

This Instrument Prepared by
and after Recording Return to:
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**AMENDED AND RESTATED NEIGHBORHOOD DECLARATION OF PROTECTIVE
COVENANTS, RESTRICTIONS AND EASEMENTS
FOR
ESPRIT AT AVENIR**

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THIS AMENDED AND RESTATED NEIGHBORHOOD DECLARATION OF PROTECTIVE COVENANTS, RESTRICTIONS AND EASEMENTS FOR ESPRIT AT AVENIR (“Declaration”) is made this 18th day of August, 2025, by KH ESPRIT LLC, a Florida limited liability company (“Declarant”) and is joined in by ESPRIT AT AVENIR NEIGHBORHOOD ASSOCIATION, INC., a Florida corporation not-for-profit (“Association”).

WHEREAS, Avenir Development, LLC, a Florida limited liability company (“Original Declarant”) and Association (formerly named Avenir – Pod 16 Neighborhood Association, Inc.) caused to be recorded that certain Neighborhood Declaration of Covenants, Restrictions and Easements for Avenir – Pod 16 on January 19, 2024 in Official Records Book 34782, at Page 1610 of the Public Records of Palm Beach County (the “Initial Declaration”);

WHEREAS, pursuant to the Assignment of Declarant Rights given by Original Declarant to Declarant and recorded on February 1, 2024 in Official Records Book 34806, at Page 1242 of the Public Records of Palm Beach County, Declarant became the “Declarant” under the Initial Declaration effective January 16, 2024;

WHEREAS, pursuant to Section 12.9.1 of the Initial Declaration, until the Turnover Date, all amendments or modifications shall be made by Declarant without the consent of the Owners so long as such amendments or modifications do not materially impair the common plan of development of the community;

WHEREAS, as of the Effective Date, Declarant is the owner in fee simple of the real property more particularly described on Exhibit “A” attached hereto and made a part hereof (“Property”) and the Turnover Date has not yet occurred;

WHEREAS, Declarant is desirous of amending and modifying the Initial Declaration by restating the provisions thereof in their entirety, it being the intent that this Declaration shall supersede and replace the Initial Declaration in its entirety;

WHEREAS, Declarant may desire to add real property adjacent to or near the Property (“Additional Property”), which Additional Property may become subject to the provisions of this Declaration upon the recording of a “Supplemental Declaration” (as hereinafter defined);

WHEREAS, Declarant desires to develop a planned residential community to be known as “Esprit at Avenir” (as hereinafter defined) upon the Property;

WHEREAS, in order to develop and maintain Esprit at Avenir as a planned residential community and to preserve the values and amenities of such community, it is necessary to declare, commit and subject the Property and the improvements now or hereafter constructed thereon to certain land use covenants, restrictions, reservations, regulations, burdens, liens, and easements; and to delegate and assign to the Association certain powers and duties of ownership, administration, operation, maintenance and enforcement; and

WHEREAS, the Association is joining in this Declaration in order to acknowledge its obligations hereunder.

WHEREAS, the Property is part of a planned community known as Avenir and is subject to the "Master Documents" (as hereinafter defined).

NOW, THEREFORE, in consideration of the premises and covenants herein contained, Declarant hereby declares that the Property shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth, all of which shall run with the Property and any part thereof and which shall be binding upon all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns.

1. EXPLANATION OF TERMINOLOGY

The following words and phrases used in this Declaration (unless the context should clearly reflect another meaning) shall have the following meanings:

1.1 "ADDITIONAL PROPERTY" shall mean any real property (other than the Property) that may be submitted by Declarant to the terms and provisions of this Declaration by a Supplemental Declaration which shall be executed by Declarant and need not be joined in by any other person or Owner. No portion of any Additional Property shall be encumbered by this Declaration unless and until such property is added by a Supplemental Declaration executed by Declarant. In the event any Additional Property becomes encumbered by this Declaration, then, and only then in such event, the term "Property" as used herein shall also mean a portion (or all) of the Additional Property.

1.2 "AGE-QUALIFIED OCCUPANT" shall mean a natural person who is fifty-five (55) years of age or older.

1.3 "AMENDMENT(S)" shall mean any and all amendments to this Declaration, all of which shall be consecutively numbered beginning with the "First Amendment to the Neighborhood Declaration of Protective Covenants, Restrictions and Easements for Esprit at Avenir" and each of which shall be properly adopted pursuant to the terms of the Neighborhood Documents and recorded in the Public Records of the County; provided, however, the failure to so consecutively number such amendments shall not impair their validity hereunder and such amendments to the extent not otherwise numbered will be deemed to have been numbered in chronological order of their appearance in the Public Records of the County. "Amendment(s)" shall also mean any and all amendments to any Supplemental Declaration, as recorded in the Public Records of the County.

1.4 "ARCHITECTURAL GUIDELINES" shall mean the architectural, design and construction guidelines and standards and review procedures adopted pursuant to and complying with the terms of Section 9 hereof, as they may be amended.

1.5 "ARTICLES" shall mean the Amended and Restated Articles of Incorporation of the Association filed in the Office of the Secretary of State of the State of Florida, a true copy of

which is attached hereto as Exhibit “B” and incorporated herein by this reference, as such Articles may be amended from time to time.

1.6 “ASSESSMENT” shall mean assessments for which all the Owners are obligated to pay to the Association and includes “Individual Home Assessments” and “Special Assessments” (as such terms are defined in Section 7 hereof), “Assessments” as levied by the Master Association and any and all other assessments which are levied by the Association and the Master Association in accordance with the Neighborhood Documents and the Master Documents.

1.7 “ASSOCIATION” shall mean ESPRIT AT AVENIR NEIGHBORHOOD ASSOCIATION, INC., a Florida corporation not-for-profit, its successors and assigns, existing pursuant to the Amended and Restated Articles of Incorporation, filed in the Office of the Secretary of State of the State of Florida, as amended by any amendments thereto, and which Association is responsible for the maintenance, preservation and control of Esprit at Avenir as provided in this Declaration. The Association is an “Additional Association” as defined in Article II of the Master Declaration to mean “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 Master Association.”

1.8 “AVENIR” shall mean the name given to the planned community being developed by Master Declarant in the County in accordance with the Master Declaration, of which the Property is a portion thereof.

1.9 “BOARD” shall mean the governing body of the Association.

1.10 “BYLAWS” shall mean the Amended and Restated Bylaws of the Association, which have been or will be adopted by the Board, a copy of which are attached hereto as Exhibit “C” and incorporated herein by this reference, as such Bylaws may be amended from time to time.

1.11 “CITY” shall mean the City of Palm Beach Gardens, Florida.

1.12 “COMMON AREA” OR “COMMON PROPERTY” shall mean the property which is or will be owned and/or maintained by the Association, as described in this Declaration, or any exhibits hereto, or on the Plat, or additional plat, if any, including, without limitation, the Recreational Facilities.

1.13 “COMMUNITY DEVELOPMENT DISTRICT” or “CDD” shall mean the Avenir Community Development District which is a special purpose government unit organized in accordance with the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended, and which may acquire, fund, construct, operate and maintain certain infrastructure and community services within and outside Avenir.

1.14 “COMPLETED HOME” shall mean a Home that has been completed and for which Home a certificate of occupancy or equivalent therefor has been issued by the appropriate governmental agency, and the title to which has been conveyed by Declarant.

1.15 “COMPLETED HOME OWNER” shall mean the Owner of a Completed Home.

1.16 “CONTRIBUTING HOME” shall mean any Home conveyed by Declarant to an Owner which has been issued a certificate of occupancy for the Home constructed thereon by the appropriate governmental agency, except if conveyed to an Institutional Mortgagee by foreclosure or a deed in lieu of foreclosure, upon which an affirmative covenant to pay Assessments, as more particularly set forth herein, is imposed.

1.17 “CONTRIBUTING HOME OWNER” shall mean the Owner of a Contributing Home.

1.18 “COUNTY” shall mean Palm Beach County, Florida.

1.19 “DECLARANT” shall mean KH ESPRIT LLC, a Florida limited liability company, and any successor or assign thereof to which KH ESPRIT LLC, a Florida limited liability company, specifically assigns all or part of the rights of Declarant hereunder by an express written assignment, whether recorded in the Public Records of the County or not. The written assignment may give notice as to which rights of Declarant are to be exercised and as to which portion of the Property. In any event, any subsequent declarant shall not be liable for any default or obligations incurred by any prior declarant, except as may be expressly assumed by the subsequent declarant. An Owner shall not, solely by the purchase of a Home, be deemed a successor or assign of Declarant under the Neighborhood Documents unless such Owner is specifically so designated as a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Declarant.

1.20 “DECLARATION” shall mean this instrument as it may be amended from time to time, together with any Supplemental Declaration(s) or Amendments hereto, which may be recorded in the Public Records of the County.

1.21 “ESPRIT AT AVENIR” shall mean that planned development located in Palm Beach County, Florida, which encompasses the Property and which is located within and is part of Avenir. Esprit at Avenir is initially intended to be comprised of 491 Homes and the Common Area, but subject to change in accordance with this Declaration. Esprit at Avenir will initially consist of the land set forth in Exhibit “A,” attached hereto and made a part hereof and may be expanded to include Additional Property (which shall require City approval) or reduced by withdrawal of property, all by the recording of one or more Supplemental Declaration(s). The Association is an “Additional Association” as defined in the Master Declaration.

1.22 “DIRECTOR” shall mean a member of the Board.

1.23 “DRAINAGE SYSTEM” shall mean all structures, including culverts and swales, required to collect and convey rainfall runoff from Esprit at Avenir to the water management tract (i.e., lakes) on and/or adjacent to the Property. The Drainage System is located upon and designed to serve all of Avenir and is a private drainage system. Pursuant to the Master Declaration, it is intended that the CDD shall maintain the Drainage System.

1.24 “HOA ACT” shall mean the homeowners’ association act, Chapter 720, Florida Statutes, as amended through the date of recording this Declaration amongst the Public Records of the County.

1.25 “HOME” shall mean a residential dwelling unit in Esprit at Avenir intended as an abode for one (1) family, including single family detached residences. The term Home shall include the Lot. In the event all or any portion of the Additional Property is submitted to this Declaration by a Supplemental Declaration, the number of Homes within Esprit at Avenir shall increase.

1.26 “IMPROVEMENT” shall mean all structures or artificially created conditions and appurtenances thereto of every type and kind located within Esprit at Avenir, including, but not limited to, buildings, walkways, sidewalks, parking areas, berms, fountains, sprinkler pipes, gatehouses, roads, driveways, fences, retaining walls, underground footers and other foundation supports, stairs, landscaping, hedges, plantings, poles, swings, swimming pools, covered patios, screen enclosures, jogging, bicycling and walking paths, basketball backboards and hoops, signs, site walls, gazebos, benches, mailboxes, decorative street lights and signs.

1.27 “INCOMPLETE HOME” shall mean a Home that has not been completed and for which no certificate of occupancy or equivalent therefor has been issued by the appropriate governmental agency.

1.28 “INCOMPLETE HOME OWNER” shall mean the Owner of an Incomplete Home.

1.29 “INSTITUTIONAL MORTGAGE” shall mean a mortgage held by an Institutional Mortgagee on any property within Esprit at Avenir.

1.30 “INSTITUTIONAL MORTGAGEE OR INSTITUTIONAL LENDER” shall mean any lending institution owning a first mortgage encumbering any Home or Lot within Esprit at Avenir, which owner and holder of said mortgage shall either be a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, building and loan association, mortgage banking company licensed to do business in the State of Florida, or any subsidiary thereof, licensed or qualified to make mortgage loans in the State of Florida or a national banking association chartered under the laws of the United States of America or any “secondary mortgage market institution,” including the Federal National Mortgage Association (“FNMA”), Government National Mortgage Association (“GNMA”), Federal Home Loan Mortgage Corporation (“FHLMC”) and such other secondary mortgage market institutions as the Board shall hereafter approve in writing; any and all lenders, and the successors and assigns of such lenders, which have loaned money to Declarant and which hold a mortgage on any portion of the Property securing any such loan; any pension or profit-sharing funds qualified under the Internal Revenue Code; the Veterans Administration (“VA”), the Federal Housing Administration (“FHA”) or the U.S. Department of Housing and Urban Development (“HUD”) or such other lender as is generally recognized in the community as an institutional lender; or Declarant, its successors and assigns.

1.31 “INTEREST” shall mean the maximum non-usurious interest rate allowed by law on the subject debt or obligation, and if no such rate is designated by law, then eighteen percent (18%) per annum.

1.32 “LAKES” means those portions of Avenir designated on the Plat(s), if any, as lake(s), lake tracts or water management tracts.

1.33 “LAKE LOT” means a Lot within Avenir abutting one of the Lakes.

1.34 “LEGAL FEES” shall mean (i) all fees for attorney and paralegal services incurred in connection with negotiations, mediation, arbitration, litigation or preparation for same (whether or not such an action is actually begun) through and including all trial and appellate levels and post-judgment or collection proceedings; and (ii) all costs incurred with respect to the matters set forth in (i), above.

1.35 “LENDER” shall mean (i) the institutional and licensed holder of a first mortgage encumbering a Lot or Home or (ii) the Declarant and its affiliates, to the extent the Declarant or its affiliates finances the purchase of a Home or Lot initially or by assignment of an existing mortgage.

1.36 “LESSEE” shall mean the lessee named in any written lease respecting a Home who is legally entitled to possession of any Home within Esprit at Avenir.

1.37 “LOT” shall mean any parcel of land within Esprit at Avenir as shown on the Plat, any additional plat, or on any replat, if any, upon which a Home is permitted to be constructed, together with the Improvements thereon. Upon completion of construction of a Home on a Lot, such Lot and the Improvements thereon are sometimes collectively referred to as a Lot in this Declaration and the Neighborhood Documents. Any portion of Avenir owned by the CDD shall not be considered a Lot.

1.38 “MASTER ASSOCIATION” shall mean Avenir Master Property Owners Association, Inc., a Florida corporation not for profit, organized to administer the Master Declaration and having among its members all “Parcel Owners” (as such term is defined in the Master Declaration), which are subject to assessments by the Master Association. Esprit at Avenir is a “Residential Parcel” as shown on the Master Plan and is deemed to contain that number of “Residential Units” (all such terms as defined in the Master Declaration) as reflected therein. Where a “Parcel” is subject to an “Additional Association,” the Additional Association, and not the Parcel Owner, shall be deemed the “Member” of the Master Association and entitled to cast all votes attributable to such Additional Association, in a representative capacity, as the “Voting Member,” as more particularly described in the Master Documents (all such terms as defined in the Master Declaration). The Association is an Additional Association under the Master Declaration.

1.39 “MASTER ASSOCIATION COMMON AREA” OR “MASTER ASSOCIATION COMMON PROPERTY” shall mean the property which is or will be owned and/or maintained by the Master Association, as set forth in the Master Declaration or on the Plat, if any. Master Association Common Area includes any portion of the Drainage System not owned by the CDD, if any.

1.40 “MASTER DECLARANT” shall mean Avenir Development, LLC, a Florida limited liability company, and all of such entity’s successors and assigns.

1.41 “MASTER DECLARATION” shall mean the Master Declaration of Covenants, Conditions and Restrictions for Avenir recorded in the Public Records of the County, and all amendments and supplements thereto, whereby the real property comprising Avenir, including the Property, is bound by the terms of the Master Declaration and whereby the “Common Expenses”

(as defined therein) the Master Association incurs for the benefit of all Avenir "Owners" are made specifically applicable to the Owners to be collected by the Association on behalf of the Master Association. The Master Declaration authorizes "Regular Assessments," "Special Assessments" and "Benefited Assessments" (all as defined therein) to be levied against the Owners.

1.42 "MASTER DESIGN REVIEW BOARD" OR "MASTER DRB" shall mean the committee established, upon delegation or termination of Master Declarant's authority under Article IV of the Master Declaration, to review plans and specifications for the construction or modification of improvements and to administer and enforce the architectural controls described in Article IV of the Master Declaration.

1.43 "MASTER DOCUMENTS" shall mean the Master Declaration, the Amended and Restated Articles of Incorporation and By-Laws of the Master Association, the Design Guidelines (adopted or to be adopted pursuant to Article IV of the Master Declaration), the Use Restrictions, attached as Exhibit "B" to the Master Declaration, any rules and regulations promulgated by the Master Association and all of the instruments and documents referred to therein and executed in connection therewith, and any amendments to any of the documents thereto.

1.44 "MASTER PLAN" shall mean 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" to the Master Declaration, which is being developed by Master Declarant.

1.45 "MEMBERS" shall mean and refer to all of the Owners who are also members of the Association, as provided herein. The Association serves as the member of the Master Association.

1.46 "NEIGHBORHOOD DESIGN REVIEW BOARD" OR "NEIGHBORHOOD DRB" shall mean the committee established, upon delegation or termination of Declarant's authority under Section 9 hereof, to review plans and specifications for the construction or modification of improvements and to administer and enforce the architectural controls described in Section 9 hereof.

1.47 "NEIGHBORHOOD DOCUMENTS" shall mean, in the aggregate, this Declaration and the Articles, Bylaws, any rules and regulations of the Association which may be promulgated, all of the instruments and documents referred to therein and executed in connection therewith, the Architectural Guidelines and all amendments to the foregoing.

1.48 "NOTICE AND HEARING" shall mean written notice and a public hearing before a tribunal appointed by the Board at which the Owner concerned shall have an opportunity to be heard in person or by counsel, at the Owner's expense, in the manner set forth in Section 9.1 herein.

1.49 "OCCUPY" or "OCCUPIES" or "OCCUPANCY" unless otherwise specified in the Neighborhood Documents, these terms shall mean staying overnight in a particular Home for at least sixty (60) total days in the subject calendar year. The term "OCCUPANT" shall refer to any individual other than an Owner who Occupies a Home or is in possession of a Home, or any portion thereof, or building or structure thereon, whether as a Lessee or otherwise, other than on a merely transient basis.

1.50 “OPERATING EXPENSES” shall mean the expenses of the Association as provided in Section 6.1.2 and elsewhere in this Declaration.

1.51 “OWNER” shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Home within Esprit at Avenir, and includes Declarant for as long as Declarant owns fee simple title to a Lot or Home, but excluding therefrom those having such interest as security for the performance of an obligation.

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

1.53 “PERSON” shall mean a natural person, a corporation, a partnership, a limited liability company, a trustee, or any other legal entity.

1.54 “PLAT” shall mean the plat of AVENIR – POD 16, recorded in Plat Book 136, Page 168, of the Public Records of the County. In the event an additional plat is recorded in the Public Records of the County with respect to the Additional Property made subject to this Declaration pursuant to a Supplemental Declaration, then the term “Plat” as used herein shall also mean the additional plat. Further, where the context so requires, the term “Plat(s)” shall also mean and refer to any plat recorded with respect to any portion of Avenir. Not all of the property shown on the Plat may be subject to this Declaration.

1.55 “PROPERTY” shall mean that certain real property described in Exhibit “A” and such additions thereto as may hereafter be brought within the jurisdiction of this Declaration and/or the Association; provided, however, Declarant reserves the right to add property and withdraw from the provisions hereof such portion or portions of the Property as Declarant from time to time elects, upon the execution by Declarant of a Supplemental Declaration.

1.56 “PUBLIC RECORDS” shall mean the Public Records of the County.

1.57 “RECREATIONAL FACILITIES” shall mean and refer to the recreational facilities that are owned by the Association from time to time which may, at Declarant’s sole and absolute discretion, be constructed within the Property. Recreational Facilities shall be part of the Common Areas. The Recreational Facilities do not include any part of the facilities of any adjacent or nearby communities including, without limitation, the communities or facilities known as Panther National and Avenir West Recreation Center.

