use Restrictions to respond to such changes.

The procedures described in this Article are not intended to apply to reasonable rules and regulations relating to use and operation of the Common Area, which the Board may adopt by resolution, or other administrative rules, unless the Board chooses, in its discretion, to submit to such procedures. In addition, the Board shall have discretion, without the necessity of complying with the procedures set forth in this Article, to enact such rules and regulations as are necessary or appropriate to comply with the PCD and any other governmental or quasi-governmental order, permit or approval applicable to the Community.

3.2 Owners’ Acknowledgment and Notice to Purchasers.

Each Owner, by accepting a deed, acknowledges and agrees that the use, enjoyment and marketability of his or her Residential Unit or Parcel is limited and affected by the Use

Restrictions and Board rules, which may change from time to time. All purchasers are on notice that the Association may have adopted changes to the Use Restrictions and that such changes may not be set forth in a recorded document. Copies of the current Use Restrictions and Board rules may be obtained from the Association.

3.3 Rule Making Authority.

(a) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and the Members, the Board may change (*i.e.*, modify, cancel, limit, create exceptions to or add to) the Use Restrictions. The Board shall send the Owners notice of any proposed change at least fourteen (14) days before the Board meeting to consider the change. The Owners shall have a reasonable opportunity to be heard at such Board meeting.

The proposed change shall be approved unless disapproved by Owners representing a majority of the Association's Class "A" votes, and by the Class "B" Member, if any. The Board is not obligated to call a meeting of the Owners to consider disapproval unless it receives a petition which meets the By-Laws' requirements for special meetings. If the Board receives such a petition before the change's effective date, the change shall not become effective until after a meeting is held, and then subject to the outcome of the meeting.

(b) Before any Use Restriction change becomes effective, the Board shall send a copy of the new or changed Use Restriction to each Owner. The change does not become effective until thirty (30) days following distribution to the Owners. The Association shall provide to any requesting Member or Mortgagee, without cost, a copy of the Use Restrictions then in effect.

(c) At least once every three (3) years after the Class "B" Control Period ends, the Board shall cause a review of the then-current Use Restrictions as to continued viability or necessity within the Community.

(d) No action taken under this Article shall have the effect of modifying, repealing or expanding the Design Guidelines or any provision of this Declaration other than the initial Use Restrictions. In the event of a conflict between the Design Guidelines and the Use Restrictions, the Design Guidelines shall control. In the event of a conflict between the Use Restrictions and any provision within this Declaration (exclusive of the Use Restrictions), the Declaration provision shall control.

3.4 Protection of Owners and Others.

Except as may be set forth in this Declaration (either initially or by amendment) or in the initial Use Restrictions set forth in **Exhibit "B"**, the Association's actions with respect to Use Restrictions and rules must comply with the following:

(a) **Similar Treatment.** All Owners that are similarly situated must be treated as such.

(b) Displays. Owners' rights to display religious and holiday signs, symbols and decorations on their Parcels or Residential Units of the kinds normally displayed in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place and manner restrictions with respect to such displays.

The Association shall not regulate the content of political signs; however, it may regulate the time, place and manner of posting such signs (including design criteria).

(c) Household Composition. The Association shall not interfere with any Owner's freedom to determine the composition of his/her household.

(d) Activities Within Parcels and Residential Units. No rule shall interfere with the activities carried on within the confines of structures on Parcels or in Residential Units, to the extent in compliance with local laws and ordinances, except that the Association may prohibit activities within Residential Units which are not normally associated with property restricted to residential use. The Association may also restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Parcels or Residential Units, that generate excessive noise or traffic, that create unsightly conditions visible from outside of the structures on Parcels or in Residential Units, or that create an unreasonable source of annoyance to persons outside of any such Parcel or Residential Unit.

(e) Alienation. No rule shall require consent of the Association or Board for leasing or transfer of any Parcel or Residential Unit.

(f) Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in or on a Residential Unit or Parcel prior to the adoption of such rule if such personal property was in compliance with all rules previously in force. This exemption shall apply only during the period of such Owner's ownership of the Residential Unit or Parcel, and shall not apply to subsequent Owners who take title to the Residential Unit or Parcel after adoption of the rule.

(g) Compliance with PCD. The Association may not enact any rule or take any action, including, without limitation, amending the Use Restrictions, which is in violation of, or which prevents actions required to comply with, the terms of the PCD.

The limitations in subsections (a) through (f) of this Section shall not apply to amendments to this Declaration adopted in accordance with Article XVIII.

Article IV Architecture and Landscaping

4.1 General.

Except for work done by or on behalf of Declarant or any Declarant Affiliate, no structure shall be placed, erected or installed upon any Parcel or Residential Unit, and no improvements (including but not limited to awnings, shutters, hurricane protection, decorative plaques or accessories, play equipment, and ancillary structures, even if not permanently affixed to the Parcel or Residential Unit) or other work (including staking, clearing, excavation, grading

and other site work, exterior alterations or planting or removal of landscaping) shall take place within Avenir, except in compliance with this Article and the Design Guidelines.

Any Owner may remodel, paint or redecorate the interior of any structure on his or her Parcel or Residential Unit without approval. However, modifications to the interior of any portion of a structure that are visible from outside the structure are subject to approval. Each structure to be built on a Parcel or Residential Unit shall be designed by and built in accordance with the plans and specifications approved by Declarant or the Design Review Board. The landscaping and irrigation for each Parcel or Residential Unit shall be designed and installed in accordance with the plans and specifications of a licensed landscape architect acceptable to Declarant, unless Declarant, in its sole discretion, or its designee otherwise approves. Pursuant to conditions 56 and 57 of the PCD, the preferred source of irrigation water for non-agricultural areas within Avenir shall be treated wastewater effluent at such time as this source is made available; provided, however, reclaimed water shall not be provided unless mandated by SFWMD. Avenir shall also be equipped with an irrigation water distribution system. Moreover, no individual home wells shall be constructed within Avenir.

Approval under this Article and the Design Guidelines is not a substitute for any approvals or reviews required by the City, SFWMD, or any other municipality or governmental agency or entity having jurisdiction over architectural or construction matters. Each Owner is hereby notified that condition 58 of the PCD provides as follows:

"The residential and non-residential uses in the Project shall utilize low-volume water use plumbing fixtures, Florida-friendly (drought tolerant) landscape techniques, and other water conservation measures as may be required by the SFWMD or City Ordinances. The commercial uses in the project shall also utilize self-closing and/or metered water faucets. These devices and methods shall meet the criteria outlined in the water conservation plan of the public water supply permit issued to the SUA by the SFWMD or City Ordinances."

Except as required by the PCD or applicable law, this Article does not apply to Declarant's activities or to the Association's activities during the Class "B" Control Period.

4.2 Architectural Review.

(a) By Declarant. Declarant shall have exclusive authority to administer and enforce architectural controls and to review and act upon all applications for architectural and other improvements within the Community. Declarant's rights under this Article IV shall continue for as long as Declarant or any Declarant Affiliate owns any portion of the Community or has a unilateral right to annex property, unless Declarant earlier terminates its rights in a recorded instrument. Declarant may designate one or more Persons to act on its behalf in reviewing any application. In reviewing and acting upon any request for approval, Declarant or its designee acts solely in Declarant's interest and owes no duty to any other Person.

Declarant may from time to time delegate or assign all or any portion of its rights under this Article to any other Person or committee, including the Design Review Board. Any such delegation shall be in writing, shall specify the delegated responsibilities and shall be subject to

(i) Declarant's right to revoke such delegation at any time and reassume its prior jurisdiction, and
(ii) Declarant's right to veto any decision which it determines, in its discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of other entities shall be limited to such matters as Declarant specifically delegates.

(b) Design Review Board. Upon Declarant's delegation or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the DRB, shall assume jurisdiction over architectural matters. When appointed, the DRB shall consist of at least three (3) persons. Members of the DRB need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, who may be compensated in such manner and amount, if any, as the Board may establish. The DRB members shall be designated, shall serve and may be removed and replaced in the Board's discretion.

The Board may create and appoint subcommittees of the DRB. Subcommittees may be established to preside over particular areas of review (e.g., landscape plans) and shall be governed by procedures the Board or the DRB may establish. Any subcommittee's actions are subject to review and approval by Declarant, for as long as Declarant may review the DRB's decisions, and the DRB. Notwithstanding the above, neither the DRB nor Declarant shall be obligated to review all actions of any subcommittee, and the failure to take action in any instance shall not be a waiver of the right to act in the future.

Unless and until such time as Declarant delegates any of its reserved rights to the DRB or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

Declarant and the Association may employ architects, engineers or other Persons to perform the review required under this Article. In addition, a horticulturalist or landscape architect may be engaged by the entity performing the review under this Article to provide professional assistance in the review of landscape and irrigation plans for an individual Parcel or Residential Unit.

(c) Reviewer. The entity having jurisdiction in a particular case, whether Declarant or its designee or the DRB, shall be referred to as the "Reviewer."

(d) Fees; Assistance. The Reviewer may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. The Board may include the compensation of such Persons in the Association's annual operating budget.

4.3 Guidelines and Procedures.

(a) Design Guidelines. Declarant shall prepare Design Guidelines for the Community, which shall contain general provisions applicable to all of Avenir. Among other things, the Design Guidelines may restrict the use of specified plant species. The Design Guidelines are intended to provide guidance to Owners regarding matters of particular concern to

the Reviewer. The Design Guidelines are not the exclusive basis for the Reviewer's decisions, and compliance with the Design Guidelines does not guarantee an application's approval.

Declarant shall have sole and full authority to amend the Design Guidelines as long as it or any Declarant Affiliate owns any portion of the Community or has a unilateral right to annex property. Declarant's right to amend shall continue even if its reviewing authority is delegated to the DRB, unless Declarant also delegates the power to amend to the DRB. Upon termination or delegation of Declarant's right to amend, the Board may amend the Design Guidelines in accordance with the same procedures for changing Use Restrictions described in Section 3.4.

Amendments to the Design Guidelines shall be prospective only. They shall not require modifications to or removal of structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended. Subject to the Community-Wide Standard, there is no limit to the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Reviewer shall make the Design Guidelines available to Owners who seek to engage in development or construction within Avenir. In Declarant's discretion, the Design Guidelines may be recorded, in which event the recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

(b) Procedures. Unless the Design Guidelines provide otherwise, no construction activities or other activities described in Section 4.1 hereof may begin on any Parcel or Residential Unit until a request is submitted to and approved by the Reviewer. The request must be in writing and be accompanied by plans and specifications and other information the Reviewer or the Design Guidelines require. Plans and specifications include, but shall not be limited to the following: fencing or screen enclosures, site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation and other features of proposed construction on the applicable Parcel or Residential Unit.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of the proposed exterior design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that aesthetic determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have the sole discretion to make final, conclusive and binding determinations on matters of aesthetic judgment and such determinations are not subject to review so long as they are made in good faith and in accordance with the required procedures.

The Reviewer shall make a determination on each application within thirty (30) days after receipt of a completed application and other information it requires. The Reviewer may permit or require that an application be submitted or considered in stages, in which case, a final decision shall not be required until after the final, required submission stage. The Reviewer may (i) approve the application, with or without conditions and/or amendments; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

As long as Declarant or any Declarant Affiliate owns any portion of the Community or has the unilateral right to annex property, the DRB shall notify Declarant in writing within three (3) business days of any determination (*i.e.*, approval, partial approval or disapproval) under this Article. A copy of the application and any additional information that Declarant may require shall accompany the notice. During such time, Declarant shall have the right, in its sole and absolute discretion, to veto any DRB action; provided, Declarant's right to veto must be exercised within ten (10) business days after it receives notice of the DRB's action. The party submitting the plans for approval shall not be notified of the DRB's action until after Declarant's right to veto has been exercised or has expired.

The Reviewer shall notify the applicant in writing of a final determination on any application within (5) five days after such determination is made or, with respect to any DRB determination subject to Declarant's veto right, within five days after the earlier of: (i) receipt of notice of Declarant's veto or waiver thereof; or (ii) expiration of the 10-day period for exercise of Declarant's veto. In the case of disapproval, the Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

If the Reviewer fails to respond in a timely manner, approval shall be deemed given, subject to Declarant's veto right. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Design Guidelines unless a written variance has been granted pursuant to Section 4.5.

Notice shall be deemed given at the time the envelope containing the response is deposited in U.S. mail. Personal or electronic delivery of such written notice also shall be sufficient and shall be deemed given at the time of confirmed delivery to the applicant.

As part of any approval, the Reviewer may require that construction in accordance with approved plans commence within a specified time period. If construction does not commence within the required period, the approval shall expire and the Owner must reapply for approval before commencing any activities. Once commenced, construction must be diligently pursued to completion. All construction work shall be completed within one (1) year of commencement unless otherwise specified in the notice of approval or the Design Guidelines, or unless the Reviewer, in its discretion, grants an extension in writing. If approved work is not completed within the required time, it shall be in violation of this Article and shall be subject to enforcement action by the Association or Declarant.

Declarant or the Board, with Declarant's consent, by resolution, may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution. For example, Builders may be permitted to submit and receive pre-approval of landscaping or other plans for general application. Such pre-approved plans shall not require resubmission prior to use on a particular Parcel or Residential Unit.

4.4 No Waiver of Future Approvals.

Each Owner acknowledges that the people reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and

application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, at which time, it may or may not be unreasonable to require that such objectionable features be changed. However, the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the right to withhold approval of similar applications, plans or other matters subsequently or additionally submitted for approval.

4.5 Variances.

The Reviewer may authorize variances from compliance with the Design Guidelines and any procedures when circumstances such as topography, natural obstructions, hardship or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent the Reviewer from denying a variance in other circumstances. A variance requires Declarant's written consent for so long as Declarant or any Declarant Affiliate owns any portion of the Community or has the unilateral right to annex property, and, thereafter, requires the Board's written consent.

4.6 Limitation of Liability.

This Article establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of Avenir. The standards and procedures do not create any duty to any Person. Review and approval of any application pursuant to this Article may be based on purely aesthetic considerations. The Reviewer is not responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that every dwelling is of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to any Reviewer.

Declarant, Declarant's Affiliates, the Association, its officers, the Board, the DRB, the Association's management agent, any committee or any member of any of the foregoing shall not be held liable for the approval of, disapproval of, or failure to approve or disapprove any plans; soil conditions, drainage, or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition or quality of work of any contractor or its subcontractors, employees or agents; or any injury, damages or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Parcel or Residential Unit. In all matters, the Association shall defend and indemnify Declarant, Declarant Affiliates, the Board, the DRB, the members or officers of each and the Association officers as provided in Section 7.6 hereof.

4.7 Certificate of Compliance.

Any Owner may request in writing that the Reviewer issue a certificate of architectural compliance certifying that there are no known violations of this Article or the Design Guidelines. The Association shall either grant or deny such written request within thirty (30) days after receipt and may charge a reasonable administrative fee. The issuance of a certificate of

architectural compliance shall prevent the Association from taking enforcement action against an Owner for any condition known to the Association on the date of the certificate.

4.8 Enforcement

Any construction, alteration or other work done in violation of this Article or the Design Guidelines is subject to enforcement action. Upon written request from the Association or Declarant, an Owner shall, at his/her own cost and expense, and within a reasonable time frame identified in the request, cure the violation or restore the Parcel or Residential Unit to substantially the same condition as existed before the violation occurred. Should an Owner fail to cure the problem or otherwise restore the property as required, the Association, Declarant, or their designees shall have the right to enter the property, remove the violation and restore the property. All costs, together with interest at the rate the Board establishes (not to exceed the maximum rate then allowed by law), may be assessed against the applicable Parcel or Residential Unit and collected as a Benefited Assessment.

Any approvals granted under this Article are conditioned upon completion of all elements of the approved work, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work by the deadline imposed, Declarant or the Association may, after notifying the Owner and allowing an opportunity to be heard in accordance with the By-Laws, enter upon the Parcel or Residential Unit and remove or complete any incomplete work and assess all costs incurred against the Parcel or Residential Unit and its Owner as a Benefited Assessment.

Any act of any contractor, subcontractor, agent, employee or invitee of an Owner shall be deemed an act done by or on behalf of such Owner. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded from the Community, subject to the notice and hearing procedures contained in the By-Laws. Declarant, Declarant's Affiliates, the Association, and their respective officers and directors, shall not be held liable to any Person for exercising the rights granted by this paragraph.

The Association shall be primarily responsible for enforcing this Article. If, however, in Declarant's discretion, the Association fails to take appropriate enforcement action within a reasonable time period, Declarant, for so long as it or any Declarant Affiliate owns any portion of the Community or has the unilateral right to annex property, may, but shall not be obligated to, exercise the enforcement rights set forth above. In such event, Declarant may assess and collect Benefited Assessments against the violating Owner and assert the Association's lien rights pursuant to Article VIII. The Association hereby assigns to Declarant such rights and authority, including the right to all funds collected, and no further assignments shall be required.

In addition to the foregoing, the Association and Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the Reviewer's decisions. The prevailing party shall be entitled to recover all costs including, without limitation, attorneys' fees and court costs, reasonably incurred in such action. The alternative dispute resolution provisions set out in Article XIII shall not apply to actions by Declarant or the Association to enforce the provisions of this Article or the Reviewer's decisions.

4.9 Casualty Destruction of Improvements.

If a building (including the structures and other improvements constituting a part thereof) or any portion thereof is damaged or destroyed by casualty, then within sixty (60) days after the time of such incident (or such longer period as may reasonably be required to secure, with the exercise of reasonable diligence, insurance proceeds, required governmental and other approvals and qualified contractors) the Owner shall either commence to rebuild or repair the damaged building or portions thereof and diligently continue such rebuilding or repairing until completion, or properly clear the damaged building (including the structures and other improvements constituting a part thereof) pending the restoration and/or repair thereof in accordance with the applicable provisions of this Declaration, the reasonable requirements of the DRB and applicable governmental requirements. As to any such reconstruction of a destroyed building or portions thereof, the same shall only be replaced with a building or portion(s) thereof as is approved as provided in this Article IV.

