

PREPARED BY AND RETURN TO:

RZ
PATRICIA KIMBALL FLETCHER, ESQ.
AVATAR PROPERTIES INC.
201 ALHAMBRA CIRCLE, 12th FL
CORAL GABLES, FLORIDA 33134

INSTR # 2010018291
BK 08068 PGS 1802-1804 PG(s) 3
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RICHARD M WEISS, CLERK OF COURT
POLK COUNTY
RECORDING FEES 27.00
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THIRD AMENDMENT TO AMENDED AND RESTATED SOLIVITA DECLARATION

THIS THIRD AMENDMENT TO AMENDED AND RESTATED SOLIVITA DECLARATION (this "**Third Amendment**") is made by Avatar Properties Inc., a Florida corporation ("**Declarant**") and joined in by Solivita Community Association, Inc., a Florida not-for-profit corporation ("**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**") respecting the residential community known as Solivita ("**Community**").
- 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**") and further amended by that certain Second Amendment to Amended and Restated Solivita Declaration recorded in Official Records Book 07393 at Page 0400, of the Public Records of Polk County, Florida (the "**Second 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), 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. Declarant desires to amend the Amended and Restated Declaration as set forth herein.

NOW THEREFORE, Declarant hereby declares that every portion of the Community 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 Third Amendment.
2. **Conflicts.** In the event that there is a conflict between this Third Amendment, the Second Amendment, the First Amendment and the Amended and Restated Declaration, this Third Amendment shall control. Whenever possible, this Third Amendment, the 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, the Second Amendment and this Third Amendment together with all amendments and modifications thereof.

4. Senior Housing Restrictions. Section 41.1 of the Amended and Restated Declaration is deleted in its entirety and replaced with the following:

41. Senior Housing Restrictions.

41.1 Age of Residents. Subject to all local ordinances, as they may be amended from time to time, at least eighty percent (80%) of the occupied Homes must be occupied by at least one (1) person fifty-five (55) years of age or older. It shall be the responsibility of the Board of Association to determine whether eighty percent (80%) of the occupied Homes in Solivita are occupied by at least one person who is fifty-five (55) years of age or older. No person under the age of eighteen (18) years of age may be permitted to temporarily reside for periods not to exceed thirty (30) days in total in any calendar year. Such temporary residency shall be governed by Rules and Regulations adopted by the Board. Notwithstanding anything to the contrary set forth in the Declaration, the restriction that no person under the age of eighteen (18) years may be a permanent occupant of any Home shall be in perpetuity and shall not be subject to amendment. The provisions of this Section are intended specifically to be consistent with, and are set forth in order to comply with the provisions of the Federal Fair Housing Act (the "Act"), and exceptions therefrom provided by 42 U.S.C., Section 3607, regarding discrimination based on familial status, and may be amended at any time by a majority of the Board of Directors (without the joinder or vote of Owners) to reduce the fifty-five (55) years of age restriction if so permitted by the Act. Notwithstanding anything to the contrary, for so long as Seller owns lots for development and sale in the Community, Declarant shall have the sole right, but not the obligation, to allow no more than twenty percent (20%) of the homes to be permanently occupied by persons who are under fifty-five (55) years of age but who are fifty-two (52) years of age or older; provided, such occupancy does not violate the Act.

5. Covenant. This Third Amendment shall be a covenant running with the land.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand and seal as of this 26th day of January, 2010.

WITNESSES:

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

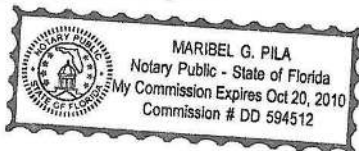
AVATAR PROPERTIES INC.,
a Florida corporation,

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

STATE OF FLORIDA)
)SS.:
COUNTY OF Miami-Dade)

The foregoing was acknowledged before me this 26th day of January, 2010 by Patricia Kimball Fletcher as Exec. Vice Pres. of AVATAR PROPERTIES INC., a Florida corporation, who is personally known to me or who has produced N/A as identification on behalf of the corporation.

My commission expires:



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



JOINDER

SOLIVITA COMMUNITY ASSOCIATION, INC.

SOLIVITA COMMUNITY ASSOCIATION, INC. ("**Association**") does hereby join in the Third Amendment to the Amended and Restated Declaration for Solivita (the "**Third 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 Third Amendment, as Association has no right to approve the Third Amendment.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 27th day of January, 2010.

WITNESSES:

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

Orhilda V. Gilbert
Print Name: Orhilda V. Gilbert

Maribel G. Pila
Print Name: Maribel G. Pila

By: *Melissa R. Boross*
Name: Melissa R. Boross
Title: President

{SEAL}

STATE OF FLORIDA)
COUNTY OF Miami-Dade) SS.:

The foregoing instrument was acknowledged before me this 27th day of January 2010 by Melissa R. Boross, as President of SOLIVITA COMMUNITY ASSOCIATION, INC., a Florida not for profit corporation, who is personally known to me or who has produced N/A as identification, on behalf of the corporation.

My commission expires:

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