1.58 “RESTAURANT OPERATOR” shall mean a third party operator or lessee approved by the Association to operate a restaurant business within the Recreational Facilities in accordance with the terms of this Declaration.

1.59 “QUALIFIED OCCUPANT” shall mean any natural person (i) twenty (20) years of age or older who Occupies a Home and was the original Occupant following purchase of the Home from the Declarant; or (ii) a natural person twenty (20) years of age or older who Occupies a Home with an Age-Qualified Occupant.

1.60 “SUPPLEMENTAL DECLARATION” shall mean any instrument executed by Declarant which, when recorded in the Public Records of the County, shall: (a) commit Additional

Property, if any, to the provisions of this Declaration, and shall be the only method of committing such property to the provisions of this Declaration, (b) withdraw any portion(s) of the Property from the effect of this Declaration, (c) designate portion(s) of the Property or Additional Property as Common Area hereunder, and/or (d) be for such other purposes as are provided in this Declaration. A Supplemental Declaration may also be used to add additional covenants, restrictions, reservations, regulations, burdens, liens, and easements upon the Property or any portion thereof; remove any existing covenant, restriction, reservation, regulation, burden, lien or easements from the Property or any portion thereof; declare certain properties to be or not to be Common Area; and/or add properties to or withdraw properties from the Property and the provisions of this Declaration. The Association shall join in the execution of any Supplemental Declaration at the request of Declarant but such joinder shall not be required to make any such Supplemental Declaration effective. The Owners shall not be required to join in the execution of any Supplemental Declaration but shall nevertheless be bound thereby.

1.61 “TURNOVER DATE” shall mean the date upon which Members, including Declarant, shall assume control of the Association and elect the Board, as more particularly described in Article V.D.2 of the Articles.

1.62 “WATER MANAGEMENT DISTRICT” or “SFWMD” shall mean the South Florida Water Management District, a regional water management district established in accordance with Florida law, and any successor, governmental agency, body or special district charged with the rights and responsibilities of the SFWMD.

1.63 “WATERWAYS” shall mean all lakes, wetlands, canals and drainage facilities comprising the surface water management system located within Esprit at Avenir, regardless of whether the Association or any other Person owns, operates, or maintains such system.

2. DESCRIPTION OF ESPRIT AT AVENIR

2.1 General Plan of Development

Esprit at Avenir comprises the Property encompassing, or which will encompass, the Lots and Common Area, as more particularly defined by this Declaration and, in addition, lands which Declarant may add, but shall in no way be obligated to add, by one or more Supplemental Declaration(s). The Property initially declared hereunder is described in Exhibit “A” attached hereto and is planned to contain 491 Homes, together with Common Area, all in accordance with, but subject to, the terms of this Declaration. Notwithstanding the foregoing, Declarant hereby reserves the right to modify its plan of development of Esprit at Avenir (including, without limitation, the right to modify the site plan of Avenir; the right to add or change the recreational facilities and amenities, if any, Home product types, and number of Homes to be constructed within Esprit at Avenir); and/or the right to add land to Esprit at Avenir or to withdraw land from Esprit at Avenir. Therefore, in the event Declarant modifies its plan of development of Esprit at Avenir and/or adds land to Esprit at Avenir or withdraws land from Esprit at Avenir, it is hereby acknowledged by each Owner that the number of Lots, the layout of Lots and/or the size of Lots within Esprit at Avenir may change. Declarant’s general plan of development further contemplates that the Homes to be constructed within Esprit at Avenir shall be whatever types of structures Declarant may choose which are in conformance with this Declaration or a Supplemental

Declaration. Declarant's general plan of development of Esprit at Avenir may also include whatever facilities and amenities Declarant considers in its sole judgment to be appropriate to Esprit at Avenir, as well as any changes thereto.

Additional Property will become a part of Esprit at Avenir if, and only if, Declarant in its sole discretion adds Additional Property to Esprit at Avenir by recording a Supplemental Declaration to such effect. Declarant hereby reserves an easement for ingress and egress and for utilities and drainage over, under and across the Property for the benefit of any Additional Property; provided, however, no such easement may be granted upon any portion of the Property that lies directly beneath a Home.

Declarant expressly reserves the right as to the Property to (i) commence construction and development of the Property if and when Declarant desires; (ii) develop the Property upon such timetable as Declarant, in its sole discretion, chooses; and (iii) modify the plan of development of the Property (including, without limitation, the right to modify the master plan of Esprit at Avenir, the right to add or change the recreational facilities and amenities, if any, and the right to change the Home product types and number of Homes to be constructed within Esprit at Avenir) in such manner as Declarant, in its sole discretion, chooses. Nothing contained herein shall be construed as obligating Declarant to construct Esprit at Avenir according to the present plan of development nor as obligating Declarant to declare any Additional Property to be Property.

Notwithstanding the restrictions set forth in Section 13.9, the Declarant reserves the right to sell Homes for Occupancy to natural persons between twenty (20) and fifty-five (55) years of age; provided, such sales shall not affect compliance with all applicable State and Federal laws under which Esprit at Avenir may be developed and operated as an age-restricted community.

The Master Declaration sets forth Master Declarant's plan for development of Avenir. Master Declarant's plans to develop Avenir as a mixed used master planned community, in accordance with the Master Declaration, and subject to change however in the discretion of the Master Declarant as provided in the Master Declaration.

A uniform community development district known as the Avenir Community Development District (the "CDD") has been established pursuant to Chapter 190 of the Florida Statutes to acquire or provide certain funding of the construction, maintenance and repair of improvements serving Avenir. The CDD will provide certain urban community development services and will have the authority to levy and collect fees, rates, charges, taxes and assessments to pay for, finance and provide such services. The CDD will impose taxes and/or assessments on Avenir through a special taxing CDD. These taxes will pay for the construction, maintenance and/or repair costs of improvements serving Avenir and will be set annually by the governing board of the CDD. These taxes and assessments are in addition to county and all other taxes and assessment provided for by law. These fees, rates, charges, taxes and assessments will either appear on the annual real estate tax bill for each Home Owner in which case they will be payable directly to the Palm Beach County Tax Collector or they will appear on a separate bill issued to each Home Owner by the CDD. All taxes of the CDD shall constitute a lien upon those portions of Avenir owned by any Owner. The CDD shall have the power to issue any types of bonds permitted by Chapter 190, Florida Statutes.

2.2 Lakes; Water Level and Use.

With respect to any Waterways now existing or which may hereafter be contained within Avenir, except as otherwise provided in the Master Declaration, only Master Declarant (and after the Turnover as provided for in the Master Declaration, the Master Association) shall have the right to pump or otherwise remove any water from such Waterways for the purposes of irrigation or other use or to place any matter or object in such Waterways. No docks, moorings, pilings, boat shelters, or other structure shall be erected on or over the Waterways, except as may be erected or approved in writing by the Master Declarant (and following the Turnover as provided for in the Master Declaration, the Master Association or the DRB). Only the Master Declarant (and after Turnover as provided for in the Master Declaration, the Master Association) shall have the right to prescribe the schedule for watering of the landscaping of the Property (subject to applicable legal requirements). No swimming, fishing, boats, canoes, kayaks or other water vehicle or craft shall be permitted on such Waterways. Subject to the provisions of the Master Declaration, the Master Association shall have the right and, as permitted by law, the obligation to control the growth and eradication of plants, fowl, reptiles, animals, fish, and fungi in and on such Waterways.

All Owners acknowledge that the Property is located within the boundaries of the SFWMD. Due to ground water elevations underneath the Property, priorities established by governmental authorities and other causes outside of the reasonable control of Declarant, the Association and the Master Association, water levels in the Waterways may rise and fall significantly due to among other things, fluctuations in ground water elevations within the surrounding areas. Accordingly, Declarant, the Association, the Master Declarant and the Master Association have no control over such water levels and/or ground water elevations in or around Avenir and/or Esprit at Avenir. Neither Declarant, the Association, the Master Declarant nor the Master Association shall have any liability for aesthetic conditions, objectionable odors, damage to plantings or direct or consequential damages of any nature caused by the presence of water or the fluctuation of water levels or water quality. Each Owner, by acceptance of title to a Lot, and each Owner's invitees, guests, agents, lessees, and their family members by use of a Lot, hereby release Declarant, the Association, the Master Declarant and the Master Association from and against any and all losses, claims, demands, liabilities, damages, costs and expenses of whatever nature or kind (including, without limitation, attorneys' fees and courts costs at trial and all appellate levels), related to, arising out of and/or resulting from the presence of water and/or the water levels in Avenir and/or in Esprit at Avenir.

DECLARANT, MASTER DECLARANT, THE ASSOCIATION, THE MASTER ASSOCIATION AND THE CDD SHALL NOT BE OBLIGATED TO PROVIDE SUPERVISORY PERSONNEL, INCLUDING, BUT NOT LIMITED TO, LIFEGUARDS FOR THE WATERWAYS. ANY INDIVIDUAL USING THE WATERWAYS SHALL DO SO AT HIS/HER OWN RISK AND HEREBY HOLDS DECLARANT, MASTER DECLARANT, THE ASSOCIATION AND THE MASTER ASSOCIATION HARMLESS FROM AND AGAINST ANY CLAIM OR LOSS ARISING FROM SUCH USE.

EACH OWNER, BY THE ACCEPTANCE OF TITLE TO A LOT, AND EACH OWNER'S INVITEES, GUESTS, AGENTS, LESSEES, AND THEIR FAMILY MEMBERS BY USE OF A LOT, ACKNOWLEDGES THAT THE WATERWAYS ARE DEEP AND DANGEROUS. NEITHER DECLARANT, MASTER DECLARANT, THE ASSOCIATION, THE MASTER ASSOCIATION, THE CDD NOR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS,

CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY, WATER QUALITY OR WATER LEVEL OF/IN ANY WATERWAYS WITHIN AVENIR, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO, ANY WATER BODY, ALL PERSONS USING SAME DOING SO AT THEIR OWN RISK. ALL OWNERS AND USERS OF ANY PORTION OF AVENIR SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF, SUCH PROPERTY, TO HAVE AGREED TO RELEASE THE LISTED PARTIES FROM ALL WATERWAYS RELATED CLAIMS AND FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES OR CASUALTIES AND/OR INJURIES RESULTING FROM INTERACTION WITH THE WATERWAYS. ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME WILDLIFE MAY HABITATE OR ENTER INTO WATER BODIES WITHIN OR NEARBY AVENIR AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

No installation of sand or other materials intended to simulate a beach shall be permitted along the Lake banks. Swimming or fishing in the Lakes is prohibited, and the operation of motorized and non-motorized watercraft in the Lakes is prohibited. No removal or damage to littoral or wetland plantings, if any, is permitted.

2.3 Model Row

Declarant hereby reserves the right to construct and/or operate a "model row(s)" in Esprit at Avenir. The "model row(s)" may contain models for Esprit at Avenir or other communities, as Declarant and/or any of Declarant's affiliates may so determine, in their sole discretion. The "model row(s)" may also contain parking, landscaping and fencing across the roads within Esprit at Avenir as Declarant may determine in its sole discretion. In the event that Declarant and/or any of Declarant's affiliates constructs a "model row(s)" in Esprit at Avenir, such "model row(s)" may be used for such period of time that Declarant and/or any of Declarant's affiliates determines to be necessary in its sole judgment. Declarant may use any model home(s) for a sales office and/or a construction office, and may do so for as long as it determines necessary, including after the sale of homes in the Esprit at Avenir community. By the Owner's acceptance of a deed for a Lot and Completed Home in Esprit at Avenir, such Owner agrees and acknowledges that: (i) Declarant and/or any of Declarant's affiliates have a right to construct and/or operate a "model row(s)"; (ii) Declarant and/or any of its affiliates have an easement over Esprit at Avenir for ingress and egress to and from the "model row(s)" and to use and show the models to prospective purchasers in Esprit at Avenir or other communities being developed by Declarant and/or any of Declarant's affiliates, as long as such "model row(s)" exists; and (iii) the Owner shall not interfere in any manner whatsoever in the sales process by Declarant and/or any of Declarant's affiliates, including, without limitation, the carrying of signs, the posting of signs on Lots or Homes or other types of demonstrations in Esprit at Avenir or any public right-of-way adjacent to the Property. Each Owner

acknowledges and agrees that any such activities interfere with the quiet enjoyment of Esprit at Avenir by the other Owners, are detrimental to the value of the Homes within Esprit at Avenir, and interfere with Declarant's and/or its affiliates ability to conduct their respective business.

2.4 Recreational Facilities

Declarant anticipates it will construct, at its sole cost and expense, certain improvements as part of the Recreational Facilities, which may include, without limitation, a community recreational center with pool, cabanas, pickleball courts, fitness center, meeting rooms, restaurant and bar, tot lot, passive parks and other parks and recreational facilities for the use and benefit of Declarant and Owners, and their respective family members, guests, invitees and lessees, as provided in and subject to the Neighborhood Documents. Declarant shall be the sole judge of the composition of improvements comprising the Recreational Facilities. Prior to the Turnover Date, Declarant reserves the absolute right to construct additional Common Area improvements (including Recreational Facilities) within Esprit at Avenir, from time to time, in its sole discretion, and to remove, add to, modify and change the boundaries, facilities and improvements now or then part of the Common Areas (including Recreational Facilities). Notwithstanding anything contained herein, or in any promotional materials regarding Esprit at Avenir, to the contrary, Declarant is not obligated to, nor has it represented that it will, construct any Common Area improvements or Recreational Facilities. Declarant is the sole judge of the Common Area improvements and Recreational Facilities, including the plans, specifications, design, location, completion schedule, materials, size, and contents of the facilities, improvements, appurtenances, personal property (e.g., furniture), color, textures, finishes or changes or modifications to any of them.

Without limiting the generality of the foregoing, portions of the Common Areas may be designated by Declarant for commercial uses. The Board shall determine the manner in which commercial portions of the Common Areas are held, maintained, and operated. The Association may designate another person or entity to hold, operate, and manage any commercial portions of the Common Areas for the benefit of the Association and may provide financial support for a commercial operation conducted on the commercial portion of the Common Areas as provided in Section 7.9 below.

3. ADDITIONS TO AND WITHDRAWALS FROM THE PROPERTY; CONVEYANCE OF COMMON AREA

3.1 Additions

Declarant may from time to time, in its sole discretion, by recording appropriate Supplemental Declaration(s) in the Public Records of the County, add any Additional Property or any other real property to the Property governed by this Declaration, and may declare all or part of such Additional Property or other property (including any Improvements thereon) to be Lots or Common Area. Upon the recording of a Supplemental Declaration, the property described therein shall be deemed part of the Property as if it were originally included therein and subject to this Declaration. Any such Supplemental Declaration may submit any Additional Property or any other real property to such modifications of the covenants, restrictions, reservations, regulations, burdens, liens and/or easements contained in this Declaration as may be necessary or convenient to reflect or adapt to any changes in circumstances or differences in the character of any such

Additional Property or other property (including without limitation, different voting rights and different Assessments and/or charges for the Additional Property so annexed, as Declarant, in its sole discretion, may deem necessary or appropriate to reflect the different character or use of the property added). Nothing contained in this Section 3.1 shall be construed to require the joinder by or consent of the Owners or the Association to any such Supplemental Declaration; provided, however, the Association shall join in the execution of any such Supplemental Declaration at the request of Declarant. In addition, nothing herein shall require Declarant to add any Additional Property.

3.2 Designation of Additional Common Area

Declarant may, from time to time, by recording Supplemental Declarations in the County, designate additional portions of the then existing Property owned by it to be Common Area.

3.3 Disclaimer of Implication

Only the real property described in Exhibit "A" hereto is submitted and declared as the Property subject to this Declaration. Unless and until a Supplemental Declaration is recorded in the fashion required pursuant to this Declaration, no other property (including any Additional Property) shall in any way be deemed to constitute a portion of the Property or be affected by the covenants, restrictions, reservations, regulations, burdens, liens, and easements expressly binding the Property as provided by the terms of this Declaration.

3.4 Absence of Obligation

Nothing in this Declaration shall be construed to require Declarant to add any Additional Property to the Property encumbered by this Declaration or to require Declarant to declare any portion of any properties added to the Property to be Common Area, nor shall anything in this Declaration be construed to require Declarant to declare any portion or portions of the existing Property as Common Area, except to the extent herein specifically provided.

3.5 Withdrawal

Notwithstanding anything herein to the contrary, Declarant reserves the absolute right at any time to withdraw portions of the Property from the provisions of this Declaration by recording an appropriate Supplemental Declaration in the County. Any such Supplemental Declaration must be executed by Declarant, the Owner of each Lot located on the Property sought to be withdrawn (if any) and each holder of an Institutional Mortgage on a Lot located on the Property sought to be withdrawn (if any), in order to be effective. Nothing contained in this Section shall be construed to require the joinder by or consent of the Owners of Lots on the portion of the Property which is not withdrawn by such Supplemental Declaration, such Owners' Institutional Mortgagees holding mortgages on Lots on the portion of the Property which is not withdrawn by such Supplemental Declaration, or the Association.

3.6 Title to the Common Area

To the extent herein provided, the Common Area is hereby dedicated to the joint and several use in common of the Owners of all Lots that may, from time to time, constitute part of the

Property. When title to all Lots which are subject to the provisions of this Declaration has been conveyed to non Declarant purchasers or earlier at Declarant's option (exercisable from time to time, as to any portions of the Common Area), Declarant or its successors and assigns shall convey and transfer to the Association, by quitclaim deed, the fee simple title to the Common Area free and clear of any mortgages and the Association shall accept such conveyance, holding title for the Owners as aforesaid. Such conveyance shall be subject to: (i) taxes and assessments with respect to the Common Area from and after the date of recording this Declaration; (ii) all laws, ordinances, regulations, restrictions, prohibitions and other requirements imposed by governmental authorities, including, without limitation, all building, zoning, land use and environmental laws, ordinances, codes and regulations; (iii) matters which would be disclosed by an accurate survey of the Common Area; (iv) easements, covenants, conditions, restrictions, reservations, limitations, agreements and other matters of record; and (v) the terms and provisions of this Declaration, as the same may have been modified, amended and/or supplemented from time to time.

At the time of conveyance of the Common Area or any portion thereof, the Association shall be required to accept the Common Area, together with the personal property and Improvements appurtenant thereto, if any. The Association hereby agrees to accept the Common Area and the personal property and Improvements appurtenant thereto in "AS IS" "WHERE IS" condition, without any representation or warranty, expressed or implied, in fact or by law, as to the condition or fitness of the Common Area and the personal property and Improvements appurtenant thereto being conveyed. IN THAT REGARD, THE ASSOCIATION AND EACH OWNER KNOWINGLY AND VOLUNTARILY RELINQUISHES AND WAIVES, AND DECLARANT EXPRESSLY DISCLAIMS, ANY AND ALL WARRANTIES (EXPRESS OR IMPLIED) AS TO THE COMMON AREA AND PERSONAL PROPERTY AND IMPROVEMENTS WHETHER ARISING FROM CUSTOM, USAGE OR TRADE, COURSE OF CONDUCT, COURSE OF DEALING, CASE LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF HABITABILITY, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR ANY IMPLIED WARRANTY OF FITNESS FOR ANY INTENDED OR PARTICULAR PURPOSE. TO THE EXTENT THAT BY LAW OR OTHERWISE ANY OF THE WARRANTIES RELINQUISHED, WAIVED OR DISCLAIMED CANNOT BE RELINQUISHED, WAIVED OR DISCLAIMED, IN WHOLE OR IN PART, ALL SECONDARY, INCIDENTAL AND CONSEQUENTIAL DAMAGES ARE SPECIFICALLY EXCLUDED AND DISCLAIMED (INCLUDING, WITHOUT LIMITATION, DAMAGES RESULTING FROM CLAIMS OF PROPERTY DAMAGE, LOSS OF USE, PERSONAL INJURY OR EMOTIONAL DISTRESS).