Prior to commencing any rebuilding as aforesaid, the applicable Owner shall present to the DRB a full engineer's or other professional's report on the extent of the damage to the building (including the structures and other improvements constituting a part thereof) located on the Parcel and the status of any claims of insurance proceeds for such damage and a proposed timetable (including milestones and deadline dates) for the rebuilding of such building and other structures and improvements. Such timetable shall include, without limitation, the dates of completion for all plans and specifications for rebuilding, which plans and specifications shall be submitted to the DRB together with such other documentation as the DRB shall reasonably require, and shall be subject to the approval of the DRB in the same manner as other approvals are to be obtained under this Article IV. Once such approval is granted, the repair and reconstruction of the building (or the damaged portions thereof) shall proceed in accordance with such timetable, subject to delays due to causes beyond the reasonable control of the Owner, as determined in the sole and absolute discretion of the DRB, and shall be diligently pursued to completion in accordance with such plans and specifications, such completion to be evidenced by a final inspection and approval by the DRB and the issuance of any certificate of occupancy or completion required in connection therewith.

Promptly after the occurrence of the damage or destruction of a building (or any portion thereof) on a Parcel, the Owner thereof shall take all steps as are necessary to remove all debris and damaged portions of the building, subject to delays necessary to obtain demolition permits and other applicable governmental requirements. Upon such removal, the Parcel shall be duly maintained in an orderly and aesthetically acceptable condition, taking into account the nature and extent of the damage. Additionally, all steps necessary to secure the site shall be made in accordance with all applicable governmental requirements and any and all standards, whether general to Avenir or specifically imposed upon the Parcel by the DRB.

In the event that the damage or destruction of a building is to the extent that it must be reconstructed in all or substantially all of its entirety, prior to the commencement of such reconstruction, all damaged portions of such building shall be demolished and the Parcel sodded-over and then maintained as open space in a manner consistent with other landscape or open space within Avenir until such time as reconstruction commences in accordance with this Section 4.9.

4.10 Exemption of Initial Development and Construction.

Notwithstanding any of the provisions of this Article IV or any other provisions of this Declaration (including Exhibit "B" to this Declaration) to the contrary, the initial development and construction of a building and accessory structures and improvements shall not be subject to approval by the DRB as long as such development and construction is being actively conducted and is subject to separate approval and control by Declarant pursuant to a restrictive covenant or other instrument granting Declarant such right of approval. Further, no such initial activities on a Parcel shall be deemed in violation of this Declaration or otherwise a nuisance unless so determined by Declarant pursuant to a separate instrument as aforesaid. Declarant's right of approval as described above is solely for the benefit of Declarant and neither the Association nor any Owner or other Person shall be deemed a third party beneficiary thereof in any respect.

Once all development and construction activities subject to Declarant's approval on a Parcel have been completed and Declarant so notifies the Association, then the Association (including the DRB) shall assume jurisdiction over the applicable Parcel as provided in this Declaration and the other Governing Documents as to maintenance, further improvements, alterations and the like.

Article V Maintenance and Repair

5.1 Maintenance of Parcels or Residential Units.

Each Owner must maintain his or her Parcel or Residential Unit, including all structures, landscaping and other improvements comprising the Parcel or Residential Unit, in a manner consistent with the Governing Documents, the Community-Wide Standard and any other applicable covenants, unless such maintenance responsibility is otherwise assumed by the Association, Additional Association or CDD. For any Parcel or Residential Unit contiguous to a pond, lake, wetland or other water body, the Owner's maintenance obligations shall extend to the lower edge of the upper bank of such water body, unless such area is maintained by the Master Association, an Additional Association, or the CDD. Each Owner must maintain the sidewalk and landscaping, including any street trees, located in the right-of-way adjacent to his or her Parcel or Residential Unit unless the Association, Additional Association or CDD is assigned or assumes all or part of such maintenance responsibility. Any Additional Association shall maintain its common property and other property for which it has maintenance responsibility in a manner consistent with the Governing Documents and Community-Wide Standard and any other applicable covenants. This Section shall not prohibit the usual and customary conditions on a Parcel in connection with the development thereof and the construction of improvements thereon, so long as same is performed in compliance with the terms of this Declaration and the Design Guidelines.

5.2 Maintenance During Construction. Construction of improvements on a Parcel shall be done in strict compliance with the provisions of Article IV of the Declaration and the following provisions:

(a) After commencement of construction of any improvement within Avenir, the Owner shall diligently prosecute the work thereon, to the end that the improvement shall not

remain in a partly finished condition any longer than reasonably and normally necessary for completion thereof.

(b) The Owner of the Parcel on which the improvement is being constructed shall at all times keep streets contiguous to the Parcel free from excess dirt, mud, garbage, trash or other debris as may be occasioned by the construction.

(c) All rocks, trees, trash, and other debris removed during construction shall be disposed of in strict conformance with the Design Guidelines.

(d) Storage of construction materials and equipment shall strictly conform to the Design Guidelines.

5.3 Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, the responsibility for maintenance includes responsibility for repair and replacement as necessary to maintain the property to a level consistent with the Community-Wide Standard.

Each Owner shall carry property insurance for the full replacement cost of all insurable improvements on his or her Parcel or Residential Unit, less a reasonable deductible, unless the Association carries such insurance (which it may, but is not obligated to do). If the Association assumes responsibility for insuring a Parcel or Residential Unit, the insurance premiums shall be levied as a Benefited Assessment against the benefited Parcel or Residential Unit and the Owner.

Upon the occurrence of any damage to or destruction of a structure on a Parcel or Residential Unit, the Owner shall repair or reconstruct the structure as provided in Section 4.9 hereof. The Owner shall pay any costs insurance proceeds do not cover.

5.4 Northlake Boulevard and Beeline Highway Buffers and Medians.

The Association shall be responsible for the installation and all associated maintenance of the landscaping and irrigation for certain portions of road shoulders and medians along Northlake Boulevard and Beeline Highway located adjacent or contiguous to Avenir, unless such responsibility is assumed by the CDD.

5.5 City Gateway Sign.

The Association shall be responsible for the installation and maintenance of the City gateway sign to be located within or adjacent to Avenir, unless such responsibility is assumed by the CDD.

PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

Article VI The Association and its Members

6.1 Function of Association.

The Association is the entity responsible for management, maintenance, operation and control of the Common Maintenance Areas. The Association also has primary responsibility for administering and enforcing the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and Florida law. The Board shall be responsible for management for the Association and, as the Governing Documents permit, may contract with a property manager for such purposes. The Board is appointed or elected as provided in the By-Laws.

6.2 Membership.

Every Parcel Owner shall be a Member of the Association; provided, however, once an Additional Association has been created to govern a Parcel, the Additional Association and not the Parcel Owner, shall be the Member. If a Parcel is owned by more than one Person, all co-Parcel Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3(b) hereof and in the By-Laws, and all such co-Parcel Owners shall be jointly and severally obligated to perform the responsibilities of Parcel Owners. The membership rights of a Parcel Owner that is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Parcel Owner or the Additional Association in a written instrument provided to the Secretary of the Association.

6.3 Voting.

(a) Classes of Membership. The Association initially shall have two classes of membership, Class "A" and Class "B," as follows:

Class "A". Class "A" Members shall be all Parcel Owners including Builders (or the Additional Association with respect to a Parcel, as applicable) except the Class "B" Member, if such exists. Class "A" Members shall be allocated votes based on the formula set forth in Exhibit "E", except that no vote shall be exercised for any Parcels which are exempt from assessment under Section 8.9 hereof. All Class "A" votes shall be cast as provided in Sections 6.3(b) and (c) below.

Class "B". The sole Class "B" Member shall be the Declarant. The Class "B" Member shall not have voting rights relative to the number of Parcels or Residential Units it owns; rather, the consent of the Class "B" Member shall be required for various actions of the Board, the membership and committees, as specifically provided elsewhere in the Governing Documents. In addition, the Class "B" Member may appoint all of the members of the Board of Directors during the Class "B" Control Period, as specified in the By-Laws. Additional rights of the Class "B" Member are specified in the relevant sections of the Governing Documents. The Class "B" membership shall terminate upon expiration of the Class "B" Control Period. Upon termination of the Class "B" membership, Declarant shall be entitled to Class "A" membership and voting rights for each Additional Association under the control of Declarant and for any Parcel or Residential Unit which it owns.

Declarant may, by Supplemental Declaration, create additional classes of membership for the owners of Parcels or Residential Units within any additional property made subject to this Declaration pursuant to Article IX, with such rights, privileges and obligations as may be specified in such Supplemental Declaration, in recognition of the different character and intended use of the property subject to such Supplemental Declaration.

(b) Exercise of Voting Rights. Except as otherwise specified in this Declaration or the By-Laws, the vote for each Parcel owned by a Class "A" Member or vote for an Additional Association shall be exercised by the Voting Member representing such Parcel or Additional Association. In any situation where a Member is entitled personally to exercise the vote for his or her Parcel, and there is more than one Parcel Owner of such Parcel, the vote for such Parcel shall be exercised as the co-Parcel Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Parcel's vote shall be suspended if more than one Person seeks to exercise it.

(c) Representative Voting. Due to the large number of Residential Units anticipated to be developed in Avenir and the anticipated formation of Additional Associations to govern the Residential Parcels, the Governing Documents provide for a representative system of voting for Residential Units. The Additional Association governing any Residential Unit shall be the Member of the Association and shall have the right to cast all votes attributable to Residential Units located within the Residential Parcel that is subject to the Additional Association on all Association matters requiring a vote of Class "A" Members, except as otherwise specified in this Declaration or the By-Laws.

Article VII Association Powers and Responsibilities

7.1 Acceptance and Control of Association Property.

(a) The Association may acquire, hold, mortgage or otherwise encumber, lease (as landlord or tenant), operate and dispose of tangible and intangible personal property and real property. The Association may enter into leases, licenses or operating agreements, for payment or no payment, as the Board deems appropriate, permitting use of portions of the Common Area by others.

(b) Declarant or its designees may transfer to the Association, and the Association shall accept, personal property and/or fee title or other property interests in any improved or unimproved real property included within the property described in Exhibit "A", as it may be amended from time to time. Upon Declarant's written request during the Class "B" Control Period, the Association shall transfer back to Declarant any unimproved real property originally conveyed to the Association for no payment.

(c) The Association is responsible for management, operation and control of the Common Area, subject to any covenants, easements or restrictions set forth in the deed or other instrument transferring the property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area as it deems appropriate. The Association may enter into a property management agreement with any Person, including Declarant or any Declarant Affiliate.

7.2 Maintenance of Common Maintenance Areas.

The Association shall maintain the Common Maintenance Areas in accordance with the Community-Wide Standard. The Common Maintenance Areas shall include, but are not limited to the following, but shall not include any property owned by the CDD:

(a) the Common Areas, including landscaping, irrigation, structures and other improvements; and

(b) such portions of any additional property as may be dictated by Declarant, this Declaration, any Supplemental Declaration, any Plat or any contract, covenant or agreement for maintenance entered into by, or for the benefit of, the Association.

The Association may maintain other property which it does not own, including property dedicated to the public, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and the property owner consents.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property which it does not own except to the extent that it has been negligent in performing its maintenance responsibilities.

The Association shall maintain the facilities and equipment within the Common Maintenance Areas in continuous operation, except for any periods necessary, as determined by the Board, to perform required maintenance or repairs, unless Owners representing seventy-five percent (75%) of the Class "A" votes in the Association agree in writing to discontinue such operation; provided, if the property is Limited Common Area, at least seventy-five percent (75%) of the Owners to which such Limited Common Area is assigned (or such higher percentage as may be set out in a Supplemental Declaration) also must agree in writing. Notwithstanding the above, the Common Maintenance Areas may not be reduced, nor shall operation of its facilities and equipment be discontinued, without Declarant's prior written approval as long as Declarant or any Declarant Affiliate owns any property described in **Exhibit "A"** to this Declaration.

The costs associated with maintenance, repair and replacement of the Common Maintenance Areas by the Association shall be a Common Expense. However, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Common Maintenance Areas pursuant to this Declaration, a Supplemental Declaration or other recorded covenants or agreements.

Unless Declarant expressly agrees in writing with the Association to pay the costs of maintaining any portion of the Common Maintenance Areas, Declarant shall have no such obligation, regardless of any inferences which may be drawn from promotional or other materials.

7.3 Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical Loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and within other portions of the Common Maintenance Areas to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All Association property insurance policies shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

(ii) Commercial general liability insurance on the Common Maintenance Areas, to the extent that the Association has assumed responsibility for maintenance of same, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$2,000,000.00 per occurrence and in the aggregate with respect to bodily injury, personal injury and property damage;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage; and

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment, but not less than an amount equal to one-quarter of the annual Regular Assessments on all Parcels or Residential Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation.

Premiums for Common Maintenance Area insurance shall be a Common Expense. In the exercise of its business judgment, the Board may obtain additional insurance coverage and higher limits.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Palm Beach County area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with

the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or tenants, then the Board may assess the full amount of such deductible against such Owner(s) and their Parcels or Residential Units as a Benefited Assessment.

To the extent available upon reasonable cost and terms, all insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in Florida which satisfies the requirements of the Federal National Mortgage Association ("**FNMA**"), or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members;

(iii) not be brought into contribution with insurance purchased by individual Owners, their Mortgagees, or any occupants of a Parcel or Residential Unit;

(iv) contain an inflation guard endorsement;

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);

(vii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(viii) include an endorsement precluding cancellation, invalidation or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which list as additional insureds: (a) Declarant and its affiliates, subsidiaries, members, officers, agents, representatives, successors and assigns, and (b) the Owners (as a class), and which also provide:

(i) a waiver of subrogation as to any claims against Declarant, Declarant's Affiliates, the Association, or their respective directors, officers, employees and agents, or the Owners and their tenants, servants, agents and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(iv) an endorsement requiring at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) a cross liability provision; and

(vi) a provision vesting in the Board exclusive authority to adjust losses; provided, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to maintain and/or insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed unless the Owners representing at least one hundred percent (100 %) of the total Class "A" votes in the Association and the Class "B" Member, if any, decide within sixty (60) days after the loss not to repair or reconstruct. If the damage is to Limited Common Area, repairs shall be made unless at least seventy-five (75%) of the Owners to which such Limited Common Area is assigned (or such higher percentage as may be set forth in a Supplemental Declaration) vote not to repair or reconstruct and the Class "B" Member, if any, consents. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period may be extended until such funds or information are available. No Mortgagees shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

The Association shall retain in a reserve fund for capital items any insurance proceeds remaining after paying the costs of repair or reconstruction, or after an agreed-upon settlement, for the benefit of the Members, as appropriate. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Parcel or Residential Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the applicable insurance coverage premiums.

7.4 Compliance and Enforcement.

(a) The Board may impose sanctions for Governing Document violations, which sanctions include those listed below and any others described elsewhere in the Governing Documents. The Board may establish a range of penalties for different violations, with violations of the Declaration, unsafe conduct and harassment or intentionally malicious conduct treated more severely than other violations. The following sanctions require prior notice and an opportunity for a hearing in accordance with the By-Laws:

(i) imposing reasonable monetary fines, not to exceed \$100 per violation per day against any Owner or any Owner's tenant, guest, or invitee for the failure of the Owner or its occupant, licensee, or invitee to comply with any provision of the Governing Documents. A fine may be levied by the Board for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed \$5,000 in the aggregate. A fine of \$1,000 or more shall constitute a lien upon the violator's Parcel or Residential Unit.

(ii) suspending an Owner's right to vote (except that no notice or hearing is required if the Owner is more than ninety (90) days delinquent in paying any Regular Assessment);

(iii) suspending any Person's right to use Common Area amenities (except that no notice or hearing is required if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed the Association); provided, nothing shall authorize the Board to impair an Owner or occupant's access to his or her Parcel or Residential Unit;

(iv) suspending any services the Association provides (except that no notice or hearing is required if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association);

(v) exercising self-help or taking action to abate any violation of the Governing Documents occurring on a Parcel or Residential Unit in a non-emergency situation (including removing personal property that violates the Governing Documents); and

(vi) levying Benefited Assessments to cover costs, including legal fees, the Association incurs to bring a Parcel or Residential Unit into compliance with the Governing Documents.

In addition, the Board may take the following enforcement actions to ensure compliance with the Governing Documents without the necessity of complying with the procedures set forth in the By-Laws:

(i) exercising self-help or taking action to abate a violation on a Parcel or Residential Unit in an emergency situation (including, without limitation, towing vehicles that are in violation of parking rules and regulations);

(ii) exercising self-help or taking action to abate a violation on the Common Area under any circumstances (including, without limitation, issuing citations for traffic violations); or

(iii) bringing suit at law for monetary damages or in equity to stop or prevent any violation, or both.

In addition to any other enforcement rights, if an Owner fails to perform his or her maintenance responsibility properly, in the Association's sole opinion, the Association may record a notice of violation or perform the required maintenance and assess its costs (including reasonable attorneys' fees and costs, if any) against the Parcel or Residential Unit and the Owner as a Benefited Assessment. Except in an emergency situation, the Association shall provide the Owner with notice deemed reasonable by the Association and an opportunity to cure the problem prior to taking such enforcement action.

The above sanctions shall not apply to Declarant or any Declarant Affiliate or to any Parcel or Residential Unit owned by Declarant or any Declarant Affiliates. All sanctions and remedies set forth in the Governing Documents are in addition to any remedies available at law or in equity. In any action to enforce or resolve any dispute relating to this Declaration or any other Governing Document, the prevailing party shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action, whether incurred prior to suit, in arbitration, mediation, at trial or in appeal.

(b) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action;

(ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) it is not in the Association's best interest, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision not to enforce a particular provision shall not prevent the Association from enforcing the same provision at a later time or prevent the enforcement of any other covenant, restriction, or rule.

By contract or other agreement, the Association may enforce applicable city and county ordinances. In addition, the County and City may enforce their ordinances within Avenir.

7.5 Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly or by reasonable implication by the Governing Documents, and may take action reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, the Board may exercise all of the Association's rights and powers without a vote of the membership.

The Board may institute, defend, settle, or intervene on the Association's behalf in mediation, binding or non-binding arbitration, litigation or administrative proceedings in matters pertaining to the Common Maintenance Areas to the extent that the Association has assumed responsibility for same, enforcement of the Governing Documents, or any other civil claim or action. However, the Board has no legal duty to institute litigation on behalf of or in the name of the Association or the Members.

In exercising the Association's rights and powers, making decisions on the Association's behalf, including, without limitation, deciding whether to file a lawsuit under any circumstances, and conducting the Association's affairs, Board members and the Association's officers are subject to, and their actions shall be judged in accordance with, the standards set forth in the By-Laws.

