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**SECOND AMENDMENT TO AMENDED AND RESTATED SOLIVITA
DECLARATION**

THIS SECOND AMENDMENT TO AMENDED AND RESTATED SOLIVITA DECLARATION (this "**Second Amendment**") is made by Avatar Properties Inc., a Florida corporation ("**Avatar**") and joined by Solivita Community Association, Inc., a Florida not-for-profit corporation (the "**Association**").

RECITALS

- A. That certain Amended and Restated Solivita Declaration was recorded in Official Records Book 7191 at Page 1224 of the Public Records of Polk County, Florida (the "**Amended and Restated Declaration**").
- B. The Amended and Restated Declaration was amended by that certain First Amendment to Amended and Restated Solivita Declaration recorded in Official Records Book 7364 at Page 1475, of the Public Records of Polk County, Florida (the "**First Amendment**").
- C. Section 42.3 of the Amended and Restated Declaration provides that, prior to the Turnover Date (as defined in the Amended and Restated Declaration), Avatar, as Declarant, shall have the right to amend the Amended and Restated Declaration as it deems appropriate, without the joinder or consent of any person or entity whatsoever. The Turnover Date has not yet occurred.
- D. Avatar desires to amend the Amended and Restated Declaration as set forth herein.

NOW THEREFORE, Avatar hereby declares that every portion of Solivita is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions and restrictions hereinafter set forth.

1. **Recitals**. The foregoing Recitals are true and correct and are incorporated into and form a part of this Second Amendment.
2. **Conflicts**. In the event that there is a conflict between this Second Amendment, the First Amendment and the Amended and Restated Declaration, this Second Amendment shall control. Whenever possible, this Second Amendment, the First Amendment and the Amended and Restated Declaration shall be construed as a single document. Except as modified hereby, the Amended and Restated Declaration shall remain in full force and effect.
3. **Definitions**. All initially capitalized terms not defined herein shall have the meanings set forth in the Amended and Restated Declaration, except that the defined terms are hereby modified as follows:

"**Declaration**" shall mean the Amended and Restated Declaration, the First Amendment and this Second Amendment together with all amendments and modifications thereof.

4. Alterations and Additions. Section 16.13 of the Amended and Restated Declaration is deleted in its entirety and replaced with the following:

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

5. Assessments. Sections 26.1, 26.2, 26.2.4, 26.11, 26.18, 26.19, 26.21 and 26.22 of the Amended and Restated Declaration are deleted and replaced with the following:

26.2 Purpose of Assessments. The Assessments levied by Association shall be used for, among other things, the purpose of promoting the recreation, health and welfare of the residents of Solivita, and in particular for the improvement and maintenance of the Community Property and any easement in favor of Association, including, but not limited to, the following categories of Assessments as and when levied and deemed payable by the Board and as otherwise provided in this Declaration:

26.2.4 Assessments of any kind for the creation of reasonable reserves for any of the aforesaid purposes and for the periodic maintenance, repair, and replacement of improvements comprising a portion of the Community Property. To the extent permitted by applicable law, at such time as there are improvements in any Community Property for which Association has a responsibility to maintain, repair, and replace, the Board may, but shall have no obligation to, include a "Reserve for Replacement" in the Monthly Assessments in order to establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements comprising a portion of the Community Property (hereinafter "Reserves"). Assessments pursuant to this Section shall be payable in such manner and at such times as determined by Association, and may be payable in installments extending beyond the fiscal year in which the Reserves are approved. In addition, the Association may establish Reserves as provided in Section 26.13.4 of this Declaration. Once established, Reserves may be waived or reduced as provided in Chapter 720 of the Florida Statutes. Except as may otherwise be provided by applicable law, until the Community Completion Date, Reserves shall be subject to the prior written approval of Declarant, which may be withheld for any reason; and