The Association shall accept this conveyance of the Common Area (together with the personal property and Improvements appurtenant thereto) and shall pay all costs of such conveyance including documentary stamps and other taxes of conveyance, recording charges, title insurance expenses and insurance fees. The conveyance shall not, however, impair in any way Declarant's rights and easements as set forth in this Declaration. Declarant reserves the right to convey any of the Common Area described herein to the CDD instead of the Association and in such case the Common Area so conveyed to the CDD shall be "CDD Property" (as such term is defined in the Master Declaration) and shall be operated, owned and maintained by the CDD.

Commencing upon the date this Declaration is recorded, and notwithstanding that title thereto has not yet been conveyed to the Association, the Association shall be responsible for the

maintenance of the Common Area in a continuous and satisfactory manner without cost to the general taxpayers of the County. The Association shall be responsible for the payment of real estate taxes, if any, against the Common Area including taxes on any Improvements and any personal property thereon accruing from and after the date this Declaration is recorded.

The Owners (including Declarant as to Lots owned by it) shall have no personal liability for any damages: (i) for which the Association is legally liable, or (ii) arising out of, relating to, or in connection with the existence or use of any Common Area or any other property required to be maintained by the Association.

Subject to the foregoing, Declarant may mortgage any or all portions of the Common Area to finance construction and development expenses provided that the mortgagee recognizes the rights of Owners under this Declaration and neither the Association nor any Owner is personally liable for paying the mortgage. In such event, neither the Association nor the Owners shall be required to join in or be entitled to consent to such mortgage. The Common Area shall be released from any such mortgage no later than the date same is conveyed to the Association.

3.7 Parking Rights

The Association may maintain upon the Common Area parking spaces for Owners, occupants, visitors and guests. The use of such parking spaces by Owners, occupants, visitors and guests shall be subject to duly adopted rules and regulations of the Association, as the same may be amended from time to time.

4. OWNERS' PROPERTY RIGHTS

4.1 Owners' Easements of Enjoyment

Every Owner and family member, guest, lessee, agent or invitee of an Owner shall, except as may otherwise be provided in this Declaration, have a permanent and perpetual, nonexclusive easement for ingress and egress over, enjoyment in, and use of the Common Area within the Property, except as may otherwise be specifically provided elsewhere in this Declaration, in common with all other Owners, their family members, guests, lessees, agents and invitees, located outside another Owner's Home which easement shall be appurtenant to, and shall pass with title to each Owner's Lot. This right shall be subject to the following conditions and limitations:

4.1.1 The right and duty of the Association to reasonably limit the number of guests, invitees or tenants of an Owner using the Common Area.

4.1.2 The right and duty of the Association to levy Assessments against each Contributing Home for the purpose of operating, maintaining, repairing and replacing the Common Area and facilities thereon, all in compliance with the provisions of this Declaration, the Master Declaration and the restrictions on portions of the Property from time to time recorded by Declarant.

4.1.3 The right of the Association to establish, amend and/or abolish from time to time, uniform rules and regulations pertaining to the use of the Common Area.

4.1.4 The right of the Association to establish, amend and/or abolish from time to time uniform rules and regulations pertaining to the Lots for the purposes of enhancing the aesthetic uniformity of the Property.

4.1.5 The right of the Association in accordance with its Articles, Bylaws, and this Declaration, with the vote or written assent of two thirds (2/3) of the total voting interests, to borrow money for the purpose of improving the Common Area and facilities thereon, and, in aid thereof, to mortgage, pledge, or hypothecate any or all of its real or personal property or pledge Assessments as security for money borrowed or debts incurred, provided that the rights of such mortgagee shall be subordinated to the use rights of the Owners.

4.1.6 The right of the Association to dedicate, release, alienate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject the Common Area to such conditions as may be agreed to by the Association. No such dedication, release, alienation or transfer shall be effective unless Members entitled to cast two-thirds (2/3) of the total voting interests agree to such dedication, release, alienation, or transfer.

4.1.7 The right of the Association to without any vote of the Owners to grant easements and rights of way or strips of land, where necessary or desirable, for utilities, water and sewer facilities, cable television, and other services over the Common Area to serve the Common Area and other portions of the Property, without vote of the Owners.

4.1.8 The right of Declarant, Declarant's affiliates and each of their respective officers, directors, partners, employees, agents, licensees, and invitees to the nonexclusive use of the Common Area within the Property and the facilities thereon, without charge, for sales, marketing, display, access, ingress, egress, construction, and exhibit purposes and to grant (without consent of the Association and/or vote of the Owners) easements and rights-of-way as provided in this Declaration.

4.1.9 The right of the Association, by action of the Board, to reconstruct, replace, or refinish any Improvement or portion thereof upon the Common Area, in accordance with the original design, finish, or standard of construction of such Improvement.

4.1.10 The right of the Association to replace destroyed trees or other vegetation and plant trees, shrubs, and ground cover upon any portion of the Common Area, except as may be prohibited under the Water Management District Permit.

4.1.11 The right, however not the duty, of the Association by action of the Board to seek the vacation of publicly dedicated streets, if any, upon the Common Area.

4.1.12 The easements provided elsewhere in this Declaration, designated on the Plat or any additional plat, if any, including, but not limited to, those set forth in this Section 4.

4.1.13 The right of the Association and the Master Association to provide for the maintenance, preservation and architectural control of Lots, Homes and other properties as set forth in this Declaration and in the Master Declaration.

4.1.14 The right of the Association and Declarant and their respective employees, agents, licensees, and invitees to come upon the Property (including, without limitation, Common Area as well as a Lot even after the same has been conveyed to an Owner) as may be necessary or convenient for the Association and/or the Declarant to carry on its respective duties, obligations, responsibilities under, and all other work referred to in, this Declaration (including, without limitation, Declarant's development and construction of Esprit at Avenir and Homes therein).

4.1.15 All Owners are subject to the Master Documents and therefore, have all the rights granted under the Master Documents and are subject to all burdens which result therefrom including, without limitation, the obligation to pay Assessments (Regular Assessment, Benefited Assessment or Special Assessment) thereunder. To the extent of any conflict between the Neighborhood Documents and the Master Documents, the Master Documents shall control to the extent of such conflict.

4.2 Delegation of Use

Any Owner may delegate, in accordance with this Declaration, such Owner's right of enjoyment to the Common Area located outside the Homes to the members of such Owner's family, or to the lessees who reside in such Owner's Home, subject to this Declaration, all of the rules and regulations presently in effect and any which may become effective in the future, and further subject to reasonable regulation by the Board.

4.3 Recognition of Existing Easements

Each Owner, by acceptance of a deed or other instrument of conveyance, recognizes and consents to the easements reserved and/or granted with respect to the Property under this Declaration.

4.4 Easements for Vehicular Traffic

In addition to the general easements for use of the Common Area reserved herein, there shall be, and Declarant hereby reserves, grants, and covenants for itself and all future Owners, their family members, guests, invitees and lessees, Institutional Mortgagees of the Property (or portions thereof), and to the Association and the Master Association, that all of the foregoing shall have a perpetual nonexclusive easement for vehicular traffic over (i) all streets dedicated to the public use, if any (as well as alcoves, cul de sacs, and other private, paved areas abutting or serving the same), and (ii) any private roads within or upon the Property.

4.5 Access Easement

Declarant hereby reserves perpetual, nonexclusive easements of ingress and egress over and across (i) any and all streets dedicated to the public use, if any (as well as alcoves, cul de sacs, and other private, paved areas abutting or serving the same), and (ii) any private roads and driveways, if any, within or upon the Property and all other portions of the Property which are necessary or convenient for enabling Declarant to carry on the work referred to in this Declaration. All of the foregoing easements shall be for the use of Declarant, Declarant's employees, contractors and agents, Declarant's successors and assigns, the Owners, and the respective lessees, employees, agents, invitees, and licensees of Declarant and the Owners.

4.6 Grant and Reservation of Easements

Declarant hereby reserves and grants the following perpetual, nonexclusive easements over and across the Property as covenants running with the Property for the benefit of the Owners, the Association, the Master Association, the Master Declarant, the CDD and Declarant, as applicable, as hereinafter specified for the following purposes:

4.6.1 Utility and Services Easements. All of the Property shall be subject to an easement or easements to provide for: (i) installation, service, repair and maintenance of the equipment required to provide utility services to the Property and the Lots and Homes, including, but not limited to, power, lights, telephone, cable television, gas, water, sewer, irrigation and drainage, and (ii) governmental services, including, but not limited to, police, fire, health, sanitation and other public service personnel, including reasonable rights of access for persons and equipment necessary for such purposes for the benefit of the appropriate utility companies, agencies, franchises or governmental agencies.

4.6.2 Easement for Encroachment. All of the Property shall be subject to an easement or easements for encroachment in favor of each Owner in the event any portion of such Owner's Home or appurtenant Improvements installed by Declarant such as a fence, stucco, underground footer or sidewalk, now or hereafter encroaches upon any of the Lots as a result of minor inaccuracies in survey or construction, by design, or due to settlement or movement. Such encroaching Improvements installed by Declarant shall remain undisturbed for so long as the encroachment exists. Any easement for encroachment shall include an easement for the maintenance and use of the encroaching Improvements in favor of the Owner thereof or such Owner's designees. Such encroachment will likely constitute a violation of the City's regulations. The City does not expressly or by implication authorize such encroachment. This Section does not limit the City's ability to pursue all available remedies to prevent or remove such encroachments. The City will not permit or allow such encroachments into any easement of land dedicated to or owned by the public for utility, drainage or roadway purposes.

4.6.3 Easement to Enter Upon Lots and Homes. An easement or easements for ingress and egress in favor of the Association including the Board or the designee of the Board, to enter upon the Lots for the purposes of fulfilling its duties and responsibilities of ownership, maintenance and/or repair in accordance with the Neighborhood Documents, including, by way of example, the making of such repairs, maintenance or reconstruction as are necessary for the Common Area and to maintain any Lot in the event the Owner thereof fails to do so.

4.6.4 Easement over Common Area. An easement of enjoyment in favor of all Owners, their family members, guests, invitees and tenants in and to the Common Area which shall be appurtenant to and shall pass with a deed or title to every Lot in the Property, subject to the following:

4.6.4.1 the right of the Association to suspend the right to use the Common Area of any Owner and such Owner's family members, guests, invitees and tenants for any period during which Assessments against such Owner's Lot remain unpaid, subject to the notice and hearing provisions in Section 9.1 herein;

4.6.4.2 the right of the Association to grant permits, licenses and easements over the Common Area for utilities and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property; and

4.6.4.3 all provisions set forth in the Neighborhood Documents.

4.6.5 Drainage and Irrigation Easement. An easement for drainage, flowage and irrigation over, under and upon the Property, including each of the Lots, in favor of the Association, the CDD, the Master Association, and each Owner, including, but not limited to, reasonable rights of access for persons and equipment to construct, install, maintain, alter, inspect, remove, relocate and repair the water drainage system, flowage pipes and irrigation pipes.

4.6.6 Drainage System Encroachment Easement. An easement for encroachment over, under and upon the drainage easements located within the Lots, as designated on the Plat in favor of (i) the Owner of the Lot upon which the drainage easement is located for the existence of any driveway and/or sidewalk or irrigation system or part thereof, and (ii) the Association, the CDD and the Master Association for reasonable rights of access for persons and equipment to construct, install, maintain, alter, inspect, remove, relocate and repair any driveway and/or sidewalk, or irrigation system or part thereof installed or located thereon. In the event the Association, the CDD or the Master Association requires access to any Drainage System improvements within a drainage easement located within a Lot upon which any such driveway and/or sidewalk or irrigation system encroaches, the Association, the CDD or the Master Association has the obligation, at its own cost and expense, to remove and replace any such encroachment, and to return it to its condition immediately preceding such removal and replacement once access to the drainage easement is no longer required.

4.6.7 Drainage Easement. An easement as shown on the Plat in favor of the CDD and/or Master Association for the purpose of accessing the lakes to perform lake maintenance and to perform stormwater management and drainage facilities maintenance. The Owners, their guests, invitees, lessees and other persons are specifically prohibited from utilizing the drainage easements for the purpose of accessing the lakes for other uses.

4.6.8 Maintenance Easements. Easements over the Property outside of the Homes granted in favor of the Master Association, the CDD and the Water Management District for the purpose of maintaining the lakes and stormwater management and drainage facilities within the lakes.

4.6.9 Plat Easement(s). The Plat and/or additional plat, if any, may contain additional easements not discussed herein, granted in favor of the Association or others, for the specific purposes as described therein.

4.7 Assignments

The easements reserved hereunder may be assigned by Declarant or the Association in whole or in part to any city, county or state government or agency thereof, or any water management district, or any duly licensed or franchised public utility, or any other designee of Declarant. Declarant shall have and hereby reserves the right to grant and/or reserve additional easements over, under and upon the Property or portions thereof (including the portion of Lots

where no physical structure of the Home is located) which may be necessary or desirable by Declarant. The Owners hereby authorize Declarant and/or the Association to execute, on their behalf and without further authorization, such grants of easement or other instruments as may from time to time be necessary to grant easements over and upon the Property or portions thereof in accordance with the provisions of this Declaration.

Notwithstanding anything in this Declaration to the contrary, the easement rights granted or reserved by Declarant hereunder are not to be construed as creating an affirmative obligation to act on the part of Declarant.

4.8 Recreational Facilities

4.8.1 General Restrictions. Each Owner, its family members, guests, invitees, lessees, and other persons entitled to use the Recreational Facilities shall comply with following general restrictions:

4.8.1.1 Minors. Minors are permitted to use the Recreational Facilities; provided, however, parents are responsible for the actions and safety of such minors and any damages caused by such minors. The Association may adopt reasonable regulations and restrictions from time to time governing minors' use of the Recreational Facilities, including, without limitation, requirements that minors be accompanied by adults while using the Recreational Facilities.

4.8.1.2 Responsibility for Personal Property and Persons. Each Owner assumes sole responsibility for the health, safety and welfare of such Owner, his or her family members, lessees and guests, and the personal property of all of the foregoing, and each Owner shall not allow any damage the Recreational Facilities or interfere with the rights of other Owners hereunder. Neither the Declarant nor the Association shall be responsible for any loss or damage to any private property used, placed or stored on the Recreational Facilities. Further, any person entering the Recreational Facilities assumes all risk of loss with respect to his or her equipment, jewelry or other possessions, including, without limitation, wallets, books and clothing left in the Recreational Facilities.

4.8.1.3 Activities. Any Owner, or Owner's family member, lessee, guest or other person who, in any manner, makes use of the Recreational Facilities, or who engages in any contest, game, function, exercise, competition or other activity operated, organized, arranged or sponsored either on or off the Recreational Facilities, shall do so at their own risk. Every Owner shall be liable for any property damage and/or personal injury at the Recreational Facilities, caused by any Owner, or such Owner's family member, lessee, or guest. No Owner may use the Recreational Facilities for any society, party, religious, political, charitable, fraternal, civil, fund-raising or other purposes without the prior written consent of the Association, which consent may be withheld for any reason. All incontinent individuals are required to wear swim diapers while using any community pool located within the Recreational Facilities, as applicable.

4.8.1.4 Recreational Facilities Personal Property. Property or furniture used in connection with the Recreational Facilities shall not be removed from the location in which it is placed or from the Recreational Facilities.

4.8.2 Indemnification. By the use of the Recreational Facilities, each Owner, its family members, guests, invitees and lessees agree to indemnify and hold harmless the Indemnified Parties (defined below) against all Losses (defined below) incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to use of the Recreational Facilities by Owners, its family members, lessees, and their guests and/or from any act or omission of the any of the Indemnified Parties. Losses shall include the deductible payable under any of the Association's insurance policies.

4.8.3 Attorney's Fees. Should any Owner, its family members, guests, invitees or lessees bring suit against the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, the Owner and/or its family members, guests, invitees or lessees shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorneys' fees and paraprofessional fees at trial and upon appeal.

4.8.4 Basis for Suspension. The rights of an Owner, lessee, guest or other individual to use the Recreational Facilities may be suspended by the Association if, in the sole judgment of the Association:

4.8.4.1 the Owner, a family member, lessee, a guest or other person for whom an Owner is responsible violates one or more of the rules and regulations promulgated by the Association;

4.8.4.2 an Owner, lessee, family member and/or guest has injured, harmed or threatened to injure or harm any person within the Recreational Facilities, or harmed, destroyed or stolen any personal property within the Recreational Facilities, whether belonging to an Owner, third party or to the Association; or

4.8.4.3 an Owner fails to pay Assessments due.

4.8.5 Types of Suspension. The Association may restrict or suspend, for cause or causes described herein, any Owner's or lessee's privileges to use any or all of the Recreational Facilities. By way of example, and not as a limitation, the Association may suspend a lessee's privileges to use any or all of the Recreational Facilities if such lessee's Owner fails to pay Assessments due in connection with a leased Home. In addition, the Association may suspend the rights of a particular Owner (and/or family members or lessees) or prohibit an Owner (and/or family members or lessees) from using a portion of the Recreational Facilities. No Owner or lessee whose privileges have been fully or partially suspended shall, on account of any such restriction or suspension, be entitled to any refund or abatement of Assessments or any other fees. During the restriction or suspension, Assessments shall continue to accrue and be payable each month. Under no circumstance will an Owner be reinstated until all Assessments and other amounts due to the Association are paid in full. Any suspension of an Owner's or lessee's rights to use the Recreational Facilities shall be imposed upon delivery of fourteen (14) days prior written notice to such Owner or lessee and an opportunity for a hearing before a committee of the Board which is comprised of three (3) members who are not officers, directors, or employees of the Association, or the spouse, parent child, brother, or sister of an officer, director, or employee of the Association. Such

suspension may not be imposed without the approval of a majority of the members of such committee. If the Association imposes a suspension, the Association must provide written notice of such suspension by mail or hand delivery to the Owner or lessee.

5. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION; BOARD;
DURATION OF THE ASSOCIATION

5.1 Membership and Voting Rights

Membership in the Association shall be established and terminated as set forth in the Articles. Each Member shall be entitled to the benefit of, and be subject to, the provisions of the Neighborhood Documents. The voting rights of the Members shall be as set forth in the Articles. The Association, rather than each Owner, shall be the “member” of the Master Association as provided in the Master Documents.

5.2 Board

The Association shall be governed by the Board which shall be appointed, designated or elected, as the case may be, as set forth in the Articles.

5.3 Duration of Association

The duration of the Association shall be perpetual, as set forth in the Articles.

5.4 Relationship to the Master Association

5.4.1 The Master Association.

Esprit at Avenir is a component of the larger mixed use master planned community known as Avenir. All Owners, lessees, and occupants of Homes in Esprit at Avenir shall have access to and use of various services and facilities provided by the Master Association in accordance with and subject to the Master Documents. Every Owner, by acceptance of a deed to a Lot and Completed Home, acknowledges that, in addition to being subject to and bound by the Neighborhood Documents, he or she is subject to and bound by the Master Documents and subject to Assessment by the Master Association in accordance with the terms of the Master Declaration. Each Owner covenants and agrees to pay all Assessments levied against such Owner’s Home by the Master Association and/or by the Association on behalf of the Master Association. Pursuant to the terms of the Master Declaration, the Association is the “member” of the Master Association (rather than each individual Owner) and shall cast all votes, in a representative capacity, applicable to the Association on matters requiring a vote of the Master Association membership.