7.6 Indemnification of Officers, Directors and Others.

The officers, directors and committee members, acting in such capacity, shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability for any contract or other commitment made or action taken in good faith on the Association's behalf.

Subject to Florida law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director or committee member.

This right to indemnification shall not be exclusive of any other rights which any present or former officer, director or committee member may have. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

7.7 Powers of the Association Relating to Additional Associations.

The Association shall have the power to block, and to seek injunctive relief (without the necessity of posting a bond therefor) with respect to any action taken or contemplated to be taken by any Additional Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by any Additional Association in connection with its obligations and responsibilities, such as requiring

specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefor.

An Additional Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Additional Association fails to comply, the Association shall have the right to effect such action on behalf of the Additional Association and levy Benefited Assessments against the Parcels and Residential Units subject to the Additional Association's jurisdiction to cover the costs incurred, as well as an administrative charge and sanctions.

7.8 Provision of Services, Activities and Programs.

The Association may provide, or provide for, services, activities and programs (collectively, "**services**") for all or any of the Members and their Parcels or Residential Units, and may enter into contracts or agreements with other entities, including Declarant or its Affiliates, to provide such services. The Board may charge use or service fees for any such services, or may include the costs, including the cost of personnel employed to facilitate or administer such services, in the Association's budget as a Common Expense and assess it as part of the Regular Assessment, if provided to all Parcels and Residential Units. If provided to less than all Parcels and Residential Units, the Association may assess such costs as a Benefited Assessment, as applicable.

By way of example, such services might include, without limitation, landscape maintenance; pest control service; caretaker; transportation; fire protection; utilities; trash collection and recycling; recreational and social activities or programs; educational programs; cultural, artistic and environmental programs; charter clubs and other similar services, activities or programs designed to further a sense of community among Owners, residents and occupants within Avenir.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, subject to the contract terms, the Board may modify or cancel existing contracts for services, activities or programs in its discretion, unless the services are otherwise required by the Governing Documents. Non-use of services provided to all Owners or Parcels or Residential Units as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

7.9 Relationships with Other Properties.

The Association may enter into contractual agreements or covenants to share costs with neighboring properties to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Area maintenance, including but not limited to such covenants and obligations referenced in Section 7.2 above.

7.10 Facilities and Services Open to the Public.

Certain of the Common Maintenance Areas may be open for public use and enjoyment. Such facilities and areas may include, for example: buffer areas, bike and pedestrian trails and paths, parks, areas conducive to gathering and interaction, roads, sidewalks and medians. In

addition, certain areas within the Community are required by the PCD to be open for public use. Public use of such areas shall not be terminated except as permitted under, and in accordance with, the PCD.

7.11 Relationship with Governmental and Tax-Exempt Organizations.

The Association may enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to, state or local governments, public utility providers, the CDD and non-profit, tax-exempt organizations for the benefit of the Community, the Association and the Members. The Association may contribute money, real property (including Common Area), personal property or services to any such entity. Any such contribution shall be a Common Expense and included as a line item in the Association's annual budget.

For the purposes of this Section, a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code ("**Code**"), such as, but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time.

7.12 Right To Designate Sites for Governmental and Public Interests.

For so long as Declarant or any Declarant Affiliate owns any property described in **Exhibit "A"**, Declarant may, but is not obligated to, designate sites within the Community for government, education or religious activities and interests, including without limitation, fire, police and utility facilities, schools and educational facilities, houses of worship, parks, roads and other public facilities. The sites may include Common Area, in which case the Association shall take whatever action is required to permit such use, including dedication or conveyance of the site, if so directed by Declarant.

7.13 Use of Technology.

In recognition of the opportunities offered through computers and continuing advancements in the high technology fields, the Association may, as a Common Expense, provide for or offer services which make use of computers and other technological opportunities. For example, to the extent Florida law permits, and unless otherwise specifically prohibited in the Governing Documents, the Association may send required notices by electronic means; hold Board or Association meetings and permit attendance and voting by electronic means; send and collect assessment and other invoices over the computer; sponsor a community cable television channel; create and maintain a community intranet or Internet home page offering interactive participation opportunities for users; maintain an "online" newsletter or bulletin board; and provide funding for any of the above purposes.

7.14 Authorization of PCD Amendments.

In accordance with Section 78-46(e)(5) of the City's Land Development Code, the Association shall have the power to sign any and all authorizations with respect to PCD amendments regarding Avenir, as the same may be requested by a Parcel Owner; provided, however, Declarant must consent in writing to any such authorizations so long as Declarant or an

Affiliate owns any real property within Avenir. In such event, no other Parcel Owner may object to such amendment so long as such amendment does not (i) remove any entitlements associated with the other Parcel Owner's Parcel, (ii) impose additional requirements for the development of the other Parcel or (iii) otherwise materially and adversely affect the development of the other Parcel. Any such authorizations executed by an officer of the Association may be relied upon by the City as binding the Owners of all Parcels and Residential Units within Avenir. Notwithstanding the foregoing, Declarant or its Affiliates may execute PCD amendments on property owned by Declarant or its Affiliates at any time without the consent of the Association.

Article VIII Association Finances

8.1 Budgeting and Allocating Common Expenses.

The Association is authorized to levy Regular Assessments against all Parcels and Residential Units to fund the Common Expenses. In determining the Regular Assessment, the Board may consider any assessment income expected to be generated from any property reasonably anticipated to become subject to assessment during the fiscal year. Upon determining the total amount of income required to be generated through the levy of Regular Assessments, the Association shall allocate such amount among all Parcels and Residential Units subject to assessment under this Section on the effective date of the budget in accordance with the formula set forth on Exhibit "E". The amount allocated to each Parcel and Residential Unit shall then be levied as a Regular Assessment. Unless Declarant is funding the Association's deficit as provided in Section 8.8(b) hereof, the Regular Assessments against any Parcel or Residential Unit owned by Declarant may be fixed annually by the Board in an amount not less than twenty-five percent (25%) of the amount of the Regular Assessment against Parcels or Residential Units owned by Class "A" Members then in effect in recognition of the different level of services received by the applicable members. Regular Assessments shall be in addition to Additional Association assessments, if any, against the Parcels or Residential Units, which shall be levied in accordance with the governing documents of any Additional Association.

Before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.2. The budget shall separately reflect all fees for recreational amenities and shall reflect the sources and estimated amounts of funds to cover such expenses, including any prior year's surplus or deficit, any non-assessment income, and anticipated assessment income.

The Board shall send a copy of the final budget and notice of the amount of the Regular Assessment to each Owner at least thirty (30) days before the fiscal year begins. The budget shall not be subject to Owner approval and there shall be no obligation to call an Owners' meeting to consider the budget.

The Board may revise the budget and adjust the Regular Assessment from time to time during the year, subject to the notice requirements set forth above and in Florida law.

The Board shall compute the assessments annually, and notice of the amount (including a summary of the computations) shall be sent to each Owner with its notice of assessment. Upon

annexation of additional property into the jurisdiction of the Association, the Board shall recompute the assessment allocations and send a notice of recomputed percentages to each Owner; however, no adjustments of assessments previously levied or refunds of assessments paid shall be made within the fiscal year to reflect the recomputation.

8.2 Budgeting for Reserves.

The budget may include reserves intended to defray the future cost of repair or replacement of, or additions to, the major components that the Association is obligated to repair, replace, restore, or maintain, as determined by the Board. Notwithstanding the foregoing, during any period that Declarant is funding the Association's budget deficit, the budget shall not include reserves without Declarant's prior written consent.

8.3 Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Special Assessments may be levied against the entire membership, if the Special Assessment is for Common Expenses. Except as otherwise specifically provided by applicable law, any Special Assessment shall not require the consent of any Owner; provided, however, during the Class "B" Control Period, any Special Assessment shall require the consent of the Class "B" Member. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.4 Initial Assessment for Capital Improvements.

The Association may levy an initial assessment due at the time the first Owner other than a Builder acquires a Parcel or Residential Unit, in the amount equal to two (2) months of Regular Assessments, to help pay for construction or repair of the improvements on the Common Area or Common Maintenance Areas within the Community, or for any other purpose approved by the Board.

8.5 Benefited Assessments.

The Association may levy Benefited Assessments against one or more particular Parcels or Residential Units as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services which an Owner requests pursuant to any menu of special services which the Association may offer or which the Association otherwise provides in the Board's discretion at an Owner's request. Benefited Assessments for special services may be levied in advance of the provision of the requested service;

(b) to cover costs incurred in bringing a Parcel or Residential Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Parcel or Residential Unit, their agents, contractors, employees, licensees, invitees or guests; provided, the Board shall give the Parcel or Residential Unit Owner

prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Benefited Assessment under this subsection; and

(c) notwithstanding the foregoing, Parcels or Residential Units which Declarant owns are exempt from Benefited Assessments.

8.6 Commencement of Assessment Obligation; Time of Payment.

The obligation to pay assessments commences as to each Parcel or Residential Unit when (a) the Parcel or Residential Unit is conveyed to an Owner who is not the Declarant or a Declarant Affiliate; or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Regular Assessment, if any, levied on each Parcel or Residential Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Parcel or Residential Unit.

Owners shall pay assessments in the manner and on the dates the Board establishes. The Board may require advance payment of assessments at closing of the transfer of title to a Parcel or Residential Unit and may impose special requirements for Owners with a history of delinquent payment. Assessments may be paid in quarterly or monthly installments, as determined by the Board. An administrative late fee may be established by the Board not to exceed the greater of \$25 or five percent (5%) of the amount of each installment that is paid past the due date. If any Owner is delinquent in paying any assessments or other charges levied on his or her Parcel or Residential Unit, the Board may require that the outstanding balance on all assessments be paid in full immediately.

8.7 Authority to Require Collection of Assessments by Additional Associations.

Upon written notice from the Board to any Additional Association, all Regular Assessments and Special Assessments shall be billed to and collected from each Additional Association. The amount of the Regular Assessments and Special Assessments due from each Additional Association to the Association shall be the total amount of Regular Assessments and Special Assessments due from all of its members as determined in Sections 8.1 and 8.3. Each Additional Association shall be responsible for the collection of the Regular Assessments and Special Assessments from its members and each Additional Association shall be liable to the Association for timely payment of such assessments to the Association regardless of whether such Additional Association has collected such assessments from its members. The Association shall have the right to any legal remedy, including, without limitation, injunctive or other equitable relief to compel payment of any Regular Assessments or Special Assessments by the Additional Associations. Nothing herein shall be deemed a waiver by the Association of its independent rights of collection and lien against each Owner as provided in this Declaration.

8.8 Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed for any Parcel or Residential Unit, covenants and agrees to pay all assessments authorized in the Governing Documents for each Parcel or Residential Unit owned. Notwithstanding the foregoing, Builders acquiring a Parcel or Residential Unit from Declarant, and such Builders' permitted successors

and assigns, shall pay Regular Assessments and Special Assessments in the same manner as would have been paid by Declarant if Declarant were the Owner of such Parcel or Residential Unit (i.e., such Builders, and their permitted successors and assigns, shall fund the prorated amount of the budget deficit applicable to such Parcel or Residential Unit). All assessments, together with interest (computed from the assessment's due date at a rate of at least eighteen percent (18%) per annum or such higher rate as the Board may establish, subject to Florida law), late charges as determined by Board resolution, costs and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Parcel or Residential Unit until paid in full. Upon a transfer of title to a Parcel or Residential Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Regular Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner is exempt from liability for assessments by non-use of Common Area, abandonment of his or her Parcel or Residential Unit, or any other means. The obligation to pay assessments is a separate and independent covenant by each Owner. No reduction or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some required function, or for inconvenience or discomfort arising from making repairs or improvements, or for any other reason.

Upon written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) Declarant's Option to Fund Budget Deficits. During the Class "B" Control Period, Declarant may satisfy the obligation for assessments on Parcels or Residential Units which it or any Declarant Affiliate owns either by paying assessments in the same manner as any other Owner or by funding the budget deficit. The budget deficit is the difference between the amount of assessments levied on Class "A" Member-owned Parcels or Residential Units, plus any other income received during the fiscal year, and the amount of the Association's actual expenditures during the fiscal year, but excluding expenses exclusively for capital improvement costs and reserves. Unless Declarant otherwise notifies the Board in writing at least thirty (30) days before the beginning of the fiscal year, Declarant shall continue paying on the same basis as during the previous fiscal year.

Regardless of Declarant's election, Declarant's assessment obligations may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of the Class "B" Control Period, except with respect to Benefited Assessments, Declarant shall pay assessments on Parcels or Residential Units which it or its Affiliates own in the same manner as any other Owner.

8.9 Lien for Assessments.

The Association shall have a lien against each Parcel or Residential Unit to secure payment of delinquent assessments, as well as interest, late charges (subject to Florida law) and costs of collection (including attorneys' fees). The lien shall be effective from and shall relate back to the date on which this Declaration is recorded. However, as to first mortgages of record, the lien is effective from and after recording of a claim of lien in the Public Records. The Association's lien may be enforced by suit, judgment and judicial foreclosure.

At a foreclosure sale, the Association may bid for the Parcel or Residential Unit and acquire, hold, lease, mortgage and convey the Parcel or Residential Unit. The Association may also sue for unpaid assessments and other charges without foreclosing or waiving its assessment lien.

Sale or transfer of any Parcel or Residential Unit shall not affect the assessment lien or relieve such Parcel or Residential Unit from the lien for any subsequent assessments. A subsequent 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. However, the liability of any first Mortgagee, or its successor or assignee as a subsequent Owner who acquires the Parcel or Residential Unit by sale or transfer pursuant to foreclosure by the first Mortgagee is limited to the lesser of either: 1) the Parcel or Residential Unit's unpaid Common Expenses and Regular and Special Assessments that accrued or came due during the twelve (12) months immediately preceding the acquisition of title and that is not paid in full and received by the Association; or 2) one percent (1%) of the original mortgage debt. If any unpaid assessments remain following sale or transfer pursuant to foreclosure, such unpaid assessments shall be a Common Expense collectible from Owners of all Parcels or Residential Units subject to assessment under Section 8.5 above, including such purchaser, its successors and assigns.

Notwithstanding the above, while the Association owns a Parcel or Residential Unit: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Parcel or Residential Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Parcel or Residential Unit had it not been acquired by the Association.

8.10 Exempt Property.

The following property shall be exempt from payment of Regular Assessments and Special Assessments:

- (a) all Common Area and other portions of the Community which are not Parcels or Residential Units;
- (b) any property dedicated to and accepted by any governmental authority or public utility;
- (c) all Communications Infrastructure Sites, including any and all equipment located thereon;

- (d) the Workplace Parcel, subject to the terms and conditions of Section 8.11;
- (e) the Park Parcel;
- (f) the Civic/Recreation Parcel;
- (g) the School Parcel; and
- (h) the Police/Fire/City Annex Parcel.

Additionally, the Association is specifically authorized to fully or partially exempt certain Parcels from liability for and payment of Regular Assessments and Special Assessments, based on the Owner of, condition of, and/or use of such Parcels or portions thereof as the Board may from time to time determine in its sole and absolute discretion.

8.11 Workplace Parcel.

The Workplace Parcel will be conveyed or dedicated by Declarant to the City and will be exempt from payment of Regular Assessments and Special Assessments until such date as the City conveys or leases the Workplace Parcel, or any portion thereof, to an end user (the “**End User Date**”). Upon the End User Date, (a) the exemption for payment of Regular Assessments and Special Assessments will terminate, (b) the end user will commence paying Regular Assessments and Special Assessment for the Workplace Parcel as they come due, and (c) the end user will make a lump sum payment to the Association equal to the sum of Regular Assessments and Special Assessments which would otherwise have been attributable to the applicable portion of the Workplace Parcel over the three (3) preceding years. Notwithstanding the foregoing, if the Workplace Parcel is conveyed or leased to such end user within three (3) years from the date the Workplace Parcel is conveyed by Declarant to the City (the “**Dedication Date**”), the lump sum payment to the Association shall equal the sum of Regular Assessments and Special Assessments accruing from the Dedication Date to the End User Date.

PART FOUR: COMMUNITY EXPANSION

Article IX Expansion of the Community

9.1 Annexation.

The Association may annex property to the provisions of this Declaration by recording a Supplemental Declaration describing the additional property. Annexation by the Association shall require the affirmative vote or written consent of Owners representing more than fifty percent (50%) of the Class “A” votes and the consent of the property owner. In addition, so long as Declarant or any Declarant Affiliate owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant’s consent is required. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property, and by Declarant, if Declarant’s consent is required.

Declarant intends (without any obligation) to add additional property to this Declaration in the future. So long as Declarant or any Declarant Affiliate owns property subject to this Declaration, the Declarant may annex property to the provisions of this Declaration by providing a Supplement Declaration describing the additional property. No approval or consent by the Association or any other Person shall be required, and such Supplemental Declaration need only be signed by Declarant.

9.2 Additional Covenants and Easements.

By Supplemental Declaration, Declarant may impose additional covenants and easements on portions of the Community, including covenants obligating the Association to maintain and insure specific property and authorizing the Association to recover its costs through additional assessments. If someone other than Declarant owns the property, then such owner's consent and execution of the Supplemental Declaration is required. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.3 Effect of Filing Supplemental Declaration.

Unless otherwise specified, a Supplemental Declaration shall be effective upon the earlier of: (a) notice to the Persons who are affected by such Supplemental Declaration; or (b) recording. The Parcels or Residential Units subjected to this Declaration by Supplemental Declaration shall have equal voting rights in the Association and equal pro rata liability for Regular Assessments with all other Parcels and Residential Units.

Article X Additional Rights Reserved to Declarant

10.1 Withdrawal of Property.

Declarant reserves the right to amend this Declaration, so long as it has a right to annex property pursuant to Section 9.1, to remove any unimproved portion of Avenir from the coverage of this Declaration. "Unimproved" means that no vertical structure has yet been built on the property. Such amendment shall not require the consent of any Person other than the owner(s) of the property to be withdrawn, if not the Declarant.

In addition, until termination of the Class "B" Control Period, Declarant reserves the right to amend the Declaration and remove any property, regardless of whether Declarant owns all or any of the property, from the coverage of this Declaration. Such amendment shall not require the consent of any Person other than Declarant. In addition, in such event, the Association shall reconvey to Declarant, or its designee, any of the property being withdrawn which it owns.