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

26.18 Creation of the Lien and Personal Obligation. Each Owner, by acceptance of a deed or instrument of conveyance for the acquisition of title to a Home, shall be deemed to have covenanted and agreed that the Assessments, and/or other charges and fees set forth herein, together with interest, late fees, costs and reasonable attorneys' fees, paraprofessional fees and costs, pre-trial and at all levels of proceedings, including appeals, shall be a charge and continuing lien in favor of Association encumbering the Home and all personal property located thereon owned by the Owner against whom each such Assessment is made. The lien is effective

from and after recording a claim of lien in the Public Records stating the legal description of the Home, name of the Owner, and the amounts due as of that date, but shall relate back to the date that this Declaration is recorded. Without limiting the foregoing, any claim of lien filed by Association shall have priority and be superior to any lien of a Neighborhood Association. Notwithstanding the foregoing, Association may not file a claim of lien against a Home for unpaid Assessments unless a written notice of demand for past due Assessments has been made by Association, which notice must comply with Section 720.3085 of the Florida Statutes, as such section may be renumbered from time to time. The claim of lien shall also cover any additional amounts which accrue thereafter until satisfied. Each Assessment, together with interest, late fees, costs and reasonable attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, and other costs and expenses provided for herein, shall be the personal obligation of the person who was the Owner of the Home at the time when the Assessment became due, as well as the Owner's heirs, devisees, personal representatives, successors or assigns. An Owner is jointly and severally liable with the previous Owner for all unpaid Assessments that came due up to the time of transfer of title to the Home, provided, however such liability is without prejudice to any right the present Owner may have to recover any amounts paid by the present Owner from the previous Owner.

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

26.21 Non-Payment of Assessments. If any Assessment is not paid within fifteen (15) days (or such other period of time established by the Board) after the due date, a late fee of \$25.00 per month (or such greater amount established by the Board) may be levied. In addition, any Assessments that are not paid when due shall bear interest in an amount equal to the maximum rate allowable by law (or such lesser rate established by the Board), per annum, beginning from the due date until paid in full. The late fee shall compensate Association for administrative costs, loss of use of money, and accounting expenses. Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Home, or both forty-five (45) days after the Owner has been provided with notice of the Association's intent to foreclose the lien against the Home and collect the unpaid amounts. Association shall not be required to bring such an action if it believes that the best interests of Association would not be served by doing so. There shall be added to the Assessment all costs expended in preserving the priority of the lien and all costs and expenses of collection, including attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals. Any payment of past due Assessments received and accepted by Association shall be applied first to any interest accrued, then to any late fee(s) due, then to any costs and reasonable attorneys' fees incurred in collecting the Assessment(s). No Owner may waive or otherwise escape liability for Assessments provided for herein by non-use of, or the waiver of the right to use the Community Property or the Club or by abandonment of a Home.

26.22 Exemption. Notwithstanding anything to the contrary herein, and except as otherwise expressly provided herein, neither Declarant nor Club Owner nor any Home or property owned by Declarant or Club Owner shall (unless specified to the contrary by Declarant or Club Owner in a separate written instrument) be responsible for any Assessments of any nature or any portion of Association Expenses. Except as may otherwise be provided by applicable law, Declarant, at Declarant's sole option, may pay Assessments on Homes owned by it, or fund the deficit, if any, as set forth in Section 26.11 herein. In addition, the Declarant, prior to the Community Completion Date, and thereafter the Board shall have the right to exempt any portion of Solivita subject to this Declaration from the Assessments, provided that such portion of Solivita exempted is used (and as long as it is used) for any of the following purposes:

6. Establishment of Assessments. Section 26.13.4 is hereby added to the Amended and Restated Declaration as follows:

26.13.4 If the budget of Association does not initially provide for Reserves, Association may establish Reserves upon the affirmative vote of not less than a majority of the total voting interests of Association at a duly noticed meeting of the members of Association at which a quorum is present or upon written consent executed by no less than a majority of all voting interests of Association. Such approval of Reserves shall state that Reserves shall be provided for in the budget of Association and designate the components for which reserve accounts are to be established. Upon such approval of Association, approved Reserves shall be included in the budget for the next fiscal year thereafter unless waived or reduced as provided in Chapter 720 of the Florida Statutes.