5.4.2 Supremacy of the Master Documents.

In addition to all of the rights and obligations which have been conferred or imposed upon the Association pursuant to the Neighborhood Documents, the Association shall be entitled to exercise any of the rights conferred upon it and shall be subject to all of the obligations imposed upon it pursuant to the Master Documents. The Association and all committees thereof shall also be subject to all superior rights and powers which have been conferred upon the Master Association

pursuant to the Master Documents. The Association shall take no action in derogation of the rights of the Master Association.

5.4.3 Cumulative Effect; Conflict.

The provisions of the Neighborhood Documents shall be cumulative with the provisions of the Master Documents; however, in the event of conflict between or among the provisions of the Neighborhood Documents and the Master Documents, the latter shall be superior. The foregoing priorities shall not prevent enforcement by the Association of provisions or rules in the Neighborhood Documents which are stricter than those of the Master Documents.

6. COVENANT TO PAY ASSESSMENTS; ESTABLISHMENT OF LIENS; COLLECTION OF ASSESSMENTS; COLLECTION BY DECLARANT; CERTAIN RIGHTS OF DECLARANT AND INSTITUTIONAL MORTGAGEES

6.1 Affirmative Covenant to Pay Assessments

6.1.1 In order to: (i) fulfill the terms, provisions, covenants and conditions contained in the Neighborhood Documents; and (ii) maintain, operate and preserve the Common Area for the use, safety, welfare and benefit of the Owners and their family members, guests, invitees and lessees, there is hereby imposed upon each Contributing Home and each Contributing Home Owner the affirmative covenant and obligation to pay to the Association commencing from and after the first conveyance of a Home from Declarant as evidenced by the recordation of a deed in the Public Records of the County (in the manner herein set forth) all Assessments, including, but not limited to, the Individual Home Assessments and Special Assessments. Each Owner, by acceptance of a deed or other instrument of conveyance conveying a Lot and Completed Home within the Property, whether or not it shall be so expressed in such deed or instrument, shall be obligated and agrees to pay to the Association all Assessments in accordance with the provisions of the Neighborhood Documents.

6.1.2 The following expenses of the Association are hereby declared to be Operating Expenses which the Association is obligated to assess and collect, and which the Owners are obligated to pay as provided herein or as may be otherwise provided in the Neighborhood Documents: (1) any and all taxes and tax liens which may be assessed or levied at any and all times against the Common Area as a whole and not upon an individual Lot or Home, or against any and all personal property or Improvements thereon; (2) all charges levied for utilities providing services for the Common Area as a whole and not upon an individual Lot or Home, or to the Owners on a bulk basis, such as water, gas, electricity, telephone, cable television, telecommunications services home monitoring, sanitation, sewer and any type of utility or any other type of service charge which is not separately billed to an Owner; (3) the premiums on policies of insurance including, but not limited to, liability and casualty insurance for the Common Area and directors and officers liability insurance for the officers and directors of the Association; (4) any sums necessary for the maintenance and repair of the Common Area and all Improvements located thereon; (5) any sums necessary to reimburse the Association for any costs or expenses incurred in connection with maintaining the Common Area; (6) administrative and operational expenses; (7) any and all assessments and/or charges levied by the Master Association against the Homes and Lots in accordance with Article VIII of the Master Declaration; and, (8) any and all

expenses deemed to be Operating Expenses by the Association and/or under this Declaration. Reserves for future maintenance, repair and replacements are specifically excluded from Operating Expenses. The Board may, if it so determines, include reserves in the Association's annual budget. In addition, any expense which is required by this Declaration to be the matter of Special Assessment shall not be deemed to be an Operating Expense. Expenses which are required to be the matter of Special Assessment include, by way of example but not by way of limitation, the following: the cost of reconstructing, replacing or improving the Common Area which is the Association's responsibility to maintain or any portion thereof or Improvements thereon; any casualty loss affecting the Association or the Common Area to the extent such loss exceeds the insurance proceeds, if any, receivable by the Association as a result of such loss; any judgment against the Association (or against a Director or Directors if and to the extent such Director is, or such Directors are, entitled to be indemnified by the Association therefor pursuant to the Articles) to the extent such judgment exceeds the insurance proceeds, if any, received by the Association as a result of such judgment, or an agreement by the Association (or such Director or Directors to whom indemnification is owed) to pay an amount in settlement of a lawsuit against it (or such Director or Directors) to the extent such settlement exceeds the insurance proceeds, if any, received by the Association as a result of such settlement agreement; and legal fees and costs (including, without limitation, attorneys and paralegal fees and court costs) incurred by the Association in connection with litigation (whether incurred for the preparation, filing, prosecution or settlement thereof or otherwise), except Legal Fees incurred by the Association in connection with the collection of Assessments or other charges which the Owners are obligated to pay pursuant to the Neighborhood Documents or the enforcement of the use and occupancy restrictions contained in the Neighborhood Documents, and except legal fees incurred for lawsuits not approved pursuant to Section 12 below.

The Operating Expenses with respect to the Common Area are payable by each Owner of a Contributing Home notwithstanding the fact that Declarant may not have as yet conveyed title to the Common Area to the Association.

6.2 Establishment of Liens

Each Assessment against a Contributing Home, together with Interest thereon and costs of collection, including, but not limited to, Legal Fees, shall be the personal obligation of the Owner of such Contributing Home. Any and all Assessments made by the Association in accordance with the provisions of the Neighborhood Documents with Interest thereon and costs of collection, including, but not limited to, Legal Fees, are hereby declared to be a charge and continuing lien upon each Contributing Home against which each such Assessment is made. Said lien shall be effective only from and after the time of the recordation amongst the Public Records of the County of a written, acknowledged statement by the Association setting forth the amount due to the Association as of the date the statement is signed. Upon full payment of all sums secured by that lien, the party making payment shall be entitled to a satisfaction of the statement of lien in recordable form. Notwithstanding anything to the contrary herein contained, in the event an Institutional Mortgagee of record obtains title to a Home as a result of foreclosure of its first mortgage or deed in lieu of foreclosure, such acquirer of title, its successors or assigns, shall be liable for Assessments pertaining to such Lot or chargeable to the former Owner except and to the extent limited by the HOA Act.

6.3 Collection of Assessments

In the event any Owner shall fail to pay any Assessment, or installment thereof, charged to such Owner within fifteen (15) days after the same becomes due, then the Association, through its Board, shall have any and all of the following remedies to the extent permitted by law, which remedies are cumulative and which remedies are not in lieu of, but are in addition to, all other remedies available to the Association:

6.3.1 To accelerate the entire amount of any Assessment for the remainder of the calendar year notwithstanding any provisions for the payment thereof in installments.

6.3.2 To advance on behalf of the Owner(s) in default funds to accomplish the needs of the Association up to and including the full amount for which such Owner(s) is liable to the Association and the amount or amounts of monies so advanced, together with Interest and all costs of collection thereof, including, but not limited to, Legal Fees, may thereupon be collected by the Association from the Owner(s) and such advance by the Association shall not waive the default.

6.3.3 To file an action in equity to foreclose its lien at any time after the effective date thereof as provided in Section 6.3.2 hereinabove. The lien may be foreclosed by an action in the name of the Association in like manner as a foreclosure of a mortgage on real property.

6.3.4 To file an action at law to collect said Assessment plus Interest and all costs of collection thereof, including, but not limited to, Legal Fees, without waiving any lien rights or rights of foreclosure in the Association.

6.3.5 To charge Interest on such Assessment from the date it becomes due, as well as a late charge of Twenty-Five and No/100 Dollars (\$25.00) or five percent (5%) of the past due amount, whichever is greater, by the Association to defray additional collection costs. This amount is subject to change in the Board's sole discretion.

6.3.6 To suspend the right of the Owner(s) in default to vote on any matter on which the Owners have the right to vote if such Owner is delinquent in payment of Assessments or other monetary obligation due the Association for more than ninety (90) days and until such monetary obligations are paid in full.

6.3.7 To suspend the right of the Owner(s), along with their family members, guests, invitees and tenants to use certain common and recreational areas located within the Common Area, if any, if such Owner is delinquent in payment of Assessments or any other monetary obligation due the Association for more than ninety (90) days and until such monetary obligations are paid in full.

Suspensions imposed by the Association pursuant to subsections 6.3.6 and 6.3.7 above must be approved by the Board in the manner required by the HOA Act.

6.4 Collection by Declarant

In the event for any reason the Association shall fail to collect the Assessments, Declarant shall at all times have the right (but not the obligation): (i) to advance such sums as the Association could have advanced as set forth above; and (ii) to collect such Assessments and, if applicable, any such sums advanced by Declarant, together with Interest and costs of collection, including, but not limited to, Legal Fees.

6.5 Rights of Declarant and Institutional Mortgagees to Pay Assessments and Receive Reimbursement

Declarant and any Institutional Mortgagee(s) shall have the right, but not the obligation, jointly or individually, and at their sole option, to pay any of the Assessments which are in default and which may or have become a charge against any Home(s). Further, Declarant and any Institutional Mortgagee shall have the right, but not the obligation, jointly or individually, and, at their sole option, to pay insurance premiums or fidelity bond premiums or other required items of Operating Expenses on behalf of the Association in the event the same are overdue and when lapses in policies or services may occur. Declarant and any Institutional Mortgagee paying overdue Operating Expenses on behalf of the Association will be entitled to immediate reimbursement from the Association plus Interest and any costs of collection including, but not limited to, Legal Fees, and the Association shall execute an instrument in recordable form to this effect and deliver the original of such instrument to each Institutional Mortgagee who is so entitled to reimbursement and to Declarant if Declarant is entitled to reimbursement.

7. METHOD OF DETERMINING ASSESSMENTS AND ALLOCATION OF ASSESSMENTS

7.1 Determining Amount of Assessments

The total anticipated Operating Expenses for each calendar year shall be set forth in the budget ("Budget") prepared by the Board. The total anticipated Operating Expenses (other than those Operating Expenses which are properly the subject of a Special Assessment) shall be apportioned equally among the Contributing Homes by dividing the total anticipated Operating Expenses as reflected by the Budget, other than those Operating Expenses which are properly the subject of a Special Assessment (adjusted as hereinafter set forth), by the total number of Contributing Homes which have been conveyed by Declarant (as evidenced by the recordation of a deed of conveyance) with the quotient thus arrived at being the "Individual Home Assessment." Notwithstanding anything herein or in the Neighborhood Documents to the contrary, any assessment for legal expenses incurred by the Association to begin legal proceedings against Declarant shall be deemed an Operating Expense which is properly the subject of a Special Assessment and not the subject of a regular Individual Home Assessment.

7.2 Assessment Payments

The Individual Home Assessments shall be payable quarterly, in advance, on the first day of the fiscal quarter. Notwithstanding the foregoing, the Board has the right to change the method and frequency of the payments of Individual Home Assessments. The Individual Home Assessments, and the quarterly payments thereof, as well as all Assessments provided for herein

and all installments thereof may be adjusted from time to time by the Board to reflect changes in the number and status of Contributing Homes (thus apportioning all Operating Expenses among all Contributing Homes in existence at the time an Individual Home Assessment installment is due) or due to changes in the Budget or in the event that the Board determines that an Assessments or any installment thereof is either less than or more than the amount actually required.

7.3 Special Assessments

“Special Assessments” include, in addition to other Assessments designated as Special Assessments in the Neighborhood Documents and whether or not for a cost or expense which is included within the definition of “Operating Expenses,” those Assessments which are levied for capital improvements which include the costs (whether in whole or in part) of constructing or acquiring Improvements for, or on, the Common Area or the cost (whether in whole or in part) of reconstructing or replacing such Improvements. In addition, Special Assessments may be levied against particular Lots and/or Owners to the exclusion of others. Notwithstanding anything to the contrary herein contained, it is recognized and declared that Special Assessments shall be in addition to, and are not part of, any Individual Lot Assessment. Any Special Assessments assessed against Lots and the Owners thereof shall be paid by such Owners in addition to any other Assessments and shall be assessed in the same manner as the Individual Lot Assessment. Special Assessments shall be paid in such installments or in a lump sum as the Board shall, from time to time, determine. Notwithstanding the foregoing, the levying of any Special Assessment after the Turnover Date shall require the affirmative assent of at least thirty percent (30%) of all Members represented in person or by proxy at a meeting called and held in accordance with the Bylaws; provided, however, the Board acting alone and without the consent of Members may levy Special Assessments for the following: i) in the event of a casualty loss to repair and replace Common Area which is not insurable (e.g., landscaping, fencing, etc.), not insured, under insured, or where insurance coverage was denied by the insurance carrier after the casualty loss; ii) to obtain funds to cover insurance deductibles in the event of a casualty loss; or iii) capital improvements necessary or desirable for the sole purpose of preservation of, or prevention of damage to, Common Area.

7.4 Liability of Owners for Individual Home Assessments

By the acceptance of a deed or other instrument of conveyance of a Completed Home in the Property, each Owner thereof acknowledges that such Completed Home becomes a Contributing Home upon such conveyance by Declarant and the Owners thereof are jointly and severally liable for their own Individual Home Assessments and their applicable portion of any Special Assessments, as well as for any and all other Assessments for which they are liable, as provided for herein. Such Owners further recognize and covenant that they are jointly and severally liable with the Owners of all Contributing Homes for the Operating Expenses (subject to any specific limitations provided for herein such as, but not limited to, the limitation with respect to matters of Special Assessment and the limitations on the liability of Institutional Mortgagees and their successors and assigns). Accordingly, subject to such specific limitations, it is recognized and agreed by each Owner, for such Owner and such Owner’s heirs, executors, successors and assigns, that in the event any Owner fails or refuses to pay such Owner’s Individual Home Assessment or any portion thereof, or such Owner’s respective portion of any Special Assessment or any other Assessment, then the other Owners may be responsible for increased Individual Home

Assessments or Special Assessments or other Assessments due to the nonpayment by such other Owner, and such increased Individual Home Assessment or Special Assessment or other Assessment can and may be enforced by the Association and Declarant in the same manner as all other Assessments hereunder as provided in the Neighborhood Documents.

7.5 Waiver of Use

No Owner, other than Declarant, may exempt himself, herself or itself from personal liability for Assessments duly levied by the Association. No Owner may release the Owner's Home from the liens and charges hereof either by waiver of the use and enjoyment of the Property and the facilities thereon or by abandonment of such Owner's Home.

7.6 Declarant Subsidy

Declarant has the right (at its sole election) to subsidize the Budget of the Association as provided below by making voluntary contributions in amounts determined by Declarant in Declarant's sole discretion. During the period of time that Declarant is offering Homes for sale in Esprit at Avenir and/or based on the number of Homes owned by Owners other than Declarant, Declarant may seek to keep Assessments lower than they otherwise may be by subsidizing the Budget of the Association by making voluntary contributions in amounts determined by Declarant. The amount of any such voluntary contributions may vary from time to time or may be discontinued and/or recommenced by Declarant from time to time. The determination to subsidize the Budget of the Association, the amount of any such voluntary contribution, the discontinuance and/or commencement of any such voluntary contributions shall all be made by Declarant in Declarant's sole discretion and in no event shall Declarant have any obligation whatsoever to make any such voluntary contributions. Each Owner shall be solely responsible to review the Budget of the Association then in effect to determine if and to what extent Declarant is making any voluntary contributions to subsidize the budget and thus lower the Assessments payable by the Owners that would otherwise be higher based on the Operating Expenses of the Association. Declarant's rights under this Section 7.6 do not constitute a guarantee of Assessments of Operating Expenses under and as described in Section 720.308(2) of the HOA Act.

7.7 Declarant's Right to Loan or Advance Funds.

Declarant may (but is not obligated to) loan, advance or otherwise make payments to the Association to assist the Association in meeting its financial obligations. Notwithstanding anything to the contrary contained in this Section, if Declarant loans, advances or otherwise makes payments to the Association, other than as a voluntary subsidy per Section 7.6 above, then any such sums shall be repaid to Declarant prior to the Turnover Date.

7.8 Working Fund Contribution.

Each Owner who purchases a Lot with a Home thereon, whether such conveyance is the first conveyance from Declarant or a subsequent conveyance, shall pay to the Association at the time legal title is conveyed to such Owner, a "Working Fund Contribution." The Working Fund Contribution shall be equal to One Thousand Five Hundred and No/100 Dollars (\$1,500.00) or such other amount as is determined by the Board from time to time. Working Fund Contributions are not advance payments of Individual Home Assessments and shall have no effect on future

Individual Home Assessments, nor will they be held in reserve. To ensure that the Association will have sufficient cash available to pay for start-up expenses, Operating Expenses and other expenses, Declarant may from time to time advance to the Association the Working Fund Contribution applicable to any Lot(s) prior to the time legal title to such Lot(s) is conveyed to the Owner(s) thereof. In the event Declarant advances the Working Fund Contribution applicable to any Lot, then, at the time legal title to such Lot is conveyed to the Owner thereof, the Working Fund Contribution to be paid by such Owner to the Association pursuant to this Section 7.8 shall be paid directly to Declarant in reimbursement of the advance, instead of to the Association. Working Fund Contributions (whether paid by Owner or advanced by Declarant) may also be used to offset Operating Expenses during the time Declarant is in control of the Board.

7.9 Contribution to Community Restaurant.

The Budget may include a line item containing an amount, to be determined by the Board from time to time and not to exceed the sum of \$350.00 per month per Contributing Home, to be assessed against each Contributing Home, and to be used exclusively to financially assist the cafe/restaurant business being operated within the Recreational Facilities by the Restaurant Operator. The assessment to support the cafe/restaurant business operation shall be due and payable by each Owner in the same manner as the Individual Home Assessments in accordance with Section 7.2 above. The Association shall disburse the funds collected pursuant to this Section 7.9 to the Restaurant Operator along with a list of the names of each Owner who has paid the assessed amount pursuant to this Section. Upon receipt of the money disbursed by the Association, the Restaurant Operator shall give each listed Owner a credit equal to the amount paid by such Owner to be used by such Owner for the purchase of goods and services at the cafe/restaurant business being operated within the Recreational Facilities by the Restaurant Operator. For avoidance of doubt, the assessment contained in this Section 7.9 to support the cafe/restaurant business operation shall be deemed an "Assessment" as such term is used in this Declaration. To the extent permitted by applicable law, in addition to all other remedies available at law and in equity, including, without limitation, those specifically provided in this Declaration, the Restaurant Operator, the Association, and/or the Declarant shall have the right to suspend any Owner from using the café/restaurant being operated within the Recreational Facilities if such Owner does not timely pay the assessments to support the café/restaurant imposed under this Section.

8. MAINTENANCE AND REPAIR OBLIGATIONS

The responsibility for the maintenance of the Property is divided between the Association and the Owners. Interior maintenance of structures is the responsibility of the owners of such structures. The Association may enter into agreements with others for the Association's management and/or maintenance of all or part of the property to be maintained by such entity (regardless of whether the subject property is within the Property) for purposes of carrying out all or a portion of the maintenance responsibilities of such entity, the expenses of which may be designated an Operating Expense, if the Association's Board determines such is in the interest of the Owners. Privately owned property shall be the maintenance responsibility of the Owner thereof, unless the responsibility is assumed by another by agreement approved or acknowledged by the Association. Open space owned by or dedicated to the Association shall be maintained by the Association and will not be diminished or destroyed in a manner which materially alters its use or enjoyment as open space.