10.2 Right to Use Common Areas.

Notwithstanding anything in the Governing Documents to the contrary, Declarant and Declarant Affiliates, and their designees or assigns, may construct, use and maintain upon portions of the Common Area and other property they own, such facilities, activities and things

as, in Declarant's opinion, may reasonably be required, convenient or incidental to the construction or sale of Parcels and Residential Units. Such permitted facilities, activities and things shall include business offices, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales offices, holding or sponsoring special events and exterior lighting features or displays. In addition, if reasonably required, convenient or incidental to construction or sales activities, Declarant and Declarant's Affiliates, and their employees, agents and designees, may park vehicles in areas other than garages or driveways, including on streets. The rights of any Declarant designee or assign under this Section are subject to Declarant's approval. Additionally, Declarant may grant a license to any Builder to permit such Builder to conduct the activities described in this Section 10.2; provided, however, any such license may be limited in any manner that Declarant shall determine.

10.3 Right to Access and Use.

Declarant and its Affiliates, and their respective employees, agents and designees, shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion. Additionally, with regard to development and construction of any Parcel, the Owner, any Builder, and their contractors, subcontractors, laborers, materialmen, and other persons providing construction and development services to any such Parcels shall have access to such Parcel over the Common Areas (including roadways) subject to such reasonable rules or regulations as the Board may adopt.

10.4 Right to Approve Changes in Avenir Standards.

No amendment to or modification of any Use Restrictions, rules or the Design Guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant or any Declarant Affiliate owns any portion of the Community or has a unilateral right to annex property in accordance with Section 9.1 hereof.

10.5 Right to Transfer or Assign Declarant Rights.

Any or all of Declarant's special rights and obligations set forth in this Declaration may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration. No such transfer or assignment shall be effective unless it is in a recorded instrument signed by Declarant. Declarant may allow other Persons to exercise, on a one-time or limited basis, any Declarant right without transferring the entire right. In such case, a recorded instrument is not required.

10.6 Rights To Use Names; License Agreements.

The name "Avenir" and all similar or derivative names, along with all associated logos, are intended to be the proprietary trade names and service marks of Declarant or its Affiliates. No Person shall use such trade names or service marks for advertising or any other purpose in any promotional material, whether printed, audio, video, or otherwise, in any signage, or in any logo or depiction without the prior written consent of Declarant. In addition, due to the integrated nature of Avenir as a planned community, and the public identification of the Parcels and Residential Units with Avenir, any name or "logo" to be used in connection with or

displayed on any Parcel or Residential Unit, and any sales or other materials or documentation related to the use of the Parcel or Residential Unit, shall be subject to Declarant's prior written consent. Such approval may be given or withheld and may be subject to such terms and conditions as Declarant deems appropriate, in Declarant's sole and absolute discretion.

Notwithstanding the above, Owners may use the name "Avenir" where such term is used solely to specify that particular property is located within "the Avenir Community" (subject, however, to such terms and conditions as Declarant may impose) and the Association may use the word "Avenir" in its name. Other use by the Association or any Owner is subject to the restrictions set out in this Section.

10.7 Right To Use Common Area for Special Events.

As long as Declarant or any Declarant Affiliate owns any property described in Exhibit "A", Declarant may use the Common Area to sponsor special events for charitable, philanthropic, political or marketing purposes, subject to the following conditions:

- (a) the availability of the facilities at the time requested;
- (b) Declarant shall pay all costs and expenses incurred and shall indemnify the Association against any Loss or damage resulting from the special event; and
- (c) Declarant shall return the facilities and personal property used in conjunction with the special event to the Association in the same condition as existed prior to the special events.

Declarant shall have the right to assign its rights to use the Common Area to charitable organizations or foundations selected by Declarant. Declarant's right to use the Common Area for special events shall be enforceable by injunction, by any other remedy in law or equity, and by the terms of this Declaration.

10.8 Easement to Inspect and Right to Correct.

Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign and correct any structure, improvement or condition which may exist on any portion of Avenir, including Parcels and Residential Units, and a nonexclusive easement of access throughout the Community to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Parcel or Residential Unit shall be only after reasonable notice to the Owner and no entry into a dwelling or other structure on a Parcel or Residential Unit shall be permitted without the Owner's consent, which consent shall not unreasonably be withheld, conditioned or delayed. The failure or refusal to permit reasonable access to the Parcel or Residential Unit for the purposes contemplated under this paragraph shall excuse Declarant or its designee from responsibility for repairs or damages relating to defective workmanship or materials. The Person exercising this easement shall promptly repair, and pay for, any resulting damage.

10.9 Termination of Rights.

Rights granted under this Article X shall terminate upon the earlier of: (a) the period specified in the particular Section; (b) forty (40) years from the date this Declaration is recorded; or (c) Declarant's recording of a statement that all sales activity has ceased. Thereafter, Declarant may continue to use the Common Areas for the purposes stated in this Article only pursuant to a rental or lease agreement between Declarant and the Association which provides for rental payments based on the fair market rental value of any such portion of the Common Areas. Notwithstanding the above, Declarant reserves for itself and Declarant Affiliates a perpetual, non-exclusive easement of access to and use of the Common Areas in connection with the marketing and sale of other properties in order to show the Community as an example of Declarant's projects. This Article shall not be amended without Declarant's written consent.

10.10 Exclusion of Declarant's Other Properties.

By accepting a deed to a Parcel or Residential Unit, each Owner specifically acknowledges that nothing contained in this Declaration shall in any way, either expressly or by implication, restrict, limit or otherwise affect the use or disposition by Declarant or any Declarant Affiliate of any property either of them owns, whether contained within or contiguous to Avenir. Declarant and its Affiliates shall have full, free and unrestricted use of its other lands, notwithstanding any incompatibility of such use with restrictions this Declaration imposes upon the Parcels and Residential Units. By accepting a deed to a Parcel or Residential Unit, each Owner specifically and expressly disclaims any reciprocal negative easement in any property Declarant or any Declarant Affiliate owns.

PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

Article XI Easements

11.1 Easements in Common Area.

Declarant grants to each Owner a nonexclusive right and easement of use, access and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying the property to the Association;
- (c) The Board's right to:
 - (i) adopt rules regulating Common Area use, including rules limiting the number of guests who may use the Common Area, and charge use fees for such use;
 - (ii) suspend the right of an Owner to use any Common Area amenity (A) for any period during which any assessment or other charge against the Owner's Parcel or Residential Unit remains delinquent, and (B) for a period not to exceed thirty (30) days for a single violation, or for a longer period in the case of any continuing violation, of the Governing Documents;

(iii) dedicate or transfer all or any part of the Common Area, subject to any approval requirements set forth in this Declaration;

(iv) rent any portion of any clubhouse or other Common Area recreational facilities on an exclusive or non-exclusive short-term basis to any Person;

(v) permit use by the general public, which use may be subject to admission charges, membership fees, or other user fees established in the Board's discretion; and

(vi) mortgage, pledge, or hypothecate any or all of the Common Area as security for money borrowed or debts incurred.

(d) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Limited Common Areas," as described in Article XII.

Any Owner may extend his or her right to use the Common Area to the members of his or her family, tenants and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases his or her Parcel or Residential Unit shall be deemed to have assigned all such rights to the tenants of such Parcel or Residential Unit for the lease term.

Any Person's use and enjoyment of the Common Area is subject to the Board's authority to promulgate and enforce Use Restrictions and reasonable rules and regulations governing such use and to charge use, consumption, or membership fees as provided for in this Declaration. The rules and regulations and fees may be different for different classifications of users, including, but not limited to, Owners of Parcels or Residential Units, guests or social invitees unaccompanied by Owners, or otherwise. The posting of rules and regulations and fees in a conspicuous manner and location within Avenir or the publication in a community newsletter of general circulation within Avenir shall be deemed sufficient notice to all permitted users; provided, the Board, in its discretion, may provide notice of rules, regulations and fees by other means or methods. Notwithstanding the foregoing, the Use Restrictions or rules and regulations promulgated by the Board shall not unreasonably interfere with the construction, development, marketing, or sales of Residential Units by Builders.

11.2 Easements of Encroachment.

Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Parcel or Residential Unit and any adjacent Common Area and between adjacent Parcels or Residential Units. A permitted encroachment is a structure or fixture which extends unintentionally from one person's property on to another's a distance of less than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement. Maintenance and overhang easements are hereby reserved in perpetuity to the Owner of the Parcel or Residential Unit abutting the easement and the Association for the purpose of access to and maintenance of improvements, the roof, overhang, eave, gutters, drainage and utility services, decorative architectural treatment, and impact shutters, within and adjacent to said easement.

11.3 Easements for Utilities, Etc.

(a) Installation and Maintenance. Declarant reserves for itself, so long as Declarant or any Declarant Affiliate owns any property described in **Exhibit "A"**, and grants to the Association, the CDD and utility providers, perpetual, non-exclusive easements throughout Avenir (but not through a structure) to the extent reasonably necessary to, and provided such easements do not interfere with the Communications Easement:

(i) install utilities and infrastructure to serve Avenir, cable and other systems for sending and receiving data and/or other electronic signals, drainage systems, and security and similar systems;

(ii) install walkways, pathways and trails, street lights, and signage on property which Declarant or the Association owns or within private or public rights-of-way or easements reserved for such purpose on a Plat;

(iii) inspect, maintain, repair and replace the utilities, infrastructure and other improvements described above; and

(iv) access and read utility meters.

Notwithstanding the above, Declarant reserves the right to deny access to any utility or service provider, to the extent permitted by law, or to condition such access on negotiated terms.

(b) Specific Easements. Declarant also reserves for itself the non-exclusive right and power to grant and record such specific easements as may be necessary, in Declarant's sole discretion, to develop the property described in **Exhibit "A"**. The location of the easement shall be subject to the written approval of the burdened property Owner, which approval shall not unreasonably be withheld, delayed or conditioned.

(c) Minimal Interference. All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to the condition existing prior to the work. The exercise of these easements shall not extend to permitting entry into structures on a Parcel or Residential Unit, nor shall it unreasonably interfere with the use of any Parcel or Residential Unit and, except in an emergency, entry onto any Parcel or Residential Unit shall be made only after reasonable notice to the Owner or occupant.

11.4 Easements for Maintenance, Emergency and Enforcement.

Declarant grants to the Association, Additional Associations and the CDD, easements over Avenir as necessary for any of them to fulfill their maintenance responsibilities as provided herein. The Association shall also have the right, but not the obligation, to enter upon any Parcel or Residential Unit for emergency, security and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforcing the Governing Documents. Any member of the Board, and its duly authorized agents and assignees, including committee

members, and all emergency personnel in the performance of their duties may exercise such right. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. Police, fire, emergency services and postal service shall have the right to enter upon any Parcel or Residential Unit for emergency, security, meter reading and safety reasons.

Declarant grants to the Association, subject to any required notice, an easement and right to enter a Parcel or Residential Unit to abate a Governing Document violation and/or to remove any structure, thing or condition which violates the Governing Documents. Any costs incurred, including reasonable attorneys' fees, shall be assessed against the Parcel or Residential Unit Owner as a Benefited Assessment. Any entry upon any Parcel or Residential Unit by Association, the Board, or their duly authorized agents and representatives shall not be deemed a trespass if made in accordance with the Governing Documents.

11.5 Easements for Lake and Pond Maintenance and Flood Water.

Declarant reserves for itself, the Association, Additional Association, the CDD and their successors, assigns and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Common Maintenance Areas to (a) install, operate, maintain and replace pumps to supply irrigation water to the Common Maintenance Areas; (b) construct, maintain and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard. Declarant, the Association, and their successors, assigns and designees shall have an access easement over and across any portion of the Community which abuts or contains bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.

Declarant further reserves for itself, the Association and the CDD and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area, Parcels or Residential Units (but not inside a dwelling or other structure) adjacent to or within 100 feet of bodies of water and wetlands within Avenir, in order to (a) temporarily flood and back water upon and maintain water over such portions of Avenir; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Common Maintenance Areas; and (c) maintain and landscape the slopes and banks pertaining to such areas. Anyone exercising these easements shall use reasonable care in and repair any damage resulting from their intentional exercise of the easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to natural occurrences or other occurrences not reasonably foreseeable or under the control of Declarant or such other Person.

11.6 Easements for Cross-Drainage.

All portions of the Community shall be burdened with easements for drainage of stormwater runoff from other portions of the Community; provided, no Person shall alter the drainage on any Parcel or Residential Unit to materially increase the drainage of stormwater onto adjacent portions of the Community without the consent of the owner(s) of the affected property, the Board, and Declarant as long as it or any Declarant Affiliate owns any property described in **Exhibit "A"** to the Declaration.

11.7 Rights to Stormwater Runoff, Effluent and Water Reclamation.

Declarant reserves for itself, its designees and the CDD all rights to groundwater, surface water, stormwater runoff, and effluent located or produced within the Community, and each Owner agrees, by acceptance of a deed to a Parcel or Residential Unit, that Declarant, its designees or CDD shall retain all such rights. Such rights shall include the reservation of an easement over the Community for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff and effluent. This Section may not be amended without Declarant's consent, and the rights created in this Section shall survive termination of this Declaration.

11.8 Easement to Develop, Build and Market.

For as long as Declarant or any Declarant Affiliate owns any portion of the Community, Declarant (and Builders, with Declarant's written approval), shall have the right to conduct development, construction, marketing and customer service operations within the Community in a customary and reasonable fashion. This includes the right of the Declarant to permit in the Community, including Parcels and Common Areas, construction and supply vehicles, staff and activities associated with development, construction, marketing and customer service operations (including the placement of signs within the Common Areas) and the right to provide for storage of materials related to such activities. All exercise of this easement must be done in a manner that is respectful of the safety of other Owners, their invitees and lessees and the overall Community.

Article XII Limited Common Areas

12.1 Purpose.

Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular portion of Avenir. For example, Limited Common Areas may include portions of a building, entry features, recreational facilities, landscaped medians and cul-de-sacs, ponds, and other portions of the Common Area within a particular Parcel. All costs associated with maintenance, repair, replacement and insurance of a Limited Common Area shall be an expense allocated among the Owners to which the Limited Common Areas are assigned.

12.2 Designation.

Initially, any Limited Common Area shall be designated as such in a Supplemental Declaration, the deed conveying such area to the Association or on a Plat; provided, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Parcels or Residential Units, so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1.

12.3 Use by Others.

If a majority of Owners of Parcels or Residential Units to which any Limited Common Area is assigned approve, the Association may permit Owners of other Parcels or Residential

Units or others to use all or a portion of such Limited Common Area and may require payment of reasonable user fees for such use. Any such fees shall be used to offset the expenses attributable to such Limited Common Area.

PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

Article XIII Dispute Resolution

13.1 In General. This Article XIII contains procedures concerning certain disputes between (i) an Owner and the Association, (ii) an Owner and Declarant, or (iii) the Association and Declarant, related to the Community or each other, which procedures shall govern unless otherwise required by applicable law.

13.2 Disputes Between Association and Owners. Except as otherwise provided herein, any Dispute (as hereinafter defined) between the Association and any Owner shall be governed by the procedures set forth in Section 13.4. Notwithstanding the foregoing, any Dispute that primarily involves (i) title to any Parcel or Common Area, (ii) the interpretation or enforcement of any warranty, (iii) the levy of a fee or assessment or the collection of a fee or assessment levied against a party, including foreclosure of a lien for assessments, (iv) the eviction or other removal of a tenant from a Parcel, (v) alleged breaches of fiduciary duty by one or more directors, or (vi) claims for damages to a Parcel based upon the alleged failure of the Association to maintain the Common Areas, shall not be subject to the provisions of Section 13.4.

13.3 Disputes Between Association/Owner and Declarant. Except as otherwise provided herein, any Dispute between the Association or any Owner, on the one hand, and Declarant, on the other hand, shall be governed by the procedures set forth in Section 13.4. Notwithstanding the foregoing, with respect to any Dispute between an Owner and Declarant arising from, related to, or in connection with the purchase agreement between such Owner (including a Builder) and Declarant, the terms and provisions of the purchase agreement relating to resolution of such Dispute shall control. As used in this Section 13.3, the term "Declarant" shall include any Affiliate of Declarant, or any of their officers, directors, members, managers, shareholders, partners, employees or agents.

13.4 Dispute Resolution. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED HEREIN, ANY AND ALL CLAIMS, CONTROVERSIES, BREACHES OR DISPUTES BY OR BETWEEN ANY OWNER AND THE ASSOCIATION AND/OR DECLARANT, ARISING OUT OF OR RELATED TO THE PARCEL OR RESIDENTIAL UNIT, THE COMMUNITY OF WHICH THE PARCEL OR RESIDENTIAL UNIT IS A PART, WHETHER SUCH DISPUTE IS BASED ON CONTRACT, TORT, STATUTE OR EQUITY, INCLUDING WITHOUT LIMITATION, ANY DISPUTE OVER (a) BREACH OF CONTRACT, (b) NEGLIGENT OR INTENTIONAL MISREPRESENTATION OR FRAUD, (c) NONDISCLOSURE, (d) BREACH OF ANY ALLEGED DUTY OF GOOD FAITH AND FAIR DEALING, (e) ALLEGATIONS OF LATENT OR PATENT DESIGN OR CONSTRUCTION DEFECTS, INCLUDING WITHOUT LIMITATION, PURSUANT TO THE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES, (f) THE PARCEL OR

RESIDENTIAL UNIT, INCLUDING WITHOUT LIMITATION, THE PLANNING, SURVEYING, DESIGN, ENGINEERING, GRADING, SPECIFICATIONS, CONSTRUCTION OR OTHER DEVELOPMENT OF THE PARCEL, RESIDENTIAL UNIT, OR THE COMMUNITY OF WHICH THE PARCEL OR RESIDENTIAL UNIT IS A PART, (g) DECEPTIVE TRADE PRACTICES, (h) THE MANAGEMENT OR OPERATION OF THE ASSOCIATION, OR (i) ANY OTHER MATTER ARISING OUT OF OR RELATED TO THE INTERPRETATION OF ANY TERM OR PROVISION OF THIS DECLARATION, OR ANY DEFENSE GOING TO THE FORMATION OR VALIDITY OF THIS DECLARATION, OR ANY PROVISION OF THIS DECLARATION OR ANY EXHIBITS HERETO (EACH A “**DISPUTE**”), SHALL BE SUBJECT TO THE FOLLOWING PROVISIONS:

(a) **Arbitration.** All Disputes shall be submitted for resolution by binding arbitration to the American Arbitration Association (“**AAA**”) in accordance with the terms of this Section 13.4. Arbitration will take place in Palm Beach County, Florida and will be conducted under the Commercial Arbitration Rules of the AAA. A single arbitrator will be used. Declarant (or the Association, if Declarant is not a party to the dispute) shall provide a list of at least five (5) AAA arbitrators and the party or parties opposing Declarant in the dispute (or opposing the Association, if Declarant is not a party to the dispute) shall select the arbitrator from such list. The arbitrator will honor claims of privilege recognized by law and will take reasonable steps to protect the parties’ information and other confidential or proprietary information. The arbitrator will make any award in writing but need not provide a statement of reasons unless requested by a party. The costs of the arbitration shall be divided equally between the parties; provided, however, that the prevailing party in the arbitration proceeding shall be awarded the costs of the arbitration, and reasonable attorneys’ fees and costs incurred in connection with the proceedings. Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in Palm Beach County, Florida. If there is a conflict between this Article XIII and the Commercial Arbitration Rules of the AAA, this Article XIII shall govern. If the AAA will not administer a proceeding under this Article XIII as written, it cannot serve as an arbitration organization. If this situation arises, the parties shall agree on a substitute arbitration organization. If the parties are unable to agree, the parties shall mutually petition a court of appropriate jurisdiction to appoint an arbitration organization that will administer a proceeding under Article XIII as written. If there is a conflict between this Article XIII and any other provision of this Declaration, or any document contemplated to be executed in conjunction herewith, this Article XIII shall govern.