7. Architectural Control. Sections 28.3, 28.6, 28.7, 28.9, 28.10 and 28.19 of the Amended and Restated Declaration are deleted and replaced with the following:

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

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

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

28.9 Alterations. Any and all alterations, deletions, additions and changes of any type or nature whatsoever to then existing improvements or the plans or specifications previously approved by the ARC, including, but not limited to, changes relating to exterior design, landscaping, location, size, type and appearance, shall be subject to the approval of the ARC in

the same manner as required for approval of original plans and specifications. Notwithstanding the foregoing, the ARC shall have no right to approve any changes to a Home not visible from the exterior of a Home.

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

28.19 Exculpation. The ARC's rights of review and approval or disapproval of plans and other submissions under this Declaration are intended solely for the benefit of the ARC and Association. Neither the ARC, the Association, the Declarant, nor any of their respective officers, directors, shareholders, members, partners, managers, employees, agents, contractors, consultants or attorneys shall be liable to any Owner or any other party by reason of mistakes in judgment, failure to point out or correct deficiencies in any plans or other submissions, negligence, or any other misfeasance, malfeasance or non-feasance arising out of or in connection with the approval or disapproval of any plans or submissions except as otherwise expressly provided by Section 720.3035 of the Florida Statutes. Anyone submitting plans or other submissions, by the submission of the same, and any Owner, by acquiring title to a Home, agrees not to seek damages from the Declarant, the ARC and/or the Association or any of their respective officers, directors, shareholders, members, managers, employees, agents, contractors, consultants or attorneys arising out of the ARC's review of any plans or other submissions under this Declaration except as otherwise expressly provided by Section 720.3035. Without limiting the generality of the foregoing, the ARC shall not be responsible for reviewing, nor shall its review of any plans be deemed approval of, any plans or other submissions from the standpoint of structural safety, soundness, workmanship, materials, usefulness, conformity with building or other codes or industry standards, or compliance with governmental requirements. Each party submitting plans, specifications and other submissions for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto. By way of example, and not of limitation, the approval of hurricane shutters shall not be deemed endorsement or guarantee of the effectiveness of such hurricane shutters. Further, each Owner agrees to indemnify and hold Declarant, Association and the ARC harmless from and against any and all costs, claims (whether rightfully or wrongfully asserted), damages, expenses or liabilities whatsoever (including, without limitation, reasonable attorneys' fees and costs, pre-trial and at all levels of proceedings, including appeals), arising out of any review of plans by the ARC under this Declaration except as otherwise expressly prohibited by law.

[ADDITIONAL TEXT AND SIGNATURES APPEAR ON FOLLOWING PAGE]

6. Covenant. This Second Amendment shall be a covenant running with the land.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand and seal as of this 7th day of August, 2007.

WITNESSES:

AVATAR PROPERTIES INC.,
a Florida corporation

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

By: Patricia K Fletcher
Name: PATRICIA KIMBALL FLETCHER
Title: Executive Vice President

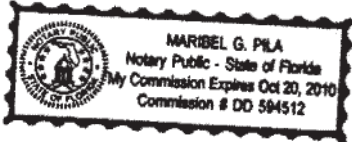
{SEAL}

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

The foregoing was acknowledged before me this 7th day of August, 2007 by PATRICIA KIMBALL FLETCHER as Executive Vice President of Avatar Properties Inc., a Florida corporation, who is personally known to me, on behalf of the corporation.

My commission expires:

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



JOINDER

SOLIVITA COMMUNITY ASSOCIATION, INC.

SOLIVITA COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation (the "Association") does hereby join in the Second Amendment to Amended and Restated Solivita Declaration (the "Second Amendment"), to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Association acknowledges that this Joinder is for convenience purposes only and does not apply to the effectiveness of the Second Amendment as Association has no right to approve the Second Amendment.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 6th day of August, 2007.

WITNESSES:

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

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

By: Melissa R. Boross
Name: MELISA R. BOROSS
Title: President



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

The foregoing was acknowledged before me this 6th day of August, 2007 by MELISA R. BOROSS as President of SOLIVITA COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation, who is personally known to me, on behalf of the corporation.

My commission expires:

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