8.1 By the Association.

8.1.1 The Association, at its expense, shall be responsible for the operation, maintenance, repair and replacement of all landscaping and grassed areas encompassed within the Common Area as well as all of the Improvements and facilities located over, through and upon the Common Area (except public utilities, to the extent same have not been made Common Area). Should any incidental damage be caused to any Home by virtue of the Association's failure to maintain the Common Area as herein required or by virtue of any work which may be performed or caused to be performed by the Association in the maintenance, repair or replacement of any Common Area, the Association shall, at its expense, repair such incidental damage. The Association shall not, however, be responsible for any loss of use, any hardship, an Owner's time or any other consequential or punitive damages.

8.1.2 The Association shall operate, maintain, repair and replace the irrigation system constructed over, through and upon the Common Area (or any portions thereof) as it shall deem appropriate. The Association shall be responsible for the costs of operation and maintenance of such irrigation system in connection with the Common Area, including any monthly fees and other costs of water and/or electric usage and the cost of repair or replacement to all or any part thereof. There is hereby reserved in favor of the Association the right to enter upon the Common Area and any and all Lots for the purpose of operating, maintaining, repairing and replacing the irrigation system over, through and upon the Common Area within the Property. If water is drawn from a lake within the Association, the Association shall also maintain, repair and replace the irrigation system within the Lots. If a Lot draws water from any source other than the lake for the irrigation system, the Owner shall be responsible for its maintenance, repair and replacement.

8.1.3 The Association shall be responsible for the maintenance, repair and replacement of all private streets, drives, roads, and roadways, if any, located upon the Common Area and there is hereby reserved in favor of the Association the right to enter upon any and all parts of the Common Area and Lots for such purpose. To the extent permitted by the appropriate governmental authority, the Association may, but shall not be obligated to, also provide maintenance of all city, County, district or municipal properties which are located within or in a reasonable proximity of the Property to the extent that their deterioration or unkempt appearance would adversely affect the appearance of the Property, including the right to enhance the landscaping in any public right of way.

8.1.4 The Association shall be responsible for the maintenance, repair and replacement of any common lighting located in Esprit at Avenir; provided, however, the Association shall not be responsible for the maintenance, repair and replacement of any lighting provided by the municipal electric service.

8.1.5 The Association, at its expense, shall maintain, repair and replace any perimeter walls, if any, constructed over, through and upon the Common Area (or any portions thereof). In the event there is an aluminum fence installed by Declarant at the rear of any Lot, said fence will be responsibility of the Owner of the Lot on which the fence is enclosing to maintain, repair, and replace. There is hereby reserved in favor of the Association the right to enter upon the Common Area and any and all Lots for the purpose of fulfilling its maintenance, repair and replacement responsibilities under this Section.

8.1.6 The Association, at its expense, shall maintain, repair and replace any retaining walls, including any fences attached thereto, if any, constructed over, through and upon the Common Area (or any portions thereof) or at the rear or side yard of any Lot.

8.1.7 It is intended that a pedestrian bridge ("Bridge") will be constructed over Tract W-2 on the Plat, in the manner shown on the site plan for Esprit at Avenir – Pod 16 approved by the City pursuant to Resolution 42, 2023, as it may be amended from time to time. If constructed, the Association shall maintain, repair and replace the Bridge as a Common Expense.

8.1.8 Neither the Association nor any Owner shall alter the slopes, contours, or cross sections of the lakes, lake banks and littoral zones or chemically, mechanically, or manually remove, damage or destroy any plants in any of the littoral zones, except upon the written approval from the CDD or applicable governmental authority.

8.1.9 The Association shall be responsible to maintain and mow the grass on the Lots, in addition to maintaining the landscaping on the Lots, as originally installed by Declarant. This includes seasonal fertilization. Each Owners shall be responsible to maintain and replace the shrubs and trees on the Lots, routine replacement of mulch, and any landscaping that they modify from what was originally installed by the Declarant (subject to ARB approval, elsewhere required).

8.1.10 Any property designated as open space, landscape buffer, undisturbed natural buffer, preserve area, or conservation or wetland area on any plat, permit, or other document recorded in the Public Records of the County shall be preserved and maintained by the owner of such property in a natural open condition. The Association or any subsequent owner shall not do anything that diminishes or destroys the open space, landscape buffer, undisturbed natural buffer, preserve area, or conservation area, and such areas shall not be developed for any purpose except that which improves or promotes the use and enjoyment of such areas as open space.

8.1.11 The Association, by action of its Board, may make minor and insubstantial alterations and Improvements to the Common Area having a cost not in excess of Five Thousand Dollars (\$5,000). All other alterations and Improvements must first be approved by at least two-thirds (2/3) of all Members represented in person or by proxy at a meeting called and held in accordance with the Bylaws. No alteration or Improvement may be made to the Common Area which materially and adversely affects the rights of the Owner of any Lot to the enjoyment of such Owner's Lot or the Common Area unless the Owner and all mortgagees holding recorded mortgages on such Lot consent thereto in writing.

8.1.12 All expenses incurred by the Association in connection with the services, operation, maintenance, repair and replacement described in Sections 8.1.1 through 8.1.9 above, inclusive, are Operating Expenses, payable by each Owner under the provisions of this Declaration concerning Assessments. Should the maintenance, repair or replacement provided for in Sections 8.1.1 through 8.1.10 of this Section 8 be caused by the negligence of or misuse by an Owner, such Owner's family, guests, servants, invitees, or tenants, such Owner shall be responsible therefor, and the Association shall have the right to levy an Assessment against such Owner's Lot and said Assessment shall constitute a lien upon the appropriate Lot and Home with the same force and effect as liens for Operating Expenses.

8.1.13 The Association has a reasonable right of entry upon any Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of Esprit at Avenir.

8.2 By the Owners.

8.2.1 The Owner of each Lot must keep and maintain the Lot and the Improvements thereon (excluding the landscaped areas, grassed areas, and any irrigation systems in which the water is drawn from a lake (i.e., for portions of the Common Areas but not for irrigation of the Lots which shall be irrigated using potable water), being maintained by the Association, however, in the event that the irrigation system is inoperable, or otherwise not working, Owner assumes the responsibility to maintain all landscaped and grassed areas on the Lot), including all equipment and appurtenances, in good order, condition and repair, and must perform promptly all maintenance and repair work within, upon and outside of such Owner's Home which, if omitted, could adversely affect Esprit at Avenir, the other Owners or the Association and its Members. The Owner of each Lot shall be responsible for any damages caused by a failure to so maintain such Lot, Improvements and Home. The Owners' responsibility for maintenance, repair and replacement shall include, but not be limited to, all of the physical structures constructed in, upon, above or below the Lot, and physical items attached or connected to such structures that run beyond the boundary line of the Lot which exclusively service or benefit the Lot and Home. Without limiting the generality of the foregoing, the Owner of each Lot shall keep all drainage structures (such as catch basins) located on the Owner's Lot clear of grass, leaves and other debris. Additionally, the painting, caulking and maintenance of the exterior surface of the walls, doors, windows and roof of the physical structures of the Home shall be performed by the Owner, and the exterior surface of such walls, doors, windows and roof shall at all times be maintained in a good and serviceable condition with no damage or other defect therein by the Owner. The Owner of a Lot further agrees to pay for all utilities, such as telephone, cable or satellite television, telecommunication systems, home monitoring, water (including water associated with irrigation), sewer, sanitation, electric, etc., that may be separately billed or charged to each Home. The Owner of each Lot shall be responsible for insect and pest control within the Home and the Lot. Whenever the maintenance, repair and replacement of any items which an Owner is obligated to maintain, repair or replace at such Owner's own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement, except that the Owner shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance or otherwise, reduce the amount of the insurance proceeds applicable to such maintenance, repair or replacement. Owners are required to ensure that all cars are parked completely within the Lots' driveway or garage, and Owners shall not park on the street or swale without prior approval of the Association. In the event there is an aluminum fence installed by Declarant at the rear of any Lot, said fence will be responsibility of the Owner of the Lot on which the fence is enclosing to maintain, repair, and replace.

8.2.2 In addition to the foregoing, the Owner of each Home shall be required to maintain appropriate climate control, keep his or her Home clean, promptly repair any leaks and take necessary measures to retard and prevent mold, fungi, mildew and mycotoxins from

accumulating in the Home. Each Owner shall be required to clean and dust such Owner's Home on a regular basis and to remove visible moisture accumulation on windows, window sills, walls, floors, ceilings and other surfaces as soon as reasonably possible and must not block or cover any heating, ventilation or air-conditioning ducts, and to properly maintain and have serviced on a regular basis, the Home's HVAC system. Each Owner of a Home shall be responsible for damage to such Owner's Home and personal property as well as any injury to the Owner of a Home and/or occupants of the Home resulting from the Owner's failure to comply with these terms. Each Owner of a Home shall be responsible for the repair and remediation of all damages to the Home caused by mold, fungi, mildew and mycotoxins. While the foregoing are intended to minimize the potential developments of molds, fungi, mildew and other mycotoxins, each Owner understands and agrees that there is no method for completely eliminating the development of same. By acquiring title to a Home, each Owner shall be deemed to have assumed the risks associated with molds, mildew, toxins and/or fungi and to have released Declarant from any and all liability resulting from same, including, without limitation, any liability for incidental or consequential damages, which may result from, without limitation, the inability to possess the Home, inconvenience, moving costs, hotel costs, storage costs, loss of time, lost wages, lost opportunities and/or personal injury and death to or suffered by the Owner, his or her family members and/or his or her guests, tenants, invitees and/or the pets of all of the aforementioned persons, as a result of mold, mildew, fungus or spores. Additionally, each Owner, by acceptance of a deed, or otherwise acquiring title to a Home, shall be deemed to have agreed that Declarant shall not be responsible, and Declarant hereby disclaims any responsibility for any illness, personal injury, death or allergic reactions which may be experienced by the Owner, his or her family members and/or his or her guests, tenants, invitees and/or the pets of all of the aforementioned persons, as result of mold, mildew, fungus or spores. Declarant does not make any representations or warranties regarding the existence or development of molds, fungi, mildew or mycotoxins, and each Owner on behalf of themselves and their family members, guests, invitees, tenants, successors and assigns shall be deemed to and by acceptance of a deed or title to the Home or by use of the Home, waives and expressly releases any such warranty and claims for loss or damages (including, without limitation, property damage and/or personal injury) resulting from the existence and/or development of same. References in this section regarding climate control and air conditioning shall only be applicable to those portions of the Home that are air conditioned.

8.2.3 An Owner shall not plant any shrubs, trees and/or landscaping on his or her Lot without the prior written approval of the Association (and Master Association, as applicable). Notwithstanding anything contained in this Section 8 to the contrary, should an Owner, after receiving approval from the Association, plant any shrubs, and/or landscaping on his or her Lot, Owner shall then be responsible for the maintenance, repair and replacement of same. Nothing shall be planted in any open space, landscape buffer and/or undisturbed natural buffer, if any, by any Owner.

Declarant may have constructed one or more drainage swales upon each Lot for the purpose of managing and containing the flow of excess surface water, if any, found upon such Lot from time to time. Each Lot Owner shall be responsible for the maintenance, operation and repair of the swales on the Lot. Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the SFWMD. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the swales is prohibited.

No alteration of the drainage swale shall be authorized and any damage to any drainage swale, whether caused by natural or human-induced phenomena, shall be repaired and the drainage swale returned to its former condition as soon as possible by the Owner(s) of the Lot(s) upon which the drainage swale is located.

8.2.4 The Owner of each Lot shall maintain, repair and replace as needed any fencing on their Lot, or on the property line of their Lot, including fencing installed by the Declarant, clean, maintain and repair the driveway on their Lot, and keep the sidewalk located on and/or adjacent to their Lot clean and free from any stains, trash, debris and/or impediments to pedestrian traffic.

8.2.5 In addition to the above, the Owner of each Home shall be responsible to fix leaks in and otherwise maintain and repair the roof of such Owner's Home; replace any dead or obviously dying trees on their Lot; and maintain, repair and replace any fences on their Lot, or on the property line of their Lot, including fencing installed by the Declarant, except as otherwise provided in this Declaration. The Owner of each Home shall also clean, maintain and repair the driveway located on its Lot and keep the sidewalks located on its Lot clean and free from any impediments to pedestrian traffic.

8.2.6 If a Home is damaged by fire or other casualty, its Owner shall properly and promptly restore it to at least as good a condition as it was before the casualty occurred. Any such work shall be in accordance with the original plans and specifications of the Home unless otherwise authorized by the Board and shall be otherwise subject to all provisions of Article IV of the Master Declaration.

8.2.7 Each Owner shall keep such Owner's Home insured in an amount not less than its full insurable value against loss or damage by fire or other hazards. Evidence of such coverage shall be furnished to the Association promptly upon the Board's request.

8.2.8 If an Owner fails to comply with the foregoing provisions of this Section 8.2, the Association may proceed in court to compel compliance. Further, if the failure to comply relates to the Owner's obligations to maintain insurance, the Association shall be entitled, although not obligated, to obtain the required coverage itself and to levy on the offending Owner an Assessment equal to the cost of premiums, and any such Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses.

8.2.9 If a failure to comply with the provisions of this Section 8.2 relates to the Owner's obligation to maintain and care for the Home, landscaping or any other area required to be maintained and cared for by the Owner, then, in addition to the exercise of all other remedies, the Association or Declarant shall have the right but not the obligation, upon fifteen (15) days written notice, to enter the Lot of the Owner for the purpose of performing the maintenance and care referred to, set forth and described in the notice and to levy on the offending Owner an Assessment equal to the cost of performing such maintenance and care. Any such Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses. The determination of whether an Owner is failing to properly maintain and care for the property for which he has the maintenance responsibility under this Declaration or any

of the other Estates at Avenir Documents shall be determined in the sole discretion of the Association or Declarant.

8.3 Damage to Buildings.

The Owner of any Home which has suffered damage may apply to the DRB for approval for reconstruction, rebuilding, or repair of the Improvements therein. Pursuant to the terms of the Master Declaration, the DRB shall grant such approval only if, upon completion of the work, the exterior appearance of the Improvement(s) will be substantially similar to that which existed prior to the date of the casualty. If the obligation for repair falls upon the Association, DRB approval will not be required prior to the commencement of such work, so long as the exterior appearance of the Improvements will be substantially similar to that which existed prior to the date of the casualty.

The owner or owners of any damaged building (including, without limitation, the Owner of a Lot and/or Home), the Association shall be obligated to proceed with all due diligence hereunder and the responsible parties shall commence reconstruction within three (3) months after the damage occurs and complete reconstruction within one (1) year after the damage occurs, unless prevented by causes beyond his or her or their reasonable control.

Declarant shall be exempt from the provisions of this Section 8.3, provided that any such reconstruction, rebuilding or repairs made by Declarant shall be consistent, as to the exterior appearance, with the Improvements as they existed prior to the damage or other casualty.

9. ARCHITECTURAL STANDARDS, OCCUPANCY AND USE RESTRICTIONS

All of the Property shall be held, used, and enjoyed subject to the following limitations and restrictions, and any and all additional rules and regulations which may, from time to time, be adopted by the Association, except as provided in Section 9.46 below with respect to Declarant and Lots and Homes owned by Declarant, and by the Master Association:

9.1 Architectural Review.

9.1.1 By Declarant. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of Esprit at Avenir, acknowledges that as the developer of Esprit at Avenir and as an Owner of portions of Esprit at Avenir, Declarant has a substantial interest in ensuring that the improvements within Esprit at Avenir enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no changes shall be made to the exterior of any Home and no other activity within the scope of this Section (collectively, "Work") shall be commenced on such Owner's Home unless and until Declarant or its designee has given its prior written approval for such Work, which approval may be granted or withheld in the Declarant's or its designee's sole discretion.

In reviewing and acting upon any request for approval, Declarant or its designee shall be acting solely in Declarant's interest and shall owe no duty to any other Person. Declarant's rights reserved under this Section shall continue so long as Declarant owns any portion of Esprit at Avenir, unless earlier terminated in a written instrument executed and recorded by Declarant.

Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

Declarant may, but shall not be obligated to, delegate from time to time all or a portion of its reserved rights under this Section to (i) the Neighborhood DRB, or (ii) a committee comprised of architects, landscape architects, engineers or other persons who may or may not be Members of the Association. Any such delegation shall be in writing, specifying the scope of responsibilities delegated, and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Section, the jurisdiction of the foregoing entities shall be limited to such matters as are specifically delegated to it by Declarant.

9.1.2 Neighborhood DRB. Upon delegation by Declarant or upon expiration or termination of Declarant's rights under this Section, the Association, acting through the Neighborhood DRB, shall assume jurisdiction over architectural matters hereunder. The Neighborhood DRB, when appointed, shall consist of no less than three (3) or more than five (5) persons. The members of the Neighborhood DRB need not be Members of the Association or representatives of Members.

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

9.1.3 Fees; Assistance. For purposes of this Section, the entity having jurisdiction in a particular case shall be referred to as the "Reviewer." The Reviewer may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

9.2 Guidelines and Procedures.

9.2.1 Architectural Guidelines. Declarant may prepare the initial Architectural Guidelines, which may contain general provisions applicable to all of Esprit at Avenir as well as specific provisions which may vary according to land use and housing type and from one area of Esprit at Avenir to another. The Architectural Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the Reviewer in considering applications hereunder. The Architectural Guidelines are not the exclusive basis for decisions of the Reviewer and compliance with the Architectural Guidelines does not guarantee approval of any application.

Declarant shall have sole and full authority to amend the Architectural Guidelines as long as it owns any portion of Esprit at Avenir or has a right to expand Esprit at Avenir pursuant to Section 3.1, notwithstanding a delegation of reviewing authority to the Neighborhood DRB, unless Declarant also delegates the power to amend to the Neighborhood DRB. Upon termination

or delegation of Declarant's right to amend, the Neighborhood DRB shall have the authority to amend the Architectural Guidelines with the consent of the Board. Any amendments to the Architectural Guidelines shall be prospective only and shall not apply in a manner to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Architectural Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Architectural Guidelines less restrictive.

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

9.2.2 Procedures. Except as otherwise specifically provided in the Architectural Guidelines, no Work shall commence on any portion of Esprit at Avenir until an application for approval has been submitted to and approved by the Reviewer. Such application shall include plans and specifications ("Plans") showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable. The Architectural Guidelines and the Reviewer may require the submission of such additional information as may be reasonably necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.

The Reviewer shall make a determination on each application within thirty (30) days after receipt of a completed application and all required information. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

Until expiration of Declarant's rights under this Section, the Neighborhood DRB shall notify Declarant in writing within three (3) business days after the Neighborhood DRB has approved any application relating to proposed Work within the scope of matters delegated to the Neighborhood DRB by Declarant. The notice shall be accompanied by a copy of the application and any additional information which Declarant may require. Declarant shall have ten (10) days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the Neighborhood DRB.

The Reviewer shall notify the applicant in writing of the final determination on any application within five days thereafter or, with respect to any determination by the Neighborhood DRB 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 ten (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.

In the event that the Reviewer fails to respond within thirty (30) days, approval shall be deemed to have been given, subject to Declarant's right to veto approval by the Neighborhood DRB pursuant to this Section. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Architectural Guidelines unless a variance has been granted pursuant to Section 9.4. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U.S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

If construction does not commence on a project for which Plans have been approved within six (6) months after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing the proposed Work. Once construction is commenced, it shall be diligently pursued to completion. All Work shall be completed within one (1) year of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved Work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant or any aggrieved Owner.