(b) **JURY TRIAL WAIVER.** BY ACCEPTANCE OF A DEED, EACH OWNER AGREES THAT IN THE EVENT LITIGATION IS BROUGHT FOR THE RESOLUTION OF ANY DISPUTE OR ANY OTHER CLAIM OR DISPUTE ARISING FROM THE GOVERNING DOCUMENTS, THE PARTIES DO HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE THE RIGHT EACH MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY SUCH LITIGATION AND THE ISSUES TO BE TRIED THEREIN, EXCEPT TO THE EXTENT THAT A NECESSARY THIRD-PARTY TO THE LITIGATION HAS NOT WAIVED ITS RIGHT TO TRIAL BY JURY, IN WHICH CASE THIS WAIVER SHALL BE NULL AND VOID. IT IS THE INTENT OF THE PARTIES THAT, IN ANY SUCH LITIGATION BETWEEN THE PARTIES, ALL ISSUES IN SUCH LITIGATION SHALL BE TRIED TO A JUDGE AND NOT A JURY EXCEPT TO THE

EXTENT THAT A NECESSARY THIRD-PARTY TO THE LITIGATION HAS NOT WAIVED ITS RIGHT TO TRIAL BY JURY.

(c) **DISPUTES TO BE RESOLVED INDIVIDUALLY.** EACH OWNER, THE ASSOCIATION AND DECLARANT KNOWINGLY WAIVE ANY RIGHT TO PARTICIPATE IN ANY LITIGATION OR ARBITRATION OF ANY DISPUTE ON A CLASS, CONSOLIDATED, JOINT, OR REPRESENTATIVE BASIS.

Article XIV Mortgagee Provisions

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Parcels or Residential Units.

14.1 Notices of Action.

An institutional holder, insurer or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the street address of the Parcel or Residential Unit to which its Mortgage relates) (an "**Eligible Holder**"), will be entitled to timely written notice of:

(a) Any condemnation Loss or any casualty Loss which affects a material portion of the Community or which affects any Parcel or Residential Unit on which there is a first Mortgage held, insured or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Parcel or Residential Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Parcel or Residential Unit or the Owner or occupant which is not cured within sixty (60) days;

(c) Any lapse, cancellation or material modification of any Association insurance policy;

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders; or

(e) If the U.S. Department of Housing and Urban Development is insuring or the U.S. Department of Veterans Affairs is guaranteeing the Mortgage on any Parcel or Residential Unit, material amendment to the Governing Documents or extraordinary action of the Association, as defined under VA Pamphlet 26-7.

14.2 No Priority.

No provision of this Declaration gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Parcel or Residential Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

14.3 Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering the Owner's Parcel or Residential Unit.

14.4 Failure of Mortgagee to Respond.

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within sixty (60) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

Article XV COMMUNITY DEVELOPMENT DISTRICT AND THE SURFACE WATER MANAGEMENT SYSTEM

15.1 Establishment; Powers. Each Owner hereby acknowledges that the Community lies within the boundaries of the CDD created pursuant to Chapter 190, Florida Statutes. The CDD will provide and operate certain infrastructure facilities and community development services and has the authority to levy and collect fees, rates, charges, taxes and assessments to pay for, finance and provide such facilities and services. The CDD is empowered to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain systems and facilities for basic infrastructure which may include, without limitation: (i) water management and control lands within the CDD and the connection of some or any of such facilities with roads and bridges; (ii) roads and bridges; (iii) potable water distribution; (iv) sewage collection; (v) waste water management; (vi) street lighting; (vii) parks and facilities for indoor and outdoor recreational, cultural and educational uses; (viii) fire prevention and control; (ix) limited access assurance services; and (x) mosquito control services. It is currently intended that the CDD will control, operate and maintain certain roads, roadway lighting, wildlife crossings, hardscapes, perimeter landscape buffers and major drainage elements within Avenir, if not otherwise controlled, operated or maintained by the Association. The CDD shall also have the power to implement all aspects of the Wetland Mitigation Plan.

15.2 Taxes and Assessments. THE CDD IS A SPECIAL TAXING DISTRICT WITH AUTHORITY TO FUND ITS OPERATIONS BY IMPOSING TAXES OR ASSESSMENTS, OR BOTH, ON THE PROPERTY WITHIN THE CDD. THE TAXES AND ASSESSMENTS PAY FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES OF THE CDD, AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF SUPERVISORS OF THE CDD. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW. THESE TAXES AND ASSESSMENTS APPEAR ON THE ANNUAL REAL ESTATE TAX BILL FOR EACH OWNER AS A SEPARATE TAX AND ARE PAYABLE DIRECTLY TO THE PALM BEACH COUNTY TAX COLLECTOR. THE TAXES AND ASSESSMENTS OF THE CDD CONSTITUTE A LIEN UPON THE PROPERTY THAT IS WITHIN THE COMMUNITY DEVELOPMENT DISTRICT.

BY ACCEPTANCE OF A DEED TO A RESIDENTIAL UNIT AND/OR PARCEL, OR ANY INTEREST THEREIN, EACH OWNER HEREBY AGREES (I) TO PAY ANY AND ALL FEES, CHARGES, TAXES AND ASSESSMENTS IMPOSED BY THE CDD WITH RESPECT TO THE OWNER'S RESIDENTIAL UNIT AND/OR PARCEL, (II) TO ABIDE BY ALL OF THE CDD REGULATIONS, AS THEY MAY BE AMENDED FROM TIME TO TIME, AND (III) TO DISCLOSE IN WRITING TO ANY SUBSEQUENT PURCHASER OF THE OWNER'S UNIT THAT SUCH PROPERTY IS WITHIN THE CDD AND THAT SUCH PURCHASER SHALL BE SUBJECT TO CDD ASSESSMENTS.

15.3 Issuance of Bonds. The CDD has the power to issue general obligation bonds, revenue bonds, refunding bonds, and any other type of bond permitted by Chapter 190, Florida Statutes. Repayment of any such bonds may be funded by non-ad valorem taxes on all the taxable property within the CDD, or by the imposition of rates, user fees, special assessments, or other charges. The CDD is empowered to pledge its full faith and credit for the purpose of securing the repayment of bonds it issues. In addition, the CDD may secure reserve bonds by pledging the rates, fees or charges collected or to be collected by any revenue-producing project. Bonds may be issued for the purpose of financing or refinancing capital improvements, to pay off existing bonds, or any other permitted use.

15.4 CDD Property Becoming Common Areas. If Declarant determines that it is in the best interest of the Community for any of the CDD Property to become Common Area, and if Declarant, the Association and the CDD all determine that such property should be conveyed to the Association, the CDD shall convey to the Association fee simple title to those portions of the CDD Property which are to become Common Areas.

15.5 Common Areas Becoming CDD Property. If Declarant determines, subject to any governmental requirements, that it is in the best interests of the Community for any portion(s) of the Common Areas to be owned and/or administered by the CDD, rather than by the Association, such portions of the Common Areas shall cease to be Common Areas, even if they have already been conveyed to the Association, and shall thereafter be considered CDD Property, even if legal title has not been deeded to the CDD. When a part of the Community becomes CDD Property, the expenses of administration and maintenance shall cease to be Common Expenses. If required by law, or if deemed by Declarant to be in the best interests of the Community, the Association shall convey to the CDD the legal title to any Common Area which becomes CDD Property.

15.6 Surface Water Management System. The Community is subject to a South Florida Water Management District ("SFWMD") approved conceptual surface water management plan ("Surface Water Management System") and related Permits. Certain parcels of real property within the Community have or will be dedicated or conveyed, in fee or by easement, to the CDD for stormwater retention, drainage and/or streets. The Surface Water Management System facilities shall be maintained by the CDD unless the Association contracts with the CDD for the Association to maintain such CDD facilities. The secondary components of the Surface Water Management System, if any, will be maintained by the Association as it may agree. The Surface Water Management System shall be maintained in compliance with the rules and regulations promulgated by the CDD. The Surface Water Management System plans shall cover surface water drainage throughout the Community, including but not limited to regular and storm drainage on dedicated streets and other rights of way. In the event that the Association

contracts with the CDD for the maintenance of the Surface Water Management System facilities, then the Association: (a) shall apply for and obtain such permits and licenses as may be required by the CDD or other governmental agencies, (b) at the Association's expense, provide Declarant and the CDD with any and all plans and specifications, surveys, descriptive maps, and other documentation required for the maintenance of surface water as contemplated by this Section and shall give and grant to Declarant and the CDD, any and all easements and rights of way required to effect real property surface water management, and (c) after the original development, the Association shall cause all physical earth moving, landscaping, sloping, grading and other work required to be done in the Community, in connection with the maintenance of the Surface Water Management System to be done at the cost and expense of the Association.

15.7 Lakes, Ponds, Retention Areas and Water Bodies

No swimming shall be permitted in the waterbodies within Avenir, except as permitted by the Board. No one, including children and pets, should play or immerse themselves in such water bodies, except as permitted by the Board. No operation of any boats, kayaks, paddleboards or other water toys shall be permitted in or on any of the lakes, ponds, retention areas or other water bodies which are dedicated or deeded to the CDD, or over which the CDD has an easement, unless previously permitted in writing by the CDD. No removal of water nor discharge of any materials or water, nor removal or interference with aquatic vegetation or alteration of banks or shoreline of any lake, pond, canal or retention area dedicated or deeded to the CDD or to which the CDD has an easement is permitted, unless previously approved in writing by the CDD. Permits from SFWMD will be required for withdrawal of water for irrigation. The primary function of these water bodies is surface water management, not aesthetics or recreation. Reclaimed water may be required to be used for irrigation purposes in the future, and at that time, the withdrawal of reclaimed water shall be metered by Seacoast and the cost therefor shall be paid by the Association as a Common Expense, and additional lake use restrictions may be imposed. The canal and lake levels shall fluctuate based on, among other things, the amount of rainfall occurring over time and the potable well water withdrawal by the governmental agency or the utility company having jurisdiction from the wells located within and adjacent to Avenir. No private docks are permitted without the prior written approval and applicable permits from the DRB and the County.

15.8 Conservation Areas. Portions of Avenir shall contain Conservation Areas, as required by the SFWMD, and as more particularly identified on the Master Plan, and as shown on any future plats or conservation easements recorded in Avenir. The Association, Additional Association, City, County or CDD may own, operate and maintain, or receive an easement to operate and maintain, the Conservation Areas. The Conservation Areas for which the Association, Additional Association, County, City or CDD retains ownership or is granted an easement right shall be maintained by the Association, Additional Association, County, City or CDD unless the Association contracts with such party for the Association to maintain all or part of such Conservation Areas. In the event the CDD maintains the Conservation Areas, all individuals or entities owning or purchasing Parcels or Residential Units within Avenir will pay for such operation/maintenance expenses through CDD assessments. In the event the Association contracts to maintain such Conservation Areas, then such maintenance expenses will be paid by the Owner through their assessments due the Association. All Owners are notified that

portions of the Parcels or Residential Units may contain or lie adjacent to Conservation Areas and each Owner shall comply with all use restrictions created herein or pursuant to any conservation easements created for the Conservation Areas.

15.9 Use Restrictions.

Except as to portions of the Surface Water Management System subject to governmental control, ownership and usage, the Association and Additional Associations (if required by the Association) shall enforce the use restrictions of the Surface Water Management System. Activities prohibited within the Surface Water Management System shall include but not be limited to:

- (a) digging or excavations;
- (b) depositing fill, debris, or any other material or item;
- (c) constructing or altering any water control structure; or
- (d) any other construction that would modify the Surface Water Management System.

15.10 Enforcement by SFWMD.

SFWMD shall have the primary right to enforce, by a proceeding at law or in equity, the provisions contained in this Article XV and take enforcement measures including a civil action for injunction and/or penalties against the Association to compel the Association or the Additional Associations to correct any outstanding problems with the Surface Water Management System.

Article XVI Disclosures and Waivers.

16.1 Changes in Master Plan and Plan of Development.

Each Owner acknowledges that Avenir is a master planned community, the development of which is likely to extend over many years, and agrees and consents to all changes in (a) uses or density of Parcels or Residential Units within Avenir, or (b) changes in the Master Plan.

Each Owner further acknowledges and agrees that the Master Plan and the present plans and themes for Avenir's development may change in Declarant's discretion and that no notice or consent is required for such changes except as may be required by law. No representations, warranties or assurances are made by any Person, and none shall be relied upon by any Owner (a) that any Parcels or Residential Units, or other property or facilities will be added, modified or eliminated within Avenir; or (b) as to the financial or other impact of such action on any Owner. Each Owner acknowledges and agrees that he or she is not entitled to rely upon and has not received or relied upon any representations, warranties or guarantees whatsoever as to: (a) the design, construction, completion, development, use, benefits or value of Avenir; or (b) the number, types, sizes, prices or designs of any residential or non-residential structures or improvements built or to be built in any part of Avenir.

16.2 No Liability For Third Party Acts.

Owners and occupants of Parcels or Residential Units, and their respective guests and invitees, are responsible for their own personal safety and for their property in Avenir. The Association may, but is not obligated to, maintain or support certain activities within the Community which promote or enhance safety or security within the Community. However, the Association and Declarant shall not in any way be considered insurers or guarantors of safety or security within the Community, nor shall they be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including fire protection, burglar alarm or other security monitoring systems, or any mechanism or system for limiting access to the Community, cannot be compromised or circumvented, nor that any such systems or measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and shall be responsible for informing its tenants and all occupants of its Parcel or Residential Unit that the Association, the Board and Association committees and Declarant are not insurers or guarantors of security or safety and that each Person within Avenir assumes all risks of personal injury and loss or damage to property, including Parcels or Residential Units and the contents of Parcels or Residential Units, resulting from acts of third parties.

16.3 View Impairment.

Neither Declarant nor the Association guarantee or represent that any view over and across the Parcels or Residential Units, any open space within the Community, wetlands or ponds, or any other body of water, will be preserved without impairment. Neither Declarant nor the Association shall be obligated to relocate, prune or thin trees or other landscaping except to maintain the Community-Wide Standard or as otherwise required under a separate covenant or agreement. The Association (with respect to the Common Area) has the right to add trees and other landscaping from time to time subject to applicable law. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

16.4 Water Management.

Each Owner acknowledges that Declarant and its Affiliates are not related to the local permitting authority for surface water permits. Each Owner further acknowledges and agrees that any ponds, lakes or wetlands within Avenir are designed as water management areas and are not designed as aesthetic features. Due to fluctuations in ground water elevations within the immediate area, the water level of lakes will rise and fall and Declarant has no control over such elevations. Therefore, each Owner agrees to release and discharge Declarant and its Affiliates from and against any and all losses, claims, demands, damages, costs and expenses of whatever nature or kind, including reasonable attorneys' fees and costs at all tribunal levels, related to or arising out of any claims relating to such fluctuations in the water elevations (including the absence of water). Owners shall not alter,

modify, expand or fill any lakes or wetlands located within or in the vicinity of Avenir without the prior written approval of the local permitting authority, Declarant, SFMWD, and such other local, state and federal authorities as may have relevant jurisdiction over such matters, as applicable.

16.5 Liability for Association Operations.

The Association shall, to the fullest extent permitted by law, indemnify, defend and hold harmless Declarant (including its successors and assigns) from and against any and all losses, claims, demands, damages, costs and expenses of whatever kind or nature (including, without limitation, reasonable attorneys' fees and costs at all tribunal levels and whether or not suit is instituted, including those incurred in establishing the right to be indemnified, defended and held harmless pursuant hereto) which relate to or arise out of Association management and operations, including, without limitation, improvement, maintenance and operation of amenities and other portions of the Common Maintenance Areas and the collection of assessments.

16.6 Mailboxes.

Owners acknowledge that the United States Postal Service (the "**Postal Service**") has sole discretion to determine the form of mail delivery for Avenir, and the Postal Service may require cluster boxes to be installed and utilized at one or more delivery points in Avenir. Curbside delivery may not be available within Avenir. Mailbox sites, equipment type, and method of delivery may change from time to time in the Postal Service's discretion.

16.7 Lift Stations. It is currently contemplated that one or more lift stations may be located within Avenir. Owners may be subject to noise or unpleasant odors with respect to the lift stations. DECLARANT MAKES NO REPRESENTATION OR WARRANTY AS TO THE CONDITION, LOCATION OR FUTURE MODIFICATIONS OF SUCH LIFT STATIONS.

16.8 Recreation Center and Recreation Facilities. It is contemplated that a recreation center and/or certain recreation facilities may be constructed within Avenir. Use of such recreation center and/or recreation facilities, if any, shall be subject to the rules and regulations promulgated by the owner and operator thereof. Owners may be required to apply for and/or pay certain fees in connection with the use of any recreation center or recreation facilities and use of the recreation center or recreation facilities may be limited to certain Owners within certain portions of Avenir. Any recreation center or recreation facilities may be owned or operated by Declarant, Declarant's Affiliates, the Association, an Additional Association, the CDD, or other entity. If owned or operated by the Association, dues, fees, or expenses for the use and operation of any recreation center or recreation facilities may be included either as part of the Regular Assessments or as part of Benefitted Assessments levied against only the Parcels or Residential Units that have the right to use such recreation center or recreation facilities. If not initially owned by the Association, then the Association shall have the right to acquire such recreation center or recreation facilities (or use rights therein) upon such terms as are agreed to between the Association and the owner thereof.

DECLARANT MAKES NO REPRESENTATION AS TO WHETHER AVENIR WILL CONTAIN A RECREATION CENTER AND/OR RECREATION FACILITIES, OR AS TO

THE TIMING OF COMPLETION OF THE RECREATION CENTER OR RECREATION FACILITIES OR THEIR PARTICULAR AMENITIES. DECLARANT MAY ALSO PRESENT RENDERINGS OF THE RECREATION CENTER AND/OR RECREATION FACILITIES AND SUCH RENDERINGS ARE NOT A GUARANTEE OF HOW THE RECREATION CENTER OR RECREATION FACILITIES WILL APPEAR UPON COMPLETION. DECLARANT RESERVES THE RIGHT TO CHANGE ANY PLANS FOR THE RECREATION CENTER AND/OR RECREATION FACILITIES AT ANY TIME AS DECLARANT DEEMS APPROPRIATE IN ITS SOLE AND ABSOLUTE DISCRETION.

16.9 Highways.

ALL OWNERS, OCCUPANTS AND USERS OF AVENIR ARE HEREBY PLACED ON NOTICE THAT THE COMMUNITY IS NEAR NORTHLAKE BOULEVARD AND THE BEE LINE HIGHWAY (COLLECTIVELY, THE "**HIGHWAYS**"). EACH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT THE NOISE RESULTING FROM TRAFFIC ON THE HIGHWAYS SHALL NOT BE DEEMED A NUISANCE OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) THE HIGHWAYS MAY BE WIDENED IN THE FUTURE (iii) DECLARANT AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES AND/OR ANY OTHER 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 WIDENING OF OR TRAFFIC ON THE HIGHWAYS, AND (iv) ANY PURCHASE OR USE OF ANY PORTION OF AVENIR HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING.

16.10 North County Airport.

NOTICE: The property subject of this Declaration is in the vicinity of the Palm Beach County North County Airport ("**Airport**"). Therefore, it is possible that owners, visitors, and users may be subject to varying degrees of potential noise and other impacts from operations conducted at, above, or within the vicinity of the Airport. Any buyer should conduct any investigation that the buyer deems prudent and necessary to assess the impact, if any, of the Airport, including, but not limited, to airport-related noise that may affect the buyer's use and enjoyment of the property.

16.11 Workforce Housing Units.

Certain property within Avenir may be restricted as workforce housing units in compliance with the Palm Beach County Unified Land Development Code and the requirements set forth in the development approvals for Avenir.

16.12 Prescribed Burning.

Prescribed burning may be conducted in the Conservation Areas or Northern Mitigation Area for restoration purposes. Therefore, it is possible that owners, visitors, and users may be subject to varying degrees of smoke and other impacts from prescribed burning conducted in the

Conservation Areas or Northern Mitigation Area. EACH OWNER, OCCUPANT AND USER ACKNOWLEDGES AND AGREES THAT (I) SUCH PRESCRIBED BURNING SHALL NOT BE DEEMED A NUISANCE, (II) DECLARANT AND ITS AFFILIATES, SUBSIDIARIES, MEMBERS, MANAGERS, OFFICERS, AGENTS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS, SHALL NOT BE LIABLE FOR ANY LOSSES, DAMAGES, INJURIES OR DEATHS ARISING FROM OR RELATING TO PRESCRIBED BURNING, AND (III) ANY PURCHASE OR USE OF ANY PORTION OF AVENIR HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING.

All prescribed burning shall be properly permitted and coordinated with the City's fire department.

16.13 Communications Easement. Declarant has granted the Communications Easement to AV Broadband to facilitate certain Communications Services within Avenir. This Declaration shall be subordinate in all respects to the Communications Easement.

16.14 Notice of Transfers. All Parcel Owners are hereby notified that condition 5 of the PCD currently provides as follows:

"Notice of transfer of all or a portion of the subject Property shall be filed with the City of Palm Beach Gardens. Prior to or concurrent with the transfer, the transferee shall assume, in writing on a form acceptable to the City Attorney, any and all applicable commitments, responsibilities, and obligations pursuant to this Development Order. The intent of this provision is to ensure that subsequent property transfers do not jeopardize the unified control, responsibilities, and obligations required of the project as a whole."

All transfers of any portion of the Property, other than the transfer of a Residential Unit, shall be required to comply with this provision.

PART SEVEN: CHANGES IN THE COMMUNITY

Article XVII Changes in Common Area

17.1 Condemnation.

Whenever any part of the Common Area is taken or conveyed under threat of condemnation by any authority having the power of eminent domain, the Board shall determine, in the exercise of its business judgment, whether each Owner is entitled to notice.

The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent practicable, unless, within sixty (60) days after such taking, Declarant, so long as Declarant owns any property described in **Exhibit "A"** of this

Declaration, and Owners representing at least seventy-five percent (75%) of the total Class "A" votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans the Board approves. The provisions of Section 7.3 regarding funds for the repair of damage or destruction shall apply.

If the taking does not involve any Common Area improvements, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

17.2 Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action for partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

17.3 Transfer or Dedication of Common Area.

The Association may convey, dedicate or otherwise transfer portions of the Common Area to the City, County, CDD or to any other local, state or federal governmental or quasi-governmental entity.

17.4 Dissolution.

Any Owner may petition the Circuit Court for the appointment of a receiver to manage the affairs of the Association in the event of a dissolution.

Article XVIII Amendment of Declaration

18.1 By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration, during the Class "B" Control Period, Declarant may unilaterally amend this Declaration for any purpose, without the approval or consent of any other Person whatsoever; provided such amendment does not materially adversely affect title to any Parcel or Residential Unit, unless the Owner of such Parcel or Residential Unit consents to such amendment.

18.2 By the Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners representing at least seventy-five percent (75%) of the Association's total Class "A" votes. In addition, so long as Declarant or any Declarant Affiliate owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant's written consent is required for any amendment.

Notwithstanding the foregoing provisions of this Section 18.2, (i) an amendment to this Declaration that is materially adverse to the Non-Residential Parcel Owners shall require the written approval of at least seventy-five percent (75%) of all voting interests of the Non-Residential Parcels prior to such amendment becoming effective, and (ii) the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

18.3 Validity and Effective Date.

No amendment may remove, revoke or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege). No amendment may specifically remove, revoke or materially adversely affect the application of, or compliance with the PCD or any governmental development permit, without the written consent of the entity or entities whose approval is required to amend or to issue such documents.

If an Owner consents to any amendment to this Declaration, it will be conclusively presumed that the Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon the earliest of (a) actual notice; (b) recording; or (c) later effective date specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

18.4 Exhibits.

Exhibit "A", "C", "D" and "E" attached to this Declaration are incorporated by this reference and this Article shall govern amendment of such exhibits. **Exhibit "B"** is incorporated by reference and may be amended as provided in Article III or pursuant to Sections 18.1 and 18.2.

[Signature pages follow]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the date and year first written above.

Signed, sealed and delivered
in the presence of:

DECLARANT:

AVENIR DEVELOPMENT, LLC, a Florida
limited liability company

Name: CLARA L. DIAZ
Name: ROSALBA SANCHEZ

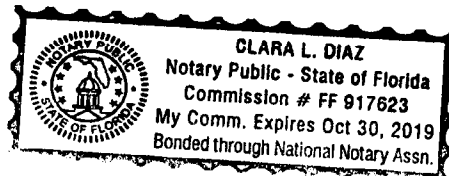
By: Manuel A. Mato
Manuel A. Mato, President

State of Florida)
County of Miami-Dade)

The foregoing instrument was acknowledged before me this 18th day of May, 2018, by Manuel A. Mato, as President of Avenir Development, LLC, a Florida limited liability company, on behalf of the company. He is personally known to me or has produced _____ as identification.

[SEAL]

Signature of Notary Public: CLARA L. DIAZ
My Commission Expires _____



MORTGAGEE JOINDER AND CONSENT

AVENIR HOLDINGS, LLC, a Florida limited liability company (the "**Mortgagee**"), the holder of that certain Purchase Money Mortgage recorded December 1, 2017 in Official Records Book 29501, Page 274 of the Public Records of Palm Beach County, Florida (the "**Mortgage**"), which Mortgage constitutes a lien upon the Property, hereby joins in this Declaration for the purpose of consenting to the terms hereof and agreeing that the lien and encumbrance of the Mortgage shall be subordinate to this Declaration.

IN WITNESS WHEREOF, Mortgagee has caused these presents to be executed in its name, effective as of this 1st day of May, 2018.

WITNESSES:

AVENIR HOLDINGS, LLC, a Florida limited liability company

Clara L. Diaz
Print Name: CLARA L. DIAZ
[Signature]
Print Name: Rosemary Sanchez

By: [Signature]
David Serviansky, President

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 1st day of May, 2018, by David Serviansky, as President of Avenir Holdings, LLC, a Florida limited liability company, on behalf of the company. He is personally known to me or has produced _____ as identification.

[SEAL]

Signature of Notary Public: [Signature]
My Commission Expires _____

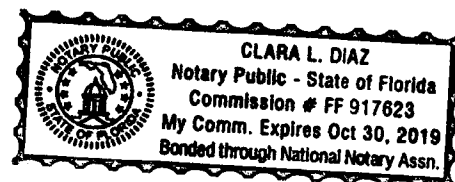


EXHIBIT "A"

Land Submitted

A PARCEL OF LAND LYING IN AND BEING A PORTION OF THE SECTIONS 9, 10, 14 AND 15 TOWNSHIP 42 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, LYING NORTH OF LAKE PARK ROAD WEST EXTENSION (A/K/A NORTHLAKE BOULEVARD).

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID WEST HALF OF SECTION 14; THENCE NORTH $88^{\circ}59'02''$ EAST, ALONG THE NORTH LINE OF SAID SECTION 14, A DISTANCE OF 2266.22 FEET; THENCE, SOUTH $02^{\circ}11'18''$ WEST, A DISTANCE OF 1592.57 FEET; THENCE, SOUTH $88^{\circ}58'29''$ WEST, A DISTANCE OF 1351.89 FEET; THENCE SOUTH $04^{\circ}12'41''$ WEST, A DISTANCE OF 2990.70 FEET; TO THE NORTH LINE OF NORTHLAKE BOULEVARD, THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING (7) CORSES AND DISTANCES, NORTH $87^{\circ}52'51''$ WEST, A DISTANCE OF 442.74 FEET; THENCE NORTH $88^{\circ}37'51''$ WEST, A DISTANCE OF 200.47 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 11529.16 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $4^{\circ}28'18''$, A DISTANCE OF 899.79 FEET; THENCE, SOUTH $86^{\circ}53'53''$ WEST, A DISTANCE OF 167.57 FEET; THENCE, SOUTH $86^{\circ}08'53''$ WEST, A DISTANCE OF 763.92 FEET; THENCE SOUTH $86^{\circ}53'53''$ WEST, A DISTANCE OF 1281.08 FEET; THENCE SOUTH $86^{\circ}54'02''$ WEST, A DISTANCE OF 332.32 FEET; THENCE, DEPARTING SAID NORTH LINE OF NORTHLAKE BOULEVARD, NORTH $03^{\circ}05'58''$ WEST, A DISTANCE OF 40.00 FEET; THENCE NORTH $42^{\circ}40'08''$ EAST, A DISTANCE OF 143.30 FEET; THENCE NORTH $01^{\circ}33'47''$ WEST, A DISTANCE OF 657.30 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 1280.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $18^{\circ}57'30''$, A DISTANCE OF 423.53 FEET; THENCE, NORTH $20^{\circ}31'16''$ WEST, A DISTANCE OF 1656.73 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 100.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $59^{\circ}03'01''$, A DISTANCE OF 103.06 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 250.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $28^{\circ}06'02''$, A DISTANCE OF 122.61 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 100.00 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $59^{\circ}03'46''$, A DISTANCE OF 103.06 FEET TO THE POINT OF TANGENCY; THENCE SOUTH $69^{\circ}28'44''$ WEST, A DISTANCE OF 67.00 FEET; THENCE NORTH $20^{\circ}31'16''$ WEST, A DISTANCE OF 160.00 FEET; THENCE NORTH $69^{\circ}28'44''$ EAST, A DISTANCE OF 67.00 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 100.00 FEET; THENCE

EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 59°03'46", A DISTANCE OF 103.06 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 250.00 FEET; THENCE NORTHEASTRERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 28°06'02", A DISTANCE OF 122.61 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 100.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 59°03'01", A DISTANCE OF 103.06 FEET TO THE POINT OF TANGENCY; THENCE NORTH 20°31'16" WEST, A DISTANCE OF 3045.99 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 4080.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 21°44'47", A DISTANCE OF 1548.55 FEET THE POINT OF TANGENCY; THENCE NORTH 01°13'31" EAST, A DISTANCE OF 626.37 FEET; THENCE NORTH 00°12'56" WEST, A DISTANCE OF 397.67 FEET; THENCE NORTH 01°13'31" EAST, A DISTANCE OF 159.61 FEET; THENCE SOUTH 88°46'29" EAST, A DISTANCE OF 138.00 FEET; THENCE SOUTH 01°13'31" WEST, A DISTANCE OF 159.61 FEET; THENCE SOUTH 75°19'58" EAST, A DISTANCE OF 1604.71 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 2317.98 FEET FROM WHICH A RADIAL LINE BEARS SOUTH 4°27'38" EAST; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 6°27'03", A DISTANCE OF 260.97 FEET; THENCE SOUTH 61°12'40" EAST, A DISTANCE OF 25.46 FEET; THENCE NORTH 75°44'35" EAST, A DISTANCE OF 57.20 FEET; THENCE NORTH 89°39'23" EAST, A DISTANCE OF 24.13 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 1500.00 FEET FROM WHICH A RADIAL LINE BEARS SOUTH 2°59'37" WEST; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 54°33'00", A DISTANCE OF 1428.12 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 500.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 27°58'33", A DISTANCE OF 244.13 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 260.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 78°37'20", A DISTANCE OF 356.78 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 570.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 89°25'11", A DISTANCE OF 889.58 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 1000.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 21°57'31", A DISTANCE OF 383.25 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 49°16'16" EAST, A DISTANCE OF 650.43 FEET; THENCE NORTH 89°13'48" EAST, A DISTANCE OF 241.57 FEET; THENCE SOUTH 66°19'04" EAST, A DISTANCE OF 57.84 FEET; THENCE NORTH 58°55'18" EAST, A DISTANCE OF 47.44 FEET; THENCE NORTH 89°13'48" EAST, A DISTANCE OF 491.43 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 10; THENCE SOUTH 00°46'12" EAST, ALONG SAID EAST LINE OF SECTION 10, A DISTANCE OF 1137.24 FEET TO THE POINT OF BEGINNING.

EXHIBIT "B"

Initial Use Restrictions

The following restrictions shall apply to all of Avenir until such time as they are amended, modified, repealed or limited pursuant to the terms of the Declaration.

1. **Restricted Activities**. The following activities are prohibited within Avenir unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

- a. Any activity which tends to cause an unclean, unhealthy or unsafe condition to exist on the Parcels or Residential Units;
- b. Any activity which emits foul or obnoxious odors, fumes, dust, smoke, or pollution on the Parcels or Residential Units or which creates noise, unreasonable risk of fire or explosion, or other conditions which are a nuisance provided, nothing herein shall preclude normal and customary operation of any restaurant, nor shall anything herein preclude any prescribed burning in the Northern Mitigation Area or Conservation Areas in compliance with the Permits;
- c. Any activity which violates local, state or federal laws or regulations;
- d. Outside burning of trash, leaves, debris or other materials;
- e. Outdoor storage of goods, materials, or equipment, except that (1) outdoor storage of building materials shall be permitted during construction on the Parcels or Residential Units on which such materials are being stored and the foregoing outdoor storage shall be permitted on Parcels other than Residential Parcels in accordance with the requirements of the City; and (2) outdoor retail displays shall be permitted; and (3) and outdoor dining facilities shall be permitted;
- f. Fishing, swimming, boating, use of personal flotation devices, or other active use of lakes, ponds, streams or other bodies of water within Avenir, except as permitted by the Board. Neither Declarant nor the Association shall be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, streams or other bodies of water within Avenir;
- g. Any activity which would constitute a public or private nuisance;
- h. Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Parcels or Residential Units, except alarm devices used exclusively for security purposes;
- i. Use and discharge of firecrackers and other fireworks;

j. Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any storm sewer, drainage ditch, or other component of the storm drainage system serving Avenir, any stream, pond, or lake, or elsewhere within Avenir, except that fertilizers may be applied to landscaping on Parcels and Residential Units provided care is taken to minimize runoff, and Declarant and Builders may dump and bury rocks and trees removed from a building site on such building site;

k. Subdivision of a Residential Unit into two or more Residential Units, or changing the boundary lines of any Residential Unit after a subdivision plat including such Residential Unit has been approved and Recorded, except that Declarant shall be permitted to subdivide or replat Residential Units which it owns;

l. Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

m. On-site storage of gasoline, heating, or other fuels on Residential Units, except that a reasonable amount of propane gas and other fuel may be stored on each Residential Unit for emergency purposes and operation of gas cooking grills, lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment;

n. Use of any Residential Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Residential Unit rotates among participants in the program on a fixed or floating time schedule over a period of years;

o. Leasing of a Residential Unit for less than a period of twelve (12) consecutive months. As used herein, "leasing" of a Residential Unit is the regular, exclusive occupancy of a Residential Unit by any Person other than the Owner, for which the Owner receives any consideration or benefit, including a fee, service or gratuity. A Residential Unit may be leased only in its entirety (e.g., separate rooms within the same dwelling may not be separately leased). Residential Units may not be listed for rental through "Airbnb", "VRBO", or similar short term rental platforms;

p. Use of any Residential Unit for a business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Residential Unit may conduct business activities within the Residential Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Residential Unit; (ii) the business activity conforms to all applicable zoning requirements; (iii) the business activity does not involve door-to-door solicitation of residents of Avenir; (iv) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in Avenir which is noticeably greater than that which is typical of Residential Units in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of Avenir and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of Avenir, as may be determined in the sole discretion of the Board.