The Reviewer may, by resolution, exempt certain activities from the application and approval requirements of this Section, provided such activities are undertaken in strict compliance with the requirements of such resolution.

Notwithstanding anything contained in this Section to the contrary, the Neighborhood DRB shall receive from Declarant all County documents, plans and exhibits and shall keep an archive of such documents for its use during its architectural review and approval process. Any proposed changes or amendment to any approved County documents, plans or exhibits must be approved in advance by the County.

9.3 No Waiver of Future Approvals. Each Owner acknowledges that the persons reviewing applications under this Section will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Reviewer may refuse to approve similar proposals in the future. Approval of applications or Plans for any Work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, Plans, or other matters subsequently or additionally submitted for approval.

9.4 Variances. The Reviewer may authorize variances from compliance with any of its guidelines and 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) estop the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

9.5 Limitation of Liability.

The standards and procedures established by this Section are intended as a mechanism for maintaining and enhancing the overall aesthetics of Esprit at Avenir; they do not create any duty to any Person. Review and approval of any application pursuant to this Section is made on the basis of aesthetic considerations only and the Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size or of similar design.

The Reviewer shall have sole and full authority to determine matters of aesthetic judgment and the determination of the Reviewer as to such matters shall be final and shall not be subject to judicial review so long as exercised in accordance with the procedures set forth in this Section.

Declarant, the Association, the Board, any committee, or any member of any of the foregoing, shall not be held liable for 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, whether or not such contractor has been approved or featured by Declarant to construct homes or other structures in Esprit at Avenir; or any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Unit. In all matters, the Board, the Neighborhood DRB, and the members of each shall be defended and indemnified by the Association as provided in Section 6.1.2 and Section 13.7.1.

9.6 Certificate of Compliance. Any Owner may request that the Reviewer issue a certificate of architectural compliance certifying that there are no known violations of this Section or the Architectural Guidelines. The Association shall either grant or deny such request within thirty (30) days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall estop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

9.7 Enforcement. Failure of an Owner to comply with any limitations or restrictions in this Declaration or any of the Neighborhood Documents or with any rules and regulations promulgated by the Association shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof.

In addition to all other remedies, if an Owner is delinquent for more than ninety (90) days in paying a monetary obligation due the Association, the Association may suspend, until such monetary obligation is paid, any or all of the rights of any or all of an Owner or an Owner's tenants, guests or invitees to use the Common Area and facilities (including, without limitation, cable television and other amenity (non-utility) services provided by the Association, if any); may

suspend the voting rights of an Owner if such Owner is delinquent in payment of regular annual assessments for more than ninety (90) days; and may levy reasonable fines against any Owner or any Owner's tenant, guest or invitee for failure of such Owner, and/or such Owner's family, guests, invitees, tenants or employees to comply with any of the Neighborhood Documents, provided the following procedures are adhered to:

9.7.1 Notice. The Association shall notify the Owner in writing of the noncompliance and set forth the corrective action to be taken. A fine or suspension of use rights may not be imposed without at least fourteen (14) days' notice to the Owner sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director, or employee of the Association. 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 Owner's tenant, guest or invitee. At the Association's option, any fine may be levied on a daily basis in the event of a continuing violation without the necessity of a new hearing and without any limitation on the amount of such fine.

9.7.2 Hearing. Should the Owner still be in noncompliance, the noncompliance shall be presented to the Board after which the Board shall hear reasons why a fine should or should not be imposed. A written decision of the Board shall be submitted to the Owner, as applicable, not later than twenty one (21) days after said meeting.

9.7.3 Payment. A fine shall be paid not later than thirty (30) days after notice of the imposition of the fine.

9.7.4 Fines. An Owner shall be responsible for all Legal Fees incurred in connection with the collection of a fine whether or not an action at law to collect said fine is commenced. All monies received from fines shall be allocated as directed by the Board, subject always to the provisions of this Declaration. Unless otherwise permitted by applicable law, a fine of less than One Thousand and No/100 Dollars (\$1,000.00) may not become a lien against a Lot.

9.7.5 Failure to Pay Assessments. Notice and Hearing as provided in this Section shall not be required with respect to the imposition of suspension of voting rights or fines upon any Owner because of such Owner's failure to pay Assessments or other monetary obligations or charges which are due for more than ninety (90) days.

9.7.6 Suspension of use rights to the Common Area shall not impair the right of an Owner or tenant of a Lot and/or Home to have vehicular and pedestrian ingress to and egress from such Lot and/or Home, including, but not limited to, the right to park, nor to provide access to utility services provided to the Lot and/or Home.

9.7.7 In addition to all other remedies, the Association may levy Benefited Assessments, to cover costs which the Association incurs to bring a Lot into compliance with the Neighborhood Documents, including Legal Fees, or costs incurred as a consequence of the conduct of an Owner or occupant of a Lot, their guests or invitees.

9.7.8 For purposes of this Section 9, unless the context otherwise requires, Owner shall also include the family, invitees, guests, licensees, lessees and sublessees of any Owner, and any other permitted occupants of a Home. All the Property shall be held, used and enjoyed subject to the following limitations and restrictions, subject to the exemption of Declarant in Section 9.46 hereof.

9.8 Single Family Use. The Homes shall be for single family use only. No commercial occupation or activity may be carried on in Esprit at Avenir except as such occupation or activity is permitted to be carried on by Declarant under this Declaration and the Master Declaration. A family is defined to mean any number of persons related by blood, marriage or adoption or not more than two (2) unrelated adult persons living as a single housekeeping unit.

9.9 Occupancy of Home. The Fair Housing Amendments Act of 1988 (Public Law 100 430, approved September 13, 1988) ("Fair Housing Act"), which became effective in March, 1989, and as amended effective December 31, 1995, provides that communities cannot reject families with children. Therefore, neither Declarant nor the Association shall have the authority to prohibit children.

9.10 Nuisance. Subject to allowances for reasonable construction activities, no obnoxious or offensive activity shall be carried on, in or about the Lots and Homes or in or about any Improvements, or on any portion of Esprit at Avenir, nor shall anything be done therein which may be or become an unreasonable annoyance or a nuisance to any Owner. No use or practice shall be allowed in or around the Lots and Homes which is a source of annoyance to the Owners or occupants of Homes or which interferes with the peaceful possession or proper use of the Lots and Homes or the surrounding areas. No loud noises or noxious odors shall be permitted in any Improvements or Homes. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, unlicensed off road motor vehicles or any items which may unreasonably interfere with television or radio reception of any Owner shall be located, used or placed on any Lot or Home, or exposed to the view of other Owners without the prior written approval of the Board.

9.11 No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of any Lot or the Home thereon nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to any person using any portion of the Property. Each portion of the Property will be subject to, and the Association and each Owner will conform to and observe, all laws, statutes, ordinances, rules and regulations of the United States of America, the State of Florida, the County, and any and all other governmental and public authorities and boards or officers of the same relating to such Property and any Improvements thereon or the use thereof. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover relating to any Lot or Home shall be corrected by, and at the sole expense of the Owner of any such Lot or Home.

9.12 Leases. Any lease for a Home must (i) be in writing, (ii) not be for a period of less than six (6) months, (iii) comply with all governmental laws, rules, ordinances and regulations; and (iv) otherwise be in compliance with the rules and regulations as may be promulgated and published from time to time by the Board. The rules and regulations may include, without

limitation, rules and regulations governing the use, maintenance, parking and other responsibilities and privileges regarding the lease and the mechanisms of enforcement afforded the Owner and the Association in connection therewith. Any lease for a Home shall be for not less than the entire Lot and all the improvements thereon. No bed and breakfast facility may be operated out of a Home. Specific rooms of a Home may not be leased on any basis. No transient tenants may be accommodated in a Home. No time-share or other similar arrangement is permitted. To the extent that an Owner does not reside in his or her Home, but desires to permit family or friends to occupy such Home without a lease, all prospective occupants of the Home, prior to moving into the Home and irrespective of their relation to the Owner, must be registered with the Association and shall be subject to the Association's screening and approval process which is used for prospective tenants seeking to lease a Home within Esprit at Avenir. Any and all lease agreements must provide that the lessee shall be subject in all respects to the terms and provisions of this Declaration and that any failure by the lessee under such lease agreement to comply with such terms and conditions shall be a material default and breach of the lease agreement. All leases shall be subject to Association approval, and all tenants (and other occupants, as noted herein) shall be subject to Association screening which may include a background check and a credit check. For avoidance of doubt, the Association shall have the right, acting in good-faith, to deny a potential tenant based on the results of such screening to the extent permitted by applicable law. The Owner must make available to the lessee or occupants copies of the Neighborhood Documents. Any lessee or tenant shall in all respects be subject to the terms and conditions of the Neighborhood Documents and any other applicable provisions of any other agreement, document or instrument governing Esprit at Avenir or administered by the Association or any other applicable governmental law, rule or regulation. The Owner of a leased Home shall be jointly and severally liable with such Owner's tenant for compliance with the Neighborhood Documents and to the Association to pay any claim for injury or damage to property caused by the negligence of the tenant. It shall be the obligation of all Owners to supply the Board and the managing agent of the Association with a copy of the written lease prior to the lessee occupying the premises. All leases shall be on forms approved by Association and shall provide (or if not provided, shall be automatically deemed to provide) that Association shall have the unilateral right to terminate the lease upon default by the tenant in observing any of the provisions of the Neighborhood Documents or other applicable provisions of any agreement, document or instrument governing Esprit at Avenir or administered by Association. Each Owner hereby acknowledges and agrees that any and all leases entered into by such Owner in connection with his or her Home shall be deemed to incorporate by this reference a collateral assignment of rents and leases in favor of Association, which collateral assignment of rents and leases shall provide that in the event such Owner leasing his or her Home is past due in the payment of his or her Assessments, Association shall have the power and authority to take actions including, but not limited to: (i) collecting rents now due or that become due directly from such Owner's tenant(s) (or other party in possession of the Home); and/or (ii) pursuing any and all legal remedies available against such Owner and/or such Owner's tenant(s) including, but not limited to, actions for eviction of such Owner's tenant(s). An Owner, by leasing his entire Home, automatically, delegates his right of use and enjoyment of the Common Areas and facilities to his lessee; and in so doing such Owner relinquishes such rights during the term of the lease agreement. No Home may be subject to more than one (1) lease in any twelve (12) month period, regardless of the lease term. No subleasing or assignment of lease rights by the tenant is permitted. In no event shall occupancy of a leased Home (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom. Owners wishing to lease their Home shall be jointly and

severally liable to the Association with the lessees of their Home for any amount which is required by the Association to affect such repairs or to pay any claim for injury or damage to property caused by or which is the responsibility of such lessee. Association shall repair any such damage and the cost of such repair shall be invoiced as an Individual Assessment to the Owner. All leases shall provide that the Association shall have the right (i) to terminate the lease upon default by the tenant in observing any of the provisions of the Neighborhood Documents or any other applicable provisions of any agreement, document or instrument governing Esprit at Avenir or administered by the Association, and (ii) to collect all rental payments due to the Owner and to apply same against unpaid Assessments if, and to the extent that, the Owner is in default in the payment of Assessments. Additionally, as a condition to the approval by Association of a proposed lease of a Home, Association has the authority to require that a security deposit in an amount not to exceed the equivalent of one (1) month's rent be deposited into an account maintained by Association. The security deposit shall protect against damages to the Common Areas or Association Property. A security deposit held by Association under this Section shall be governed by Chapter 83 of the Florida Statutes, as it may be renumbered from time to time. Association may also charge a reasonable fee of no more than One Hundred (\$100.00) dollars to offset the costs of a background check on tenant. Association and its directors or officers, or any person acting on behalf of any of them, shall not be liable for any cost or damages incurred by any party whatsoever, due to any mistakes in judgment, negligence, or any action or inaction of Association, its officers, or directors, in connection with the approval or disapproval of tenants. Each Owner agrees, individually and on behalf of its prospective tenants, current tenants, heirs, successors and assigns by acquiring title to a Lot, that he or she (or any other of the aforementioned parties) shall not bring any action or suit against Association or its directors or officers, or any of the Association's agents or other parties acting on Association's behalf, in order to recover any damages alleged or caused by the actions of Association, or its officers or directors in connection with the provisions of this Section. Notwithstanding the foregoing, this Section shall not apply to a situation where an Owner or resident of a Home receives in-home care by a professional caregiver residing within the Home. Every lease shall be subordinate to any lien filed by the Association whether before or after such lease was entered into.

In the event that an Owner is delinquent in the payment of his or her Assessments or other sums due and owing to the Association, the Home shall not be leased until such amounts are paid in full. If the Home is leased in violation of this provision, the Association may terminate the lease and evict the tenants in addition to imposing all other available remedies. In the event an Owner is in default in the payment of Assessments or other sums due and owing to the Association and the Owner's Home is leased, the Association shall have the right and authority to collect the rent to be paid by the tenant to the Owner directly from the tenant. In the event such tenant fails to remit said rent directly to the Association within ten (10) days (but no later than the day the next rental payment is due) from the day the Association notified such tenant in writing that the rents must be remitted directly to the Association, the Association shall have the right to terminate the lease and evict the tenant. All sums received from the tenant shall be applied to the Owner's account for the leased Home according to the priority established in the HOA Act until the Owner's account is current. All leases entered into by an Owner shall be deemed to automatically incorporate this provision and all the Owners hereby appoint the Association its agent for such purpose.

In addition to any notice to a tenant of a Home permitted to be given by law, an Owner by acceptance of a deed to a Home, does hereby irrevocably grant to the Association (and its officers, directors, designees, agents, and employees) and to any professional management or accounting firm providing management or accounting services to the Association, the right to notify, in writing, the tenant of the Home of any delinquency by the Owner of the Home in payment of any monetary obligations due to the Association, including but not limited to the amount thereof. Further each Owner hereby agrees and acknowledges that the disclosure of any of Owner's delinquent monetary obligations due to the Association, as provided in the preceding sentence, shall not be construed or be deemed to be a violation of the Fair Debt Collection Practices Act ("FDCPA") 15 U.S.C. Section 1692 et seq.

9.13 Removal of Sod and Shrubbery; Alteration of Drainage, Etc. Except for Declarant's acts and activities with regard to the development of Esprit at Avenir, no Improvements (including, but not limited to, driveways, pools, and landscaping) and no sod, top soil, muck, trees or shrubbery shall be removed from Esprit at Avenir and no change in the condition of the soil or the level of the land of any of Esprit at Avenir area shall be made which would result in any permanent change in the flow or drainage of surface water within Esprit at Avenir without prior written consent of the DRB, the CDD and the Master Association, as applicable.

9.14 Addition of Landscaping; Alteration of Drainage, Etc. If an Owner installs additional landscaping to their Lot (which installation must be approved by the DRB), the installation of additional landscaping shall not result in any permanent change in the flow or drainage of surface water within Esprit at Avenir without prior written consent of the DRB, the CDD and the Master Association, as applicable.

9.15 Antenna and Aerial. No outside television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any portion of the Property or upon any improvements thereon, unless expressly approved in writing by the Association, except that this prohibition shall not apply to those satellite dishes that are one (1) meter (39.37 inches) in diameter or less, and specifically covered by 47 C.F.R. Part 1, Subpart S, Section 1.4000, as amended, promulgated under the Telecommunications Act of 1996, as amended from time to time. The Association is empowered to adopt rules governing the types of antennae, restrictions relating to safety, location and maintenance of antennae. The Association may also adopt and enforce reasonable rules limiting installation of permissible dishes or antennae to certain specified locations, not visible from the street or neighboring properties, and integrated with the Property and surrounding landscape, to the extent that reception of an acceptable signal would not be unlawfully impaired by such rules and provided the cost of complying with such rules would not unreasonably increase the cost of installation of permissible dishes or antennae. Any permissible dishes or antennae shall be installed in compliance with all federal, state and local laws and regulations, including zoning, land-use and building regulations. This Section 9.15 shall not apply to Declarant.

9.16 Garbage and Trash. Each Owner shall regularly pick up all garbage, trash, refuse or rubbish around his or her Lot, and no Owner or resident shall place or dump any garbage, trash, refuse or other materials on any other portions of Esprit at Avenir, or any property contiguous to Esprit at Avenir. Garbage, trash, refuse or rubbish that is required to be placed at the front of a Lot

in order to be collected may be placed and kept at the curb after 5:00 p.m. on the day before the scheduled day of collection, but not sooner, and any trash facilities must be removed on the collection day after the pick up. All garbage, trash, refuse or rubbish must be placed in appropriate trash facilities or bags. All containers, dumpsters and other trash collection facilities shall be approved by the Association. All containers, dumpsters or garbage facilities shall be stored inside the garage or screened from view on the Lot and kept in a clean and sanitary condition. No noxious or offensive odors shall be permitted.

9.17 Radio Transmission. No ham radios or radio transmission equipment shall be operated or permitted to be operated within Esprit at Avenir without the prior written consent of the Association.

9.18 Animals and Pets. No animals, livestock or poultry of any kind of size shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept. The Board has the authority to promulgate rules and regulations with respect to the number or type of pets kept in a Home. No permitted pet may be kept, bred or maintained for any commercial purpose. No permitted pet may be kept if the pet becomes a nuisance or annoyance to any neighbor, as determined by the Board. A determination by the Board that an animal or pet kept or harbored in a Unit is a nuisance shall be conclusive and binding on all parties. The Association may prohibit breeds of dogs or other types of animals that the Board considers dangerous in its sole discretion. Otherwise, Owners may keep domestic pets as permitted by County ordinances and otherwise in accordance with the rules and regulations established by the Board from time to time. No dogs or other pets shall be permitted to have excretions on the Property, except in locations designated by the Board. An Owner shall immediately pick up and remove any solid animal waste deposited by his or her pet. All pets shall be walked on a leash. No pet shall be permitted outside a Lot unless such pet is kept on a leash or within an enclosed portion of the Lot, as approved by the Neighborhood DRB. No pet or animal shall be "tied out" on the exterior of the Lot or in the Common Areas, or left unattended on a balcony, porch, or patio. No dog runs or enclosures shall be permitted. When notice of removal of any pet is given by the Board, the pet shall be removed within forty-eight (48) hours of the giving of the notice. An Owner is responsible for the cost of repair or replacement of any Common Area (or Master Association Common Property) damaged by such Owner's pet. Each Owner by acquiring a Home agrees to indemnify the Association and hold it harmless against any loss or liability resulting from his or her, his or her family member's, or his or her lessee's ownership of a pet. All pets must be registered, licensed and inoculated as required by law. Permitted pets shall only be kept subject to and in accordance with such rules and regulations as shall be promulgated from time to time by the Association and the Master Association. Notwithstanding anything to the contrary, seeing eye dogs shall not be governed by the restrictions contained in this Section. Other animals will be permitted if such animals serve as physical aides to handicapped persons and such animals have been trained or provided by an agency or service qualified to provide such animals. The guide or assistance animal will be kept in direct custody of the assisted person or the qualified person training the animal at all times when on the Property and the animal shall wear and be controlled by a harness or orange-colored leash and collar.

Notwithstanding the foregoing, under no circumstances will any dog whose breed is noted for its viciousness or ill-temper, in particular, the "Pit Bull" (as hereinafter defined), Presa Canario, or any crossbreeds of such breeds, be permitted on any portion of the Property. A "Pit Bull" is

defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying a majority of the physical traits of any one (1) or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. Upon request by the Association, the applicable Owner shall provide evidence reasonably satisfactory to the Association that the dog in question is not of a breed noted for its viciousness or ill-temper, in accordance with the terms of this Section. No exotic pet or any animal of any kind which has venom or poisonous defense or capture mechanisms, or if let loose would constitute vermin, shall be allowed on any portion of the Property.