The terms “business” and “trade,” as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

Leasing of a Residential Unit shall not be considered a business or trade within the meaning of this subsection, so long as such lease otherwise complies with these Use Restrictions. This subsection shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of Avenir or its use of any Residential Unit which it or any Declarant Affiliate owns within Avenir;

q. No animals of any kind, including livestock and poultry, shall be raised, bred or kept on any Residential Unit. Notwithstanding the foregoing, three (3) or fewer usual and common household pets may be kept on Residential Unit, and a reasonable number of other small common household pets of the type typically confined to cages or tanks, may be kept in Residential Unit. Pets shall be registered, licensed, and inoculated as required by law and shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside. Pet owners shall clean up after their pets. Pets that are permitted to roam free or, in the Board’s sole discretion, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other homes, shall be removed from the Community upon the Board’s request.

r. Capturing, trapping or killing of wildlife within Avenir, except in circumstances posing a threat to the safety of persons using Avenir;

s. Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within Avenir or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

t. With respect to Residential Units, overnight or regular parking of commercial vehicles or equipment, motor homes, recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles or inoperable vehicles in places other than enclosed garages or such other areas, if any, as the Board may designate within the Common Area;

u. Operation of motorized vehicles, with the exception of motorized wheelchairs and other vehicles used to assist handicapped individuals, on pathways or trails owned, controlled or maintained by the Association. The Board reserves the right to approve, disapprove or prohibit the use of unmanned aircraft systems, including but not limited to drones, within Avenir on a temporary or permanent basis and may adopt rules, regulations and prohibitions regarding the time, place and manner of the use of such devices.

2. Design and Appearance of Avenir. The following rules shall be applicable to the overall design and appearance of Avenir.

a. No signs, advertisements, billboards, solicitation or advertising structures of any kind shall be erected, modified or maintained within Avenir unless in conformance with the Design Guidelines and unless prior written approval of the DRB is obtained, except that Owners shall be permitted to erect one (1) sign of reasonable size within 10 feet of any entrance to a home indicating that security services are being provided, and Owners shall have the right to display flags as permitted by applicable law. Specifically, no "for sale" or "for lease" signs shall be permitted within any portion of Avenir, including but not limited to, the interior or exterior of any windows on any improvements located within Avenir. In addition, no brochure racks, information tubes, boxes or any other item or object may be placed on or erected within Avenir, or attached to or placed on or adjacent to any permitted sign, either permanently or temporarily, without the prior written consent of the appropriate reviewing body. The Declarant and the DRB reserve the right to prohibit other types of signs and/or displays, and may also restrict the size, content, color, lettering, design and placement of any approved signs. Any approved sign must be in conformance with the Design Guidelines. In addition to all other rights and remedies set forth in the Declaration, the DRB, Declarant and the Board shall have the right to enter property and to remove any sign, display or advertising structure erected in violation of this provision, and such entry shall not constitute a trespass. The foregoing shall not apply, however, to the activities of the Declarant or to Builders authorized by Declarant.

b. No fences shall be erected except in conformance with the Design Guidelines and with prior written DRB approval.

c. Exterior lighting must be approved by the DRB and installed pursuant to the Design Guidelines

d. Owners may display holiday decorations on their lots if the decorations are of the kinds normally displayed in similar neighborhoods for such holiday, are of reasonable size and scope, and do not disturb other Owners and residents by excessive light or sound emission or by causing an unreasonable amount of spectator traffic. Permitted decorations may be displayed no earlier than 30 days prior to the date of the holiday and must be removed within 15 days after the date of the holiday.

e. No air conditioning equipment which is visible on the exterior of any improvements shall be permitted in Avenir unless constructed in accordance with the Design Guidelines and approved by the DRB. Approval shall be based on adequacy of screening and/or landscaping of the equipment. The DRB may prohibit or impose strict standards regarding window air conditioning units.

f. No dog runs and animal pens of any kind shall be permitted in Avenir, unless properly screened and approved by the DRB.

g. Permanent basketball goals, basketball standards or backboards which are or would be visible from any street or Common Area shall require prior approval by the DRB; provided, portable basketball goals may be used without prior approval, but must be stored so as not to be visible from any street or Common Area overnight or otherwise when not in use.

h. Outdoor athletic and recreational facilities such as playscapes, swing sets and sport courts unless properly screened and approved in advance by the DRB.

i. Antennas, satellite dishes, or any other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind shall be constructed only after written approval of the DRB. Notwithstanding the foregoing, the DRB shall regulate antennas, satellite dishes, or any other apparatus for the transmission or reception of television, radio, satellite or other signals of any kind only in strict compliance with all federal laws and regulations. Any permitted equipment shall be installed in the least conspicuous location on the lot which permits reception of an acceptable signal to the lot it is serving. Landscaping, painting, or screening may be required by the DRB to minimize visual impact.

j. Nothing in this Declaration shall be deemed to prohibit the installation of energy devices based upon renewable resources, such as solar collection panels; provided, however, that they shall be installed in accordance with the standards adopted from time to time by the DRB. Such standards shall comply with Section 163.04, Florida Statutes, and shall be reasonably calculated to maintain the aesthetic integrity of Avenir without making the cost of the aforesaid devices prohibitively expensive.

3. Prohibited Uses. In addition to uses which are inconsistent with applicable zoning or are prohibited or restricted by other recorded covenants, conditions, restrictions or easements, the following uses are prohibited within Avenir:

- a. trailer courts, mobile home parks, and recreation vehicle campgrounds;
- b. oil, gas or mineral exploration; drilling, boring, excavation, development, refining, quarrying, or mining operations, and all construction and equipment incident thereto; and oil or gas wells or related equipment or facilities, except that nothing herein shall preclude the operation of automobile service stations or water wells, to the extent permitted under any applicable Laws;
- c. junk yards, scrap metal yards, automobile used parts and/or dismantling operations and sanitary landfills, except that nothing herein shall preclude recycling centers established solely for the collection and sorting of household recyclable materials provided that the same are not unsightly;
- d. commercial excavation of building or construction materials, except in the usual course of construction of improvements;
- e. dumping, storage, disposal, incineration, treatment, processing or reduction of garbage, or refuse of any nature, except as is incidental to the use, operation and ownership of any property (or a portion thereof) in accordance with this Declaration and in a manner which is not unsightly and does not result in noxious odors emitting from the subject property;
- f. lumberyards, sawmills, or outdoor storage of building or construction materials (except in connection with any national home improvement store (if allowed by City and County regulations) and except in the usual course of construction on the site where stored);

- g. flea markets, and ongoing fire and bankruptcy sale operations;
- h. truck terminals and truck stop-type facilities (specifically excluding loading docks and similar facilities incidental to the use, operation and ownership of any property or a portion thereof in accordance with this Declaration);
- i. massage parlors (other than a spa or establishment with licensed massage therapists), and any establishment which offers entertainment or service which includes nude or partially dressed male or female persons;
- j. any industrial use; and
- k. "adult entertainment uses," which terms shall mean, for the purposes of this Declaration, any theater or other establishment which shows, previews, or prominently displays, advertises, or conspicuously promotes for sale or rental: (i) movies, films, videos, magazines, books, or other medium (whether now or hereafter developed) which is rated "X" by the movie production industry (or any successor rating established by the movie production industry) or is otherwise of a pornographic or obscene nature; or (ii) sexually explicit games, toys, devices, or similar merchandise.

4. Prohibited Conditions. The following shall be prohibited at Avenir:

- a. Plants, animals, devices or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of Avenir;
- b. Structures, equipment or other items on the exterior portions of a Parcel or Residential Unit which have become rusty, dilapidated or otherwise fallen into disrepair;
- c. Sprinkler or irrigation systems of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within Avenir, except (i) with the approval of SFWMD, and (ii) after the Owner seeking to install such irrigation system applies for and obtains all required permits. Any Owner who installs such irrigation system shall be solely responsible for compliance with any and all permits required in connection therewith;
- d. Individual wells for a Residential Unit; and
- e. Individual septic systems.

Nothing in these Use Restrictions shall prohibit the usual and customary conditions on a Parcel in connection with the construction of improvements thereon (so long as same is performed in compliance with the terms of this Declaration and the Design Guidelines), or prevent the construction, development, marketing, or sales of Residential Units by Builders in compliance with the terms of this Declaration and the Design Guidelines.

EXHIBIT "C"

Articles of Incorporation of Avenir Master Property Owners Association, Inc.

[See attached]

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**ARTICLES OF RESTATEMENT
OF**

AVENIR MASTER PROPERTY OWNERS ASSOCIATION, INC.

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 AVENIR MASTER PROPERTY OWNERS ASSOCIATION, INC.

2. The text of the Amended and Restated Articles of Incorporation of the Corporation is annexed hereto and made a part hereof.

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: Avenir Master Property Owners Association, Inc.

2. The date of filing of the Corporation's original articles of incorporation is July 7, 2016 and its Document Number is N16000006753.

3. These 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 as of April 24, 2018.

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 as of April 24, 2018.

AVENIR MASTER PROPERTY OWNERS
ASSOCIATION, INC.

/s/ Rosa Eckstein Schechter

By: _____

Name: Rosa Eckstein Schechter

Title: Vice President

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**AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF
AVENIR MASTER PROPERTY OWNERS ASSOCIATION, INC.
(a Florida Corporation Not For Profit)**

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

**ARTICLE I
NAME**

The name of the corporation shall be: AVENIR MASTER PROPERTY OWNERS ASSOCIATION, INC. (the "Corporation").

**ARTICLE II
EXISTENCE**

The Corporation shall have perpetual existence.

**ARTICLE III
PRINCIPAL OFFICE**

The principal place of business and mailing address of the Corporation shall be: 550 Biltmore Way, Suite 1110, Coral Gables, Florida 33134-5730.

**ARTICLE IV
PURPOSE**

The purpose of the Corporation shall be to serve as the governing body pursuant to that certain DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AVENIR, recorded or to be recorded in the Public Records of Palm Beach County, Florida.

**ARTICLE V
INITIAL REGISTERED AGENT AND STREET ADDRESS**

The name and Florida street address of the initial registered agent are: Rosa Eckstein Schechter, Esq., 550 Biltmore Way, Suite 1110, Coral Gables, Florida 33134-5730.

**ARTICLE VI
BYLAWS**

The bylaws of the Corporation may be adopted, altered, amended, or repealed by the Board of Directors of the Corporation. The method of appointing or electing the Board of Directors of the Corporation shall be set forth in the bylaws of the Corporation.

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ARTICLE VII
AMENDMENT

The Corporation reserves the right to amend or repeal any provisions contained in these Articles of Incorporation, or any amendment hereto.

IN WITNESS WHEREOF, the undersigned has made and subscribed these Amended and Restated Articles of Incorporation as of the 24th day of April, 2018.

AVENIR MASTER PROPERTY OWNERS
ASSOCIATION, INC.

/s/ Rosa Eckstein Schechter

By: _____

Name: Rosa Eckstein Schechter

Title: Vice President

EXHIBIT "D"

By-Laws of Avenir Master Property Owners Association, Inc.

[See attached]

BY-LAWS
of
AVENIR MASTER PROPERTY OWNERS ASSOCIATION, INC.
(a Florida corporation not for profit)

ARTICLE I
DEFINITIONS

Section 1. The term "Association" as used herein, shall mean Avenir Master Property Owners Association, Inc., a Florida corporation not for profit, its successors or assigns.

Section 2. All terms which are defined in the MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AVENIR, recorded in the Public Records of Palm Beach County, Florida, and any amendments or supplements thereto (hereinafter referred to as the "Declaration") and the Articles of Incorporation of the Association, shall be used herein with the same meanings as defined in the Declaration or Articles of Incorporation, as the case may be.

ARTICLE II
LOCATION OF PRINCIPAL OFFICE

The principal office of the Association shall be located at 550 Biltmore Way, Suite 1110, Coral Gables, Florida 33134-5730, or at such other place as may be established by resolution of the Board of Directors.

ARTICLE III
MEMBERS' VOTING RIGHTS

Section 1. Voting classification and voting rights shall be as set forth in the Declaration.

Every Parcel Owner and Additional Association shall be deemed to have membership in the Association. No Person who holds an interest in a Parcel only as security for the performance of an obligation shall be a Member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of a Parcel. The number of votes allocated to each Parcel or Additional Association and the exercise of the voting rights shall be as set forth in the Declaration.

Section 2. 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 rights, 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 voting rights. In addition, the Board may impose additional requirements respecting the exercise of voting rights (e.g., the execution of a voting certificate).

ARTICLE IV BOARD OF DIRECTORS

Section 1. The affairs of the Association shall be managed by a Board of Directors consisting of an odd number with no less than three (3) persons and no more than nine (9) persons. Board members appointed by Declarant need not be Members of the Association. Directors elected by the other Members must be Members of the Association or their designated representatives.

Section 2. Declarant shall have the right to appoint the initial Board of Directors and thereafter all members of the Board of Directors during the Class "B" Control Period.

Section 3. The "Class "B" Control Period" shall mean that period commencing as of the incorporation of the Association and terminating upon the earlier of (i) the conveyance of all Parcels and Residential Units owned by Developer or its Affiliates within Avenir, or (ii) when, in its discretion, the Class "B" Member so determines by a writing recorded in the Public Records of Palm Beach County, Florida.

Section 4. 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 Director.

Section 5. A majority of the Board of Directors shall constitute a quorum to transact business at any meeting of the Board, and the action of the majority present at a meeting at which a quorum is present shall constitute the action of the Board of Directors.

Section 6. Any vacancy occurring on the Board of Directors because of death, resignation or other termination of services of any Director, shall be filled by the Board of Directors; except that Declarant, to the exclusion of other Members and/or the Board itself, shall fill any vacancy created by the death, resignation, removal or other termination of services of any Director appointed by Declarant. A Director appointed to fill a vacancy shall be appointed for the unexpired term of his predecessor in office and shall serve until his successor shall have been elected and/or appointed and qualified.

Section 7. Except to the extent prohibited by law, the Board of Directors shall have the right to take any action without a meeting by obtaining the written approval of the required number of Directors. Any action so approved shall have the same effect as though at a meeting of the Directors.

ARTICLE V ELECTION OF DIRECTORS;

Section 1. Subject to Article IV, Section 2 above:

- (a) Election to the Board of Directors shall be by written ballot as hereinafter provided. At such election, the Members may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. Election shall be by plurality vote.

- (b) All Members of the Association are eligible to serve on the Board of Directors. If a Member is not a natural person, then such Member may designate representatives that are eligible to serve on the Board of Directors. In the event an Member desires to nominate himself or herself, or their representative, as a candidate for the Board of Directors, such Member shall deliver a written "Intent to Run" to the Association on or before the date that is forty (40) days prior to the annual or special meeting of the Members where the election is to be held. Any Member may also nominate another Member to serve on the Board of Directors by delivery of a written nomination to the Association on or before the date that is forty (40) days prior to the annual or special meeting of the Members where the election is to be held.
- (c) An election is not required unless more candidates are nominated than vacancies exist.
- (d) A Person who is delinquent in the payment of any fee, fine, or other monetary obligation to the Association for more than ninety (90) days is not eligible for Board of Directors membership. A person who has been convicted of any felony in Florida or in a United States District or Territorial Court, or has been convicted of any offense in another jurisdiction which would be considered a felony if committed in Florida, is not eligible for Board of Directors membership unless such felon's civil rights have been restored for at least five (5) years as of the date on which such person seeks election to the Board of Directors.
- (e) All elections to the Board of Directors shall be made by written ballot which shall:
 - (i) describe the vacancies to be filled; and
 - (ii) set forth the names of those nominated as provided in Section 1(b) above.

Such ballots shall be prepared and mailed by the Secretary to the Members at least twenty-one (21) days in advance of the date set forth therein for the annual or special meeting of the Members called for elections.

Section 2. Each Member shall receive as many ballots as he has votes. Notwithstanding that a Member may be entitled to several votes, he shall exercise on any one (1) ballot only one (1) vote for each vacancy shown thereon. The completed ballots may be returned by mail to the Secretary or filed with the Secretary at the annual or special meeting of the Members. Only those ballots received by the Secretary on or before the date of the meeting shall be counted.

ARTICLE VI

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. The Board of Directors shall have the power:

- (a) To call special meetings of the Members whenever it deems necessary and it shall call a meeting at any time upon written request of ten percent (10%) of the entire voting membership, as provided in Article X, Section 2 hereof.
- (b) To appoint and remove all Officers, agents and employees of the Association, except those appointed by Declarant; prescribe their duties; fix their compensation, if any; and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these By-Laws shall be construed to prohibit the employment of any Member, Officer or Director of the Association in any capacity whatsoever.
- (c) To exercise for the Association all powers, duties and authority vested in or delegated to the Association, except those reserved to the Members in the Declaration.
- (d) In the event that any member of the Board of Directors of the Association (other than a member appointed by Declarant) shall be absent from three (3) consecutive regular meetings of the Board of Directors, the Board may by action taken at the meeting during which said third absence occurs, declare the seat of the absent Director to be vacant.
- (e) To employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services stated in these By-laws as the Board of Directors shall authorize.

Section 2. It shall be the duty of the Board of Directors:

- (a) To cause to be kept minutes of all its acts and corporate affairs.
- (b) To supervise all Officers, agents and employees of the Association.
- (c) To prepare financial reports required by the Florida Statutes.
- (d) To exercise all powers to vote, except where the Declaration, the Articles of Incorporation, or these By-Laws specifically require a vote of the Members.
- (e) To fix the amount of assessments against each Owner for each assessment period at least thirty (30) days in advance of the Association's fiscal year or January 1st of each year.
- (f) To prepare a roster of Owners and the assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner at reasonable times.
- (g) To issue, or to cause any appropriate Officer (or any authorized agent) to issue, upon demand by any interested person a certificate setting forth whether any assessment has been paid. Such certificate shall be conclusive evidence of any assessment therein stated to have been paid.

Section 3. Until the expiration of the Class "B" Control Period, Declarant shall have and is hereby granted the right to disapprove or veto any such action, policy, or program proposed or authorized by the Association, the Board of Directors, any committee of the Association, or the vote of the Members. This right may be exercised by Declarant at any time within ten (10) days following a meeting held pursuant to the terms and provisions thereof. 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 or any committee of the Association.

Section 4. The Board shall have the right to delegate certain of its duties to a management agent, including, without limitation, the preparation of financial reports and preparation of a roster of Owners.

ARTICLE VII

DIRECTORS' MEETING

Section 1. A regular meeting of the Board of Directors shall be held at least semi-annually. A regular meeting of the Board of Directors shall also be held immediately following the regular annual meeting of the Members. Meetings of the Board shall be open to all Members of the Association.

Section 2. If the day for the regular meeting of the Board of Directors shall fall upon a holiday, the meeting shall be held at the same hour on the first day following which is not a holiday, and no notice thereof need be given.

Section 3. Special meetings of the Board of Directors shall be held when called by the President or Vice President of the Association or by any two Directors after not less than three (3) days' notice to each Director.

Section 4. 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 of Directors 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 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 meeting of the Board of Directors convened to act in response thereto.

Section 5. The transaction of any business at any meeting of the Board of Directors, however called and noticed, or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice if a quorum is present, and if either before or after the meeting, each of the Directors not present signs a written waiver of notice or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records of the Association and made a part of the minutes of the meeting.

Section 6. A majority of the Board of Directors shall constitute a quorum thereof.

Section 7. The Board of Directors 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 will be cast.

Section 8. Nothing herein shall restrict or prohibit members of the Board of Directors from participation in a meeting of the Board by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time. Participating by such means shall constitute presence in person at a meeting.

Section 9. Notices of meetings of the Board shall be posted in a conspicuous place in Avenir at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in Avenir, notice of each Board meeting must be mailed or delivered to each member at least seven (7) days before the meeting, except in an emergency. The Board may adopt a reasonable alternative to posting or mailing of notice for each meeting of the Board, including publication of notice, provision of a schedule of Board meetings, or the conspicuous posting and repeated broadcasting of the notice on a closed-circuit cable television system. However, if broadcast notice is used in lieu of a notice posted physically in Avenir, the notice must be broadcast at least four (4) times every broadcast hour of each day that a posted notice is otherwise required. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Notice of meetings of the Board by electronic transmission, shall be allowed; however, a Member must consent in writing to receiving notice by electronic transmission.

ARTICLE VIII

OFFICERS

Section 1. The Officers of the Association shall be a President, a Secretary and a Treasurer and such other Officers as may be deemed necessary or appropriate by the Board of Directors. The President shall be a member of the Board of Directors.

Section 2. The Officers shall be chosen by a majority vote of the Board of Directors.

Section 3. All Officers shall hold office during the pleasure of the Board of Directors.

Section 4. The President shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board of Directors are carried out and sign all notes, leases, mortgages, deeds and all other written instruments. The President shall not be the Secretary.

Section 5. The Secretary of the Association shall be the Secretary of the Board of Directors, shall record the votes and keep minutes of all proceedings in a minute book to be kept for that purpose. He shall sign certificates of membership, if any. He shall keep the official records of the Association. He shall record in a book kept for that purpose the names of all Members of the Association together with their addresses as registered by such Members.

Section 6. The Treasurer shall receive and deposit in appropriate bank accounts, insured by the FDIC, all monies of the Association and shall disburse such funds as directed by

resolution of the Board; provided, however, that a resolution of the Board shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board. The Treasurer may sign all checks of the Association, provided that such checks shall also be signed by one (1) Director. However, in the event that the Treasurer is unavailable, checks may be signed by any two (2) Directors. The Treasurer shall keep books of account according to generally accepted accounting principles consistently applied and cause an annual audit, review, or compilation, of the Association's books to be made by an auditor, accountant, or a certified public accountant at the completion of each fiscal year. He shall prepare an annual budget, an annual balance sheet statement and an annual statement of operations, and the balance sheet statement and statement of operations shall be presented to the membership at its regular annual meeting.

ARTICLE IX **COMMITTEES**

Section 1. The Board of Directors may appoint such committees as it deems appropriate. The Board may fill any vacancies on all committees.

Section 2. It shall be the duty of each committee, if created, to receive complaints and suggestions from Members on any matter involving Association functions, duties, and activities within its field of responsibility. It shall dispose of such complaints and suggestions, as it deems appropriate or refer them to such other committee, Director or Officer of the Association as is further concerned with the matter presented.

ARTICLE X **MEETINGS OF MEMBERS**

Section 1. The regular annual meeting of the Members shall be held on or before the last day of the fourth month after the fiscal year end of the Association, or as soon as practicable thereafter at a time to be set by the Board of Directors. If the day for the annual meeting of the Members shall fall upon a holiday, the meeting will be held at the same hour on the first day following which is not a holiday.

Section 2. Special meetings of the Members for any purpose may be called at any time by a majority of the members of the Board of Directors, or upon written request of the Members who have the right to vote ten percent (10%) of all of the votes of the entire membership. The business to be conducted at a special Members meeting shall be limited to the extent required by Florida Statutes.

Section 3. Notice of any meeting of Members shall be given to the Members by the Secretary. Notice may be given to the Member either personally, electronically transmitted (so long as the Member consents to the delivery of notice by electronic transmission) or by sending a copy of the notice through the mail, postage prepaid, to his address appearing on the books of the Association. Each Member shall register his address with the Secretary, and notices of meetings shall be mailed by him to such address. In addition to mailing, delivering, or electronically transmitting the notice of any meeting, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a

closed-circuit cable television system. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Notice of any meeting, regular or special, shall be delivered or mailed at least fourteen (14) days in advance of the meeting (unless a different length of time is provided for elsewhere in these By-Laws, the Articles of Incorporation or the Declaration) and shall set forth in general the nature of the business to be transacted; provided, however, that if the business of any meeting shall involve an election governed by Article V hereof, or any action governed by the Articles of Incorporation or by the Declaration, notice of such meeting shall be given or sent as therein provided. 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 meeting or a special meeting.

Section 4. The presence at the meeting of Members, or their proxies, entitled to cast thirty percent (30%) of the votes of the entire membership shall constitute a quorum for any action governed by these By-Laws. Any action governed by the Articles of Incorporation or by the Declaration, shall require a quorum as therein provided. If however, a quorum shall not be present at the 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.

ARTICLE XI

PROXIES

Section 1. At all meetings of Members, each Member may vote in person or by proxy.

Section 2. All proxies shall be in writing and filed with the Secretary. No proxy shall extend beyond a period of ninety (90) days after the date of the first meeting for which it was given, and every proxy shall automatically terminate upon sale by the Member of his Parcel.

Section 3. A Member shall not be entitled to appoint more than one (1) proxy to attend on the same occasion and an instrument of proxy shall be valid only for the occasion for which it is given and may be in the following form or any other form which the Board of Directors shall approve:

I, _____ being a member in good standing of
Avenir Master Property Owners Association, Inc. hereby appoint
_____ as my proxy to vote for me and on my behalf at the
meeting of Members to be held at _____ (location), on
the _____ day of _____, _____ at _____ (time), and any
adjournment(s) thereof.

Signed this _____ day of _____.

Signature of Member

_____, as shown on the Plat of _____.

ARTICLE XII
OBLIGATIONS OF THE ASSOCIATION

Section 1. The Association must maintain and make available, during reasonable business hours, to inspection by any Member, the books, records and papers of the Association.

Section 2. The Association must supervise all Officers, agents, and employees, and see to it that their duties are properly performed.

Section 3. The Association shall fix and collect the amount of the assessments against, or due from Members. All assessments and installments thereof not paid when due shall be assessed a late charge as described in the Declaration, commencing from the due date, and costs of collection thereof, and may result in the suspension of an Owner's right to use the Common Areas (without impairing the right of that Owner to have vehicular and pedestrian ingress to and egress from its Parcel) and, subject to applicable law, any other privileges of membership during any period of such nonpayment.

Section 4. The Association shall have powers including but not limited to:

- (a) Issuing, or causing 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 all parties other than the Owner, be conclusive evidence of such payment.
- (b) Procuring and maintaining adequate bonds, liability, hazard, property, and/or casualty insurance, as required.
- (c) Administering the reconstruction after the casualty of improvements on the Common Areas, as required.
- (d) Operating, maintaining, repairing, and replacing the Common Areas.
- (e) Enforcing the provisions of the Declaration, the Articles of Incorporation, these By-Laws, and the Use Restrictions.

ARTICLE XIII
ENFORCEMENT OF THE PROVISIONS OF THE DECLARATION,
BY-LAWS OR RULES OF THE ASSOCIATION

Section 1. The Board may suspend, for a reasonable period of time, the right of an Owner, or an Owner's tenant, guest, or invitee, to use Common Areas and facilities for the failure of the Parcel Owner or Owner of a Residential Unit or its occupant, licensee, or invitee to

comply with any provision of the Declaration, these By-Laws, or reasonable rules of the Association.

Section 2. The Board shall have the power to levy Benefitted Assessments against a particular Parcel or Residential Unit or Units as follows: The Board may levy reasonable fines of up to \$100 per violation against any Parcel Owner or Owner of a Residential Unit's tenant, guest, or invitee for the failure of the Parcel Owner or Owner of a Residential Unit or its occupant, licensee, or invitee to comply with any provision of the Declaration, these By-Laws, or the restrictions and rules of the Association. A fine may be levied for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed \$5,000 in the aggregate. A fine of less than \$1,000 may not become a lien against a Parcel or Residential Unit. In any action to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the nonprevailing party as determined by the court.

Section 3. A fine or suspension may not be imposed without at least fourteen (14) days' notice to the Parcel Owner or Owner of a Residential Unit sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) Members, or their designated representatives, appointed by the Board of Directors who are not Officers, Directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an Officer, Director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. If the Association imposes a fine or suspension, the Association must provide written notice of such fine or suspension by mail or hand delivery to the Owner and, if applicable, to any tenant, occupant, guest, licensee, or invitee of the Owner.

CORPORATE SEAL

The Association may adopt a seal, and if adopted, shall be in circular form having within its circumference the words:

Avenir Master Property Owners Association, Inc.

AMENDMENTS

Section 1. Prior to and including the expiration of the Class "B" Control Period, Declarant shall have the right to amend these By-Laws as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Declarant'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 expiration of the Class "B" Control Period, the Association must first obtain Declarant's consent, which may be withheld in Declarant's sole and absolute discretion. Thereafter, an amendment identical to that approved by Declarant may be adopted by the Association pursuant to the requirements for amendments after the expiration of the Class "B" Control Period. Thereafter, Declarant shall join in such identical amendment so that its consent to the same will be reflected in the Public Records.

Section 2. These By-Laws may be amended, at any regular or special meeting of the Board of Directors at which there is a quorum, by a vote of a majority of the Directors present in person or by proxy, provided that those provisions of these By-Laws which are governed by the

Articles of Incorporation of the Association may not be amended except as provided in the Articles of Incorporation or applicable law; and provided further that any matter stated herein to be or which is in fact governed by the Declaration may not be amended except as provided in said Declaration.

Section 3. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles of Incorporation shall control, and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control; and in the event of any conflict between the Articles of Incorporation and the Declaration, the Declaration shall control.

Section 4. Notwithstanding the foregoing, no amendment to these By-Laws shall be effective which prejudices or otherwise detrimentally affects any of the rights or privileges of Declarant, without Declarant's prior written consent.

ARTICLE XIV **MISCELLANEOUS**

Section 1. The first fiscal year shall begin on the date of incorporation and end 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.

Section 2. Whenever in these By-Laws the context so requires, the use of any gender shall be deemed to include all genders.

Section 3. 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 except to the extent provided otherwise as to any particular provision of the Florida Statutes.

Section 4. Invalidity of any of the provisions of these By-Laws by judgment or court order shall in no way affect any other provision, and the remainder of these By-Laws shall remain in full force and effect.

Section 5. Notwithstanding the foregoing, no amendment to these By-Laws shall be made which materially and adversely affects the Parcel Owners' rights under these By-Laws without the written approval of seventy-five (75%) of the Parcel Owners so affected.

EXHIBIT "E"

FORMULA FOR DETERMINING ASSESSMENTS AND VOTING RIGHTS¹

Calculation for Assessments.

Generally- Plan of Development

For purposes of allocating Common Expenses among Residential Units and Parcels, the computation for these areas shall be initially based on the assumption that the Residential Units and Parcels will be developed in accordance with the Master Plan, which may be modified and amended from time to time (the "**Plan of Development**").

Initially, for purposes of determining assessments and voting rights within the real property subject to this Declaration (the "**Property**"):

- The total net developable acreage intended to be developed within the Property is 579 acres.
- The total net developable residential acreage within the Property is 487 acres.
- The total net developable non-residential acreage within the Property is 92 acres.
- The total number of Residential Units intended to be developed within the Property is 1,500.

Calculation of Percentage Share Based Upon Land Use Classification

The calculation for determining the percentage share of any Common Expenses to be assessed by the Association against a Residential Unit or Parcel subject to the particular assessment under Article VIII of the Declaration shall be determined according to acreage percentages as follows:

- Residential Parcels shall collectively be initially responsible for 84% of the Common Expenses (487 residential acres divided by 579 total acres rounded to the nearest whole percentage).
- Non-Residential Parcels shall collectively be initially responsible for 16% of the Common Expenses (92 non-residential acres divided by 579 total acres rounded to the nearest whole percentage).

By way of example, on the date hereof assuming an annual budget of \$18,000, the allocation to (i) all of the Non-Residential Parcels combined would be 16%, for a total of \$2,880 and (ii) all of the Residential Parcels combined would be 84%, for a total of \$15,120.

Calculation of Percentage Share of Each Non-Residential Parcel

As to Non-Residential Parcels, the percentage share of the total non-residential assessments to be paid by each Non-Residential Parcel Owner shall be calculated based upon the number of acres

¹ The following Parcels within Avenir are exempt from assessments and do not have Voting Rights in the Association: (i) the Park Parcel, (ii) the School Parcel, (iii) the Civic/Recreation Parcel, (iv) the Police/Fire/City Annex Parcel, and (v) prior to its lease or conveyance by the City, the Workplace Parcel.

actually owned by such Parcel Owner (rounded up to the nearest acre) divided by the sum of the rounded acres allocated to the Non-Residential Parcels as set forth herein, as said numbers are modified from time to time to reflect the actual number of acres contained within the Non-Residential Parcels, as determined by Declarant in Declarant's sole discretion.

On the date of the recording of this Declaration, Declarant has, based upon the current Plan of Development, determined the net developable acreage attributable to the Non-Residential Parcels. Thereafter, on October 1st of each year, the net developable acreage attributable to the Non-Residential Parcels shall be updated based upon the actual net developable acreage attributed to each category as a result of any modification to the Plan of Development for Avenir. During the Class "B" Control Period, Declarant shall have the absolute right, in Declarant's reasonable discretion, to adjust the foregoing formula by substituting a different number of net developable acres for any or all Non-Residential Parcels. A new allocation of the percentage share of any Common Expenses to be assessed by the Association against a Non-Residential Parcel shall then be calculated based on the new acreages and effective January 1st of the following year. For purposes hereof, "net developable acreage" shall mean and refer to the total acres attributable to the Non-Residential Parcels, net of any property dedicated to Association, CDD, or the City (other than the Workplace Parcel).

By way of example, if the share of assessments due from all Non-Residential Parcels is \$2,880, and the total net developable acreage in all Non-Residential Parcels is 92 acres, then the total assessment per acre attributable to Non-Residential Parcels is \$2,880 divided by 92, for a total of \$31.30 per acre. If a specific Non-Residential Parcel is comprised of 10 acres, then that Parcel's share of the assessments would be \$31.30 multiplied by 10, for a total of \$313.

Calculation of Percentage Share of Each Residential Unit and Residential Parcel

As to Residential Units and Residential Parcels, the assessments to be paid by each Owner shall be calculated based upon the number of proposed or actual Residential Units within the Residential Parcel owned by such Residential Parcel Owner, divided by the sum of the actual number of proposed or actual Residential Units in the remaining Residential Parcels anticipated in the Plan of Development, as said numbers are modified from time to time to reflect the actual number of proposed or actual Residential Units, as determined by Declarant in Declarant's sole discretion, during the Class "B" Control Period. On October 1st of each year, the assessment obligation of each Owner of a Residential Unit or Residential Parcel shall be adjusted to be effective January 1st of the following year. The adjustment shall be determined based upon the actual number of proposed or actual Residential Units, as shown on plats, replats and condominium governing documents, if applicable, together with the number Residential Units in the remaining Residential Parcels anticipated in the Plan of Development. Once a Residential Unit has been conveyed to a third party purchaser, the purchaser of that Residential Unit shall be responsible for the assessment attributable to that Residential Unit. The assessment for all Residential Units shall be the same.

By way of example, if the share of assessments due from all Residential Parcels is \$15,120, and the total number of Residential Units shown on the Master Plan for the Property is 1,500 Residential Units, then the total assessment for each Residential Unit within a Residential Parcel would be \$15,120 divided by 1,500, for a total of \$10.08 for each Residential Unit. If the

number of Residential Units attributable to a specific Residential Parcel is 100 Residential Units, then that Residential Parcel's share of the assessments would be \$10.08 multiplied by 100, for a total of \$1,008.

Voting Allocation. For purposes of allocating votes in the Association among Members, each Member shall be assigned a number of votes as set forth in the Table below.

Member/Parcel	Number of Votes
Agriculture Parcel	1.0 votes per acre of land comprising the Parcel*
Hotel Parcel	1.0 votes per acre of land comprising the Parcel*
Office/Professional/Medical Parcel	1.0 votes per acre of land comprising the Parcel*
Residential Parcels & Residential Units	1.0 votes per Residential Unit intended to be contained within such Residential Parcel. Once created, each Residential Unit shall have 1 vote in the Association.
Town Center Parcel	1.0 votes per acre of land comprising the Parcel*
Workplace Parcel	1.0 votes per acre of land comprising the Parcel* (commencing upon the date of lease or conveyance of the Workplace Parcel by the City).

*(rounded up to the nearest full acre)