9.19 Clotheslines. Unless otherwise permitted by applicable law and only to the extent permitted therein, no clothesline or clothes drying which is visible from outside a Lot shall be undertaken or permitted on any portion of Esprit at Avenir.

9.20 Temporary Buildings, Etc. No tents, trailers, shacks or other temporary buildings or structures shall be constructed or otherwise placed within Esprit at Avenir except in connection with construction, development, leasing or sales activities permitted under this Declaration or with the prior written consent of the Association. No temporary structure may be used as a residence.

9.21 Garages. No garage shall be permanently enclosed so as to make such garage unusable by an automobile, and no portion of a garage originally intended for the parking of an automobile shall be converted into a living space or storage space and no garage opening shall have a screen covering without the consent of the Association. All garage doors shall remain closed when vehicles are not entering or leaving the garage. No maintenance to vehicles shall be performed on any part of Esprit at Avenir or on any part of the Home or Lot except within the garage.

9.22 Fences. An Owner may not install any fencing (including invisible fencing) on his or her Lot without the prior written approval by the DRB. In addition, the installation of any fence placed upon any Lot is subject to easements which run with the land. In the event that any fence is approved by the DRB and is permitted to cross any such easements, such DRB's approval is still subject to Owner first receiving written approval from the grantee of such easements and all other applicable governmental authorities. In the event the grantee of any such easement which runs with the land (i.e., FPL, utility provider or the County), its successors and/or assigns, requires the removal of any fence upon the Lot, then the Owner of said Lot shall, at the Owner's sole cost and expense, immediately remove the fence. The Owner of a Lot when installing any fence upon the Lot shall comply with all valid laws, zoning ordinances, codes, rules and regulations of all applicable governmental bodies, as applicable, in addition to the DRB approval required.

9.23 Drainage or Utility Easements. No structures, trees or shrubs shall be placed on any drainage or utility easements, except by Declarant, without the prior written consent of the DRB.

9.24 Additions and Alterations. No Home shall be enlarged by any addition thereto or to any part thereof, and no Owner shall make any improvement, addition, or alteration to the exterior of his or her Home, including, without limitation, the painting, staining, or varnishing of the exterior of the Home without the prior written consent of the DRB.

9.25 Increase in Insurance Rates. No Owner may engage in any action which may reasonably be expected to result in an increase in the rate of any insurance policy or policies covering or with respect to any portion of the Property not owned by such Owner.

9.26 Mining, Drilling, or Excavation. There shall be no mining, quarrying or drilling for minerals, oil, gas or otherwise ("Mining Activity") undertaken on the Property. Activities of Declarant, the Master Association or the Association in dredging, excavating or maintaining drainage or other facilities or easements shall not be deemed Mining Activities.

9.27 Upon the failure of an Owner(s) to (i) maintain the portion of the Property and any Improvement thereon which such party is responsible to maintain in accordance with the requirements of this Declaration and to the satisfaction of the Association and (ii) correct such deficiencies within fifteen (15) days of written notice by the Association, unless a longer period is authorized by the Association, the Association may enter upon such portion of the Property and make such corrections as may be necessary. The cost of such corrections shall be paid by the Owner who is required to perform such maintenance. If any Owner(s) fails to make payment within fifteen (15) days after requested to do so by the Association, then the payment requested shall be collected as an Individual Home Assessment from such Owner and the Association shall be entitled to lien rights upon the portion of the Property requiring such maintenance in accordance with the provisions of this Declaration.

9.28 Subdivision and Partition. No Lot on the Property shall be subdivided without the DRB's prior written consent except by Declarant. Additionally, the City's written approval shall be required prior to subdivision or partition of a Lot.

9.29 Signs. No sign, display, poster, advertisement, notice, lettering or other advertising device of any kind whatsoever (including, without limitation, "For Sale," "For Rent," or "By Owner," or any other signs for the sale or renting of homes) may be exhibited, displayed, inscribed, painted or affixed in public view of any portion of any building or other Improvement in the Property (including, without limitation a Home), or on or in a vehicle (other than the work vehicle of any Owner or a tenant, a guest, or an invitee of said Owner, with respect to any official insignia or visible designation on such vehicle), without the prior written consent of the DRB and the Board, which consent may be given, withheld or conditioned in the sole and absolute discretion of the DRB and the Board. Neither the DRB, nor the Board, shall consent to any "For Sales," "For Rent," "By Owner" or similar sign for the renting or sale of a Home so long as Declarant owns a Lot in Esprit at Avenir or so long as Declarant or any of Declarant's affiliates (or any of their respective successors or assigns) are conducting sales and marketing of Homes in Esprit at Avenir or other communities developed or marketed by Declarant or its affiliates, whichever is later. Signs, regardless of size, used by Declarant or any of Declarant's affiliates, or any of their respective successors or assigns, for advertising or marketing during the construction and sale period of Esprit at Avenir or other communities developed and/or marketed by Declarant or its affiliates and other signs authorized by Declarant shall be exempt from this Section. Such sign or signs as Declarant may be required to erect under the terms of an Institutional Mortgage shall be exempt from this Section. An Owner may display a security sign provided by a contractor for security services as permitted by the HOA Act. This provision may not be amended without the prior written consent of Declarant.

9.30 Boats and Recreational Vehicles. No trailer, camper, or other vehicle, other than four wheel passenger automobiles and other four wheel passenger vehicles determined acceptable by the Association, shall be permitted on any portion of Esprit at Avenir unless fully enclosed in the garage, except for trucks furnishing goods and services during the daylight hours, except for police and emergency service vehicles, and except as the Association may designate for such use by appropriate rules and regulations. Motorcycles and boats are permitted on the Property; however, they are restricted to being parked in the garage only. In addition, the Board shall adopt rules and regulations from time to time regulating and limiting the size, weight, type and place and manner of operation of vehicles in Esprit at Avenir.

9.31 Vehicular Parking. No person, firm or corporation shall park or cause to be parked any vehicle on any portion of the Property other than in driveways, garages, or other specifically designated parking areas in the streets, drives, swales, alleys or parkways located on the Property, as approved by the Association. The foregoing, however, shall not: (i) prohibit routine deliveries by tradesmen, or the use of trucks or commercial vans in making service calls and short term visits; (ii) apply to a situation where a vehicle becomes disabled and, as a result of an emergency, is required to be parked within Esprit at Avenir until it can be towed away; and (iii) apply to vehicles used in connection with construction, development or sales activities permitted under this Declaration. The Association shall have the right to authorize the towing away of any vehicles in violation of this rule with the costs and fees, including attorneys' fees, if any, to be borne by the vehicle owner or violator. No Owner shall keep any vehicle on any Lot, except fully enclosed within his or her garage, which is deemed to be a nuisance by the Board.

9.32 Except for use of golf carts within the Property which such use shall be subject to reasonable rules and regulations adopted by the Board from time to time, all other powered vehicles capable of exceeding five (5) miles per hour are prohibited from use on Esprit at Avenir property unless they are licensed, registered, and insured. Specifically, any motorcycle, moped, or motorized scooter used in Esprit at Avenir may only be driven by a licensed driver, and must be registered and insured in accordance with Florida law. No motorized vehicles, with the exception of motorized wheelchairs and other vehicles used to assist handicapped individuals, shall be operated on pathways or trails owned, controlled or maintained by the Association. Specifically exempted from this regulation are electric personal assistive mobility devices as defined under Florida Statutes, Section 316.003(83); and any other bona-fide "assistive technology devices" as defined in Florida Statutes, Section 427.802(1); and any special mobile equipment as defined under Florida Statutes, Section 316.003(48) provided that such equipment may not be operated in a manner that creates a traffic hazard, or which poses a threat of harm to the user of such equipment.

9.33 No person, firm or corporation shall maintain or repair any vehicle (including, but not limited to, four wheel passenger automobiles) upon any portion of the Property except within a closed garage and totally isolated from public view; provided, however, Declarant its successors, nominees or assigns and the Association may make, or cause to be made, such repairs if necessary in regard to vehicles used in connection with construction, sales or management at Esprit at Avenir. Vehicles which are missing one or more wheels, have one or more deflated tires, are not in an operating condition, or do not have current valid license plates shall not remain upon any portion of the Property, except within a wholly enclosed garage fully shielded from view, for more than two (2) consecutive days. No Owner or his or her family members, guests, invitees or lessees or

their family members, guests, or invitees shall be permitted to keep any vehicle on the Property which is deemed to be a nuisance by the Association or Declarant.

9.34 Window Decor. No newspaper, aluminum foil, sheets or other temporary window treatments shall be permitted, except for periods not exceeding two (2) weeks after an Owner or a lessee first moves into a Home or when permanent window treatments are being cleaned or repaired. Window tinting is permitted provided that the type and method of tinting is first approved by the DRB.

9.35 Hurricane Shutters. No hurricane shutters may be installed without the prior written consent of the DRB, which consent may not be unreasonably withheld. If the installation of hurricane shutters is made which does not conform with the DRB's consent, then the hurricane shutters will be made to conform by the DRB at the Owner's expense or they shall be removed. Approved hurricane shutters shall not be installed or closed, as applicable, before the issuance of a hurricane watch by the National Hurricane Center encompassing the Avenir location, and shall be removed no later than ten (10) days after the cessation of a hurricane watch or warning for same ("Hurricane Shutter Time Period"), however, if the hurricane shutters are clear in color they shall be allowed to remain installed or closed, as applicable, if the Owners are absent during hurricane season

Each Owner who plans to be absent from his or her Home during the hurricane season must prepare his or her Lot prior to such Owner's departure by (a) removing all furniture, potted plants and other movable objects from his or her porch, balcony or patio, if any; (b) designating a responsible firm or individual satisfactory to the Association to install and remove hurricane shutters in accordance with the Hurricane Standards and the Hurricane Shutter Time Period requirements; and (c) designating a responsible firm or individual satisfactory to the Association to care for the Home should the Home suffer hurricane damage. Such firm or individual shall contact the Association for clearance to install or remove hurricane shutters pursuant to this Declaration.

9.36 Flags. An Owner may display one portable, removable United States flag in a respectful manner, and one portable, removable official flag in a respectful manner, not larger than 4½ feet by 6 feet, that represents the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or a POW-MIA flag. An Owner may erect a freestanding flagpole no more than 20 feet high on any portion of the Owner's Lot if the flagpole does not obstruct sightlines at intersections and is not erected within or upon an easement. The Owner may further display in a respectful manner from that flagpole, one official United States flag, not larger than 4½ feet by 6 feet, and may additionally display one official flag of the State of Florida or the United States Army, Navy, Air Force, Marines, or Coast Guard, or a POW-MIA flag. Such additional flag must be equal in size to or smaller than the United States flag. The flagpole and display are subject to all building codes, zoning setbacks, and other applicable governmental regulations, including, but not limited to, noise and lighting ordinances in the County and all setback and locational criteria contained in this Declaration.

9.37 Water Supply. The Lots shall be irrigated using potable water from a third-party potable water supplier. Additionally, the potable water supplier may require certain Common

Areas to be irrigated with potable water. No individual home wells shall be constructed within any Lot.

9.38 Sewage Disposal. No individual sewage disposal system shall be permitted on the Property.

9.39 Weapons. The use and discharge of weapons within Esprit at Avenir is prohibited. The term “weapons” includes bows and arrows, slingshots, “B-B” guns, pellet guns, and other firearms of all types, regardless of size.

9.40 On-Site Fuel Storage. No on-site storage of gasoline or other fuels shall be permitted on any Lot, except that up to five (5) gallons fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment. Propane tanks normally associated with outdoor barbecue grills are permitted above-ground. This restriction is designed to reduce environmental risks associated with fuel storage and to minimize the hazards associated with on-site fuel storage.

9.41 Front Porches. No front porches shall be screened.

9.42 Mechanical Equipment. Any mechanical equipment, including but not limited to HVAC equipment, pool equipment, a generator and generator equipment, water filters, water and softeners, shall be installed on only one side of the Home. Any mechanical equipment installed must be placed as far as possible to the rear of the Home and in no case shall be in front of or blocking the electrical meter unless otherwise approved by the DRB by written approval. The Owner of a Lot when installing any mechanical equipment upon the Lot shall comply with all valid laws, zoning ordinances, codes, rules and regulations of all applicable governmental bodies, as applicable, in addition to the DRB approval required.

9.43 Board’s Rule Making Power. The foregoing use restrictions shall not be deemed to be all inclusive nor restrict the right of the Association to adopt such reasonable rules and regulations governing the use of Esprit at Avenir as the Board may determine from time to time, provided that such rules and regulations: (i) are not in conflict with the provisions hereof; (ii) apply equally to all lawful residents of Esprit at Avenir without discriminating on the basis of whether a Home is occupied by an Owner or his or her lessee; and (iii) for so long as Declarant holds any Homes within Esprit at Avenir for sale in the ordinary course of its business, have the prior written approval of Declarant. Declarant has the right to approve any rule or modification thereof.

9.44 Compliance with Documents. Each Owner and their family members, guests, and invitees shall be bound by and abide by the Neighborhood Documents. The conduct of the foregoing parties shall be considered to be the conduct of the Owner responsible for, or connected in any manner with, such individual’s presence within Esprit at Avenir. Such Owner shall be liable to the Association and shall pay the cost of any maintenance, repair or replacement of any real or personal property located on the Property rendered necessary by his or her act, neglect or carelessness, or by that of any other of the foregoing parties as an Individual Home Assessment.

9.45 No Implied Waiver. The failure of the Association or Declarant to object to an Owner’s or other party’s failure to comply with the covenants or restrictions contained herein or any other Neighborhood Document (including the rules now or hereafter promulgated) shall in no

event be deemed a waiver by Declarant or the Association or of any other party having an interest in the Property of its right to object to same and to seek compliance in accordance with the provisions of the Neighborhood Documents.

9.46 Declarant Exemption. Declarant plans to undertake the work of constructing Homes and Improvements upon the Property and may undertake the work of constructing other buildings upon adjacent land or other property being developed or marketed by Declarant or its affiliates. The completion of the aforementioned work and the sale, rental and other transfer of Homes by Declarant and Declarant's affiliates are essential to the establishment and welfare of the Property as a residential community. In order that such work may be completed and a fully occupied community established as rapidly as possible, neither the Owners nor the Association shall do anything whatsoever to interfere with any of Declarant's or Declarant's affiliates' activities relating to the constructing of Homes and Improvements upon the Property, the constructing of other buildings upon adjacent land or any other property being developed or marketed by the Declarant or its affiliates, or the sale, rental and/or other transfer of Homes by Declarant or its affiliates. In this respect, Declarant hereby reserves the right for itself and its employees, agents, licensees, and invitees to come upon any and all portions of the Property (including, without limitation, the Common Area as well as a Lot even after the same has been conveyed to an Owner) as may be necessary or convenient to enable Declarant to carry on its work and other activities including, without limitation, Declarant's development and construction of Esprit at Avenir and the Homes therein. Any gate system installed, if any, shall remain open during construction and sales hours to allow Declarant, affiliates of Declarant or builders of Homes, along with their respective employees, contractors and sub contractors access to the Property.

In general, the restrictions and limitations set forth in this Section 9 shall not apply to Declarant or to Lots and Homes owned by Declarant. Declarant shall specifically be exempt from any restrictions which interfere in any manner whatsoever with Declarant's plans for development, construction, sale, lease, or use of the Property and to the Improvements thereon. Declarant shall be entitled to injunctive relief for any actual or threatened interference with its rights under this Section 9 in addition to whatever remedies at law to which it might be entitled.

Should any provision of this Declaration contradict the City's Land Development Regulations (LDRs), the City's LDRs shall prevail.

10. DAMAGE OR DESTRUCTION TO COMMON AREA

Damage to or destruction of all or any portion of the Common Area shall, notwithstanding any provision in this Declaration to the contrary, be handled as follows:

10.1 If insurance proceeds are sufficient to effect total restoration of damaged or destroyed Common Area, then the Association shall cause such Common Area to be repaired and reconstructed substantially as it previously existed.

10.2 If insurance proceeds are insufficient to effect total restoration of the Common Area, and the cost of restoration would require a Special Assessment against each Lot in an amount of Five Thousand Dollars (\$5,000.00) or less (such amount is based on the value of the dollar in the year this Declaration is recorded and shall be increased each year thereafter based upon

increases in the Consumer Price Index), then the Association shall cause the Common Area to be repaired and reconstructed substantially as it previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a Special Assessment proportionately against each of the Lots in accordance with the provisions of Sections 6 and 7 herein.

10.3 If the insurance proceeds are insufficient to effect total restoration of the Common Area and the cost of restoration of the Common Area would require a Special Assessment against each Lot in an amount greater than Five Thousand Dollars (\$5,000.00) (such amount is based on the value of the dollar in the year this Declaration is recorded and shall be increased each year thereafter based upon increases in the Consumer Price Index), then by the written consent or vote of a majority of the voting interests, they shall determine whether: (i) to rebuild and restore either: (a) in substantially the same manner as the Improvements existed prior to the damage or destruction; or (b) in a manner less expensive, and in the event of (a) or (b) to raise the necessary rebuilding and restoration funds by levying pro rata restoration and construction Special Assessments against all Lots; or (ii) to not rebuild and to retain available insurance proceeds. In the event it is decided that the damaged or destroyed Common Area shall not be rebuilt, the remains of any structure or structures shall be torn down and hauled away, so as not to be a safety hazard or visual nuisance, and the land shall be fully sodded and landscaped or otherwise treated in an attractive manner. Notwithstanding anything contained herein to the contrary, any decision not to rebuild or to rebuild in a manner which would result in a change in the Improvements shall not be effective without the prior written approval of Declarant (which approval shall be given, conditioned or withheld in Declarant's sole and absolute discretion) as long as Declarant owns any portion of the Property.

10.4 Each Owner shall be liable to the Association for any damage to the Common Area not fully covered or collected by insurance which may be sustained by reason of the negligence or willful misconduct of said Owner or of such Owner's family, tenants, invitees and guests, both minors and adults.

10.5 In the event that the repairs and replacements were paid for by any Special Assessments as well as insurance proceeds and regular Assessments, then, if after the completion of and payment for the repair, replacement, construction or reconstruction there shall remain any excess in the hands of the Association, it shall be presumed that the monies disbursed in payment of any repair, replacement, construction and reconstruction were first disbursed from insurance proceeds and regular Assessments and any remaining funds shall be deemed to be the remaining Special Assessments which shall be returned to the Owners by means of a pro rata distribution in accordance with the collection of such Special Assessments.

11. INSURANCE AND CONDEMNATION

The Association shall purchase and maintain the following insurance coverages subject to the following provisions, and the cost of the premiums therefor shall be a part of the Operating Expenses:

11.1 Casualty Insurance. Property and casualty insurance (including as applicable, windstorm coverage) in an amount equal to the then full replacement cost, exclusive of land, foundation, excavation and other items normally excluded from such coverage, of all

Improvements and personal property which are owned by the Association and now or hereafter located upon the Common Area, which insurance shall afford protection against such risks, if any, as shall customarily be covered with respect to areas similar to the Common Area in developments similar to Esprit at Avenir in construction, location and use.

11.2 Fidelity Coverage. Adequate fidelity coverage to protect against dishonest acts of the officers and employees of the Association and the Board and all others who handle and are responsible for handling funds of the Association shall be maintained in the form of fidelity bonds, which requirements shall be reasonably determined by the Board.

11.3 Directors' Coverage. Adequate directors' and officers' liability coverage, which coverage shall be effective from and after the date the Association is created.

11.4 Other Insurance. The Board may obtain such other forms of insurance as the Board may determine and in such coverage amounts as the Board shall determine to be required or beneficial for the protection or preservation of the Property and any improvements now or hereafter located thereon or in the best interests of the Association and/or its officers and directors.

11.5 Cancellation or Modification. All insurance policies purchased by the Association shall provide that they may not be canceled (including for nonpayment of premiums) or substantially modified without at least ten (10) days prior written notice to the Association and to each first mortgage holder, if any, named in the mortgage clause.

11.6 Flood Insurance. If determined appropriate by the Board or if required by an Institutional Mortgagee, a master or blanket policy of flood insurance covering the Common Area, if available under the National Flood Insurance Program, shall be purchased, which flood insurance shall be in the form of a standard policy issued by a member of the National Flood Insurers Association, and the amount of the coverage of such insurance shall be the lesser of the maximum amount of flood insurance available under such program, or one hundred percent (100%) of the current replacement cost of all buildings and other insurable property located in the flood hazard area.

11.7 Condemnation. In the event the Association receives any award or payment arising from the taking of any Common Area or any part thereof as a result of the exercise of the right of condemnation or eminent domain, the net proceeds thereof shall first be applied to the restoration of such taken areas and improvements thereon to the extent deemed advisable by the Board and approved by at least two thirds (2/3) of the total voting interests, and the remaining balance thereof, if any, shall then be distributed pro rata to Owners and mortgagees of Lots as their respective interests may appear.

11.8 Public Liability Coverage. A comprehensive policy of public liability insurance naming the Association and, until Declarant no longer owns any Lot within the Property, Declarant as named insureds thereof insuring against any and all claims or demands made by any person or persons whomsoever for personal injuries or property damage received in connection with, or arising from, the operation, maintenance and use of the Common Area and any Improvements located thereon, and for any other risks insured against by such policies with limits of not less than One Million Dollars (\$1,000,000.00) for damages incurred or claimed by any one person for any

one occurrence; not less than Three Million Dollars (\$3,000,000.00) for damages incurred or claimed by more than one person for any one occurrence; and for not less than Fifty Thousand Dollars (\$50,000.00) property damage per occurrence with no separate limits stated for the number of claims. The Association may also obtain worker's compensation insurance and other liability insurance including, but not limited to, insurance for lawsuits related to employment contracts in which the Association is a party, as it may deem desirable.

11.9 Waiver of Subrogation. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Owners, Declarant and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement of said persons, but only to the extent that such insurance proceeds are received in compensation for such loss.

12. DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

12.1 AGREEMENT TO ENCOURAGE RESOLUTION OF DISPUTES WITHOUT LITIGATION.

12.1.1 ALL ELECTION DISPUTES AND RECALL DISPUTES SHALL BE RESOLVED IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 720.311(1), FLORIDA STATUTES.

12.1.2 DECLARANT, THE ASSOCIATION AND ITS OFFICERS, DIRECTORS, AND COMMITTEE MEMBERS, ALL PERSONS SUBJECT TO THIS DECLARATION, AND ANY PERSON NOT OTHERWISE SUBJECT TO THIS DECLARATION WHO AGREES TO SUBMIT TO THIS ARTICLE (COLLECTIVELY, "BOUND PARTIES"), AGREE THAT IT IS IN THE BEST INTEREST OF ALL CONCERNED TO ENCOURAGE THE AMICABLE RESOLUTION OF DISPUTES INVOLVING ESPRIT AT AVENIR WITHOUT THE EMOTIONAL AND FINANCIAL COSTS OF LITIGATION. ACCORDINGLY, EACH BOUND PARTY AGREES NOT TO FILE SUIT IN ANY COURT WITH RESPECT TO A CLAIM DESCRIBED IN SUBSECTION 12.1.3, UNLESS AND UNTIL IT HAS FIRST SUBMITTED SUCH CLAIM TO THE ALTERNATIVE DISPUTE RESOLUTION PROCEDURES SET FORTH IN SECTION 12.2 IN A GOOD FAITH EFFORT TO RESOLVE SUCH CLAIM.

12.1.3 AS USED IN THIS ARTICLE, THE TERM "CLAIM" SHALL REFER TO ANY CLAIM, GRIEVANCE, DISPUTE, OR CONTROVERSY ARISING OUT OF OR RELATING TO ANY MATTER (INCLUDING BUT NOT LIMITED TO ANY MATTER ARISING OUT OF OR RELATING TO THE DECLARATION, COMMON AREAS, AND/OR ISSUES RELATING TO THE FORMATION, VALIDITY, OR ENFORCEABILITY OF THIS SECTION 12) OTHER THAN THOSE MATTERS SET FORTH IN SUBSECTION 12.1.1, EXCEPT THAT THE FOLLOWING SHALL NOT BE CONSIDERED "CLAIMS" UNLESS ALL PARTIES TO THE MATTER OTHERWISE AGREE TO SUBMIT THE MATTER TO THE PROCEDURES SET FORTH IN SECTION 12.2:

12.1.3.1 ANY SUIT BY THE ASSOCIATION TO COLLECT ASSESSMENTS OR OTHER AMOUNTS DUE FROM ANY OWNER;

12.1.3.2 ANY SUIT BY THE ASSOCIATION TO OBTAIN A TEMPORARY RESTRAINING ORDER (OR EMERGENCY EQUITABLE RELIEF) AND SUCH ANCILLARY RELIEF AS THE COURT MAY DEEM NECESSARY IN ORDER TO MAINTAIN THE STATUS QUO AND PRESERVE THE ASSOCIATION'S ABILITY TO ENFORCE THE PROVISIONS OF SECTION 9 OF THIS DECLARATION;

12.1.3.3 ANY SUIT BETWEEN OWNERS, WHICH DOES NOT INCLUDE DECLARANT OR THE ASSOCIATION AS A PARTY, IF SUCH SUIT ASSERTS A CLAIM WHICH WOULD CONSTITUTE A CAUSE OF ACTION INDEPENDENT OF THE NEIGHBORHOOD DOCUMENTS;

12.1.3.4 ANY SUIT IN WHICH ANY INDISPENSABLE PARTY IS NOT A BOUND PARTY; AND

12.1.3.5 ANY SUIT AS TO WHICH ANY APPLICABLE STATUTE OF LIMITATIONS WOULD EXPIRE WITHIN 180 DAYS OF GIVING THE NOTICE REQUIRED BY SUBSECTION 12.2.1, UNLESS THE PARTY OR PARTIES AGAINST WHOM THE CLAIM IS MADE AGREE TO TOLL THE STATUTE OF LIMITATIONS AS TO SUCH CLAIM FOR SUCH PERIOD AS MAY REASONABLY BE NECESSARY TO COMPLY WITH THIS ARTICLE.

12.2 DISPUTE RESOLUTION PROCEDURES.

12.2.1 TO THE MAXIMUM EXTENT PERMITTED BY FLORIDA LAW (AND FOR ALL OTHER CIRCUMSTANCES, IF ANY, THE ASSOCIATION AND PARTIES TO THIS DECLARATION HEREBY AGREE TO WAIVE ALL RIGHTS TO A TRIAL BY JURY), ALL CLAIMS, DISPUTES AND OTHER MATTERS IN QUESTION BETWEEN THE ASSOCIATION, ANY OWNER AND THE DECLARANT ARISING OUT OF OR RELATING TO THIS DECLARATION OR ANY ALLEGED BREACH OF ANY TERMS OR CONDITIONS HEREOF, THE TRANSITION OF ASSOCIATION CONTROL OR ANY ALLEGED FAILURES RELATING THERETO, OR ANY OTHER MATTER CONTEMPLATED UNDER THIS DECLARATION, SHALL BE DECIDED BY MANDATORY AND BINDING ARBITRATION IN ACCORDANCE WITH THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA") CURRENTLY IN EFFECT UNLESS THE PARTIES MUTUALLY AGREE OTHERWISE. THE FOLLOWING PROCEDURES SHALL APPLY:

12.2.2 DEMAND FOR ARBITRATION SHALL BE FILED IN WRITING WITH THE OTHER PARTY OR PARTIES SUBJECT TO THE DECLARATION AND WITH THE AAA. A DEMAND FOR ARBITRATION SHALL BE MADE WITHIN A REASONABLE TIME AFTER THE CLAIM, DISPUTE OR OTHER MATTER IN QUESTION HAS ARISEN. IN NO EVENT SHALL THE DEMAND FOR ARBITRATION BE MADE AFTER THE DATE WHEN INSTITUTION OF LEGAL OR EQUITABLE PROCEEDINGS BASED ON SUCH CLAIM, DISPUTE OR OTHER MATTER IN QUESTION WOULD BE BARRED BY THE

APPLICABLE STATUTE OF LIMITATIONS. "CONSTRUCTION RULES" WILL BE UTILIZED IN ANY ARBITRATION PROCEEDING UNDER THIS SECTION.

12.2.2.1 NO ARBITRATION ARISING OUT OF OR RELATING TO THIS DECLARATION SHALL INCLUDE, BY CONSOLIDATION, JOINDER OR ANY OTHER MANNER, AN ADDITIONAL PERSON OR ENTITY NOT A PARTY TO THIS DECLARATION, EXCEPT BY WRITTEN CONSENT CONTAINING A SPECIFIC REFERENCE TO THIS DECLARATION SIGNED BY THE PARTIES HERETO AND ANY OTHER PERSON OR ENTITY SOUGHT TO BE JOINED. CONSENT TO ARBITRATION INVOLVING AN ADDITIONAL PERSON OR ENTITY SHALL NOT CONSTITUTE CONSENT TO ARBITRATION OF ANY CLAIM, DISPUTE OR OTHER MATTER IN QUESTION NOT DESCRIBED IN THE WRITTEN CONSENT OR WITH A PERSON OR ENTITY NOT NAMED OR DESCRIBED THEREIN. THE FOREGOING AGREEMENT TO ARBITRATE AND OTHER AGREEMENTS TO ARBITRATE WITH AN ADDITIONAL PERSON OR ENTITY DULY CONSENTED BY THE PARTIES TO THIS DECLARATION SHALL BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH APPLICABLE LAW AND ANY COURT HAVING JURISDICTION THEREOF. NOTWITHSTANDING THE FOREGOING OR ANYTHING TO THE CONTRARY IN THIS DECLARATION OR ANY SUPPLEMENTAL DECLARATION, DECLARANT SHALL HAVE RIGHT, AT ITS ELECTION AND IN ITS SOLE AND ABSOLUTE DISCRETION, TO ADD PARTIES (E.G., CONTRACTORS, SUBCONTRACTORS, VENDORS, ENGINEERS, AND/OR OTHER PARTIES OR PERSONS) TO CLAIMS INITIATED BY THE ASSOCIATION IF DECLARANT REASONABLY BELIEVES THAT SUCH CONTRACTORS, SUBCONTRACTORS, VENDORS, ENGINEERS, AND/OR OTHER PARTIES OR PERSONS MAY BE LIABLE FOR SOME PORTION OF THE DAMAGES SOUGHT BY THE ASSOCIATION; IN SUCH CLAIMS; DECLARANT SHALL HAVE THE RIGHT TO ADD SUCH PARTIES TO SUCH CLAIMS VIA THIRD PARTY CLAIMS, COUNTERCLAIMS, CROSS CLAIMS, OR OTHER CAUSES OF ACTION.

12.2.2.2 THE AWARD RENDERED BY THE ARBITRATOR OR ARBITRATORS SHALL BE FINAL AND BINDING, AND JUDGMENT MAY BE ENTERED UPON IT IN ACCORDANCE WITH APPLICABLE LAW IN ANY COURT HAVING JURISDICTION THEREOF.

12.2.2.3 ALL FILING FEES AND AAA COSTS ASSOCIATED WITH THE ARBITRATION ITSELF SHALL BE PAID FOR BY THE PARTY WHO FILES THE NOTICE OF ARBITRATION; PROVIDED, HOWEVER, THAT ALL SUCH EXPENSES SHALL BE RECOVERED BY THE FILING PARTY IN THE EVENT SUCH PARTY PREVAILS. ANY ISSUES REGARDING WHO IS THE PREVAILING PARTY SHALL BE DETERMINED BY THE ARBITRATOR OR ARBITRATION PANEL. THE PREVAILING PARTY ALSO SHALL RECOVER FROM THE NON-PREVAILING PARTY ALL ATTORNEYS' FEES AND COSTS, INCLUDING FEES AND COSTS FOR LEGAL ASSISTANTS AND EXPERT WITNESSES, AND INCLUDING ALL FEES AND COSTS INCURRED RELATIVE TO ANY CHALLENGE OR APPEAL OF THE ARBITRATION AWARD, OR CONFIRMATION BY A COURT OF LAW.

IF AND ONLY TO THE EXTENT A MATTER ARISING UNDER THIS DECLARATION CANNOT BE RESOLVED BY ARBITRATION PURSUANT TO THIS SECTION, THE PREVAILING PARTY SHALL BE ENTITLED TO COLLECT FROM THE NON-PREVAILING PARTY REASONABLE ATTORNEYS' FEES AND COSTS AT THE TRIAL LEVEL AND AT ALL LEVELS OF APPEAL. IN SUCH EVENT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OF THE DECLARANT, ASSOCIATION, AND OWNERS, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN RESPECT OF ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATED TO ANY OF THE PROVISIONS OF THIS DECLARATION, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO OR TO ANY DOCUMENT PERTAINING TO THIS DECLARATION. THIS PROVISION IS A MATERIAL INDUCEMENT OF ALL PARTIES TAKING TITLE TO REAL PROPERTY SUBJECT TO THIS DECLARATION. THE PARTIES HEREBY SUBMIT TO THE JURISDICTION OF THE CIVIL COURTS OF THE STATE OF FLORIDA AND THE UNITED STATES DISTRICT COURTS LOCATED IN THE STATE OF FLORIDA IN RESPECT OF ANY SUIT OR OTHER PROCEEDING BROUGHT IN CONNECTION WITH OR ARISING OUT OF THIS DECLARATION AND VENUE SHALL BE IN THE COUNTY.

12.2.2.4 THE DECLARANT, THE ASSOCIATION, AND EACH OWNER (BY ACCEPTANCE OF A DEED TO A LOT AND/OR A HOME) SPECIFICALLY AGREE THAT THE PARTIES MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT AS A MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION OR COLLECTIVE PROCEEDING. THE ARBITRATOR(S) MAY NOT CONSOLIDATE OR JOIN CLAIMS REGARDING MORE THAN ONE LOT, HOME, OR PROPERTY AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE, OR CLASS PROCEEDING. ALSO, THE ARBITRATOR(S) MAY AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIM(S). ANY RELIEF AWARDED CANNOT BE AWARDED ON CLASS-WIDE OR MASS-PARTY BASIS OR OTHERWISE AFFECT PARTIES WHO ARE NOT A PARTY TO THE ARBITRATION. NOTHING IN THE FOREGOING PREVENTS THE DECLARANT FROM EXERCISING ITS RIGHT TO INCLUDE IN ANY ARBITRATION THOSE PERSONS OR ENTITIES REFERRED TO IN SECTION 12.2.2.1 ABOVE.

13. GENERAL PROVISIONS

13.1 Conflict With Other Neighborhood Documents.

In the event of any conflict between the provisions hereof and the provisions of the Articles and/or Bylaws and/or rules and regulations promulgated by the Association, the provisions of this Declaration shall control.

13.2 Notices

Any notice or other communication required or permitted to be given or delivered hereunder shall be deemed properly given and delivered upon the mailing thereof by United States mail, postage prepaid, to: (i) each Owner, at the address of the person whose name appears as the Owner on the records of the Association at the time of such mailing and, in the absence of any specific address, at the address of the Home owned by such Owner; (ii) the Association, certified mail, return receipt requested, at 105 NE 1st Street, Delray Beach, FL 33444, Attention: Association President, or such other address as the Association shall hereinafter notify Declarant and the Owners of in writing; and (iii) Declarant, certified mail, return receipt requested, at 105 NE 1st Street, Delray Beach, FL 33444, or such other address or addresses as Declarant shall hereafter notify the Association of in writing, any such notice to the Association of a change in Declarant's address being deemed notice to the Owners.

13.3 Enforcement

The covenants and restrictions herein contained may be enforced by Declarant (so long as Declarant holds an equitable or legal interest in any Lot and/or Home), the Association, any Owner and any Institutional Mortgagee holding a mortgage on any portion of the Property in any judicial proceeding seeking any remedy recognizable at law or in equity, including damages, injunction or any other form of relief against any person, firm or entity violating or attempting to violate any covenant, restriction or provision hereunder. The failure by any party to enforce any such covenant, restriction or provision herein contained shall in no event be deemed a waiver of such covenant, restriction or provision or of the right of such party to thereafter enforce such covenant, restriction or provision. The prevailing party in any such litigation shall be entitled to reimbursement of all costs thereof including, but not limited to, Legal Fees. Further, the Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the Drainage System.

13.4 Interpretation

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of recreational facilities and Common Area. Section, subsection, paragraph, captions, headings and titles inserted throughout this Declaration are intended as a matter of convenience only and in no way shall such captions, headings or titles define, limit or in any way affect the subject matter or any of the terms and provisions thereunder or the terms and provisions of this Declaration.

Whenever the context so requires or permits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns and pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

13.5 Severability

In the event any of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect, and any provisions of this Declaration deemed invalid by a court of competent jurisdiction by virtue of the term or scope

thereof shall be deemed limited to the maximum term and scope permitted by law. In the event that any court should hereafter determine that any provision of this Declaration is in violation of the rule of property known as the "rule against perpetuities" or any other rule of law because of the duration of a time period, such provision shall not thereby become invalid, but instead the duration of such time period shall be reduced to the maximum period allowed under such rule of law, and in the event the determination of the duration of such time period requires measuring lives, such measuring life shall be that of the incorporator of the Association.

13.6 Certain Rights of Declarant

Notwithstanding anything to the contrary herein contained, no Improvements constructed or installed by Declarant shall be subject to the approval of the Association or the Owners or the provisions and requirements of this Declaration, although it is the intent of Declarant to create a community with a common scheme of development. Notwithstanding the other provisions of this Declaration, Declarant reserves for itself, and Declarant and its nominees shall have, the right to enter into and transact on the Property any business necessary to consummate the sale, lease or encumbrance of Homes or real property within or outside Esprit at Avenir, including, but not limited to, the right to maintain models and a sales and/or leasing office, a construction office and/or a service office, utilize the amenities center as a sales and/or leasing office, place signs, employ sales, leasing, construction and service personnel, use the Property and show Homes, and Declarant further reserves the right to make repairs to the Property and to carry on construction activity for the benefit of the Property. Declarant, and its nominees, may exercise the foregoing rights without notifying the Association. Any such models, sales and/or leasing office, construction office, service office, signs and any other items pertaining to such sales, leasing, construction or service efforts shall not be considered a part of the Property and shall remain the property of Declarant. In addition, Declarant hereby has, shall have and hereby reserves the right to enter upon the Property (including, without limitation, all drainage easements) to final-out and/or close-out any and all approvals, permits, orders, conditions and/or requirements that have been issued or imposed by any governmental entity in connection with the development and construction of Esprit at Avenir and all Improvements therein for Declarant to comply and adhere to the same, and such rights shall survive the date of Turnover and continue for such period of time as is necessary for Declarant to fully comply with all such governmentally issued approvals, permits, orders, conditions and/or requirements. Without limiting the generality of the foregoing, in exercising any such rights, Declarant shall have the right to remove and/or relocate any and all items (including, without limitation, landscape materials, fences and/or other Improvements) that may be required to be removed and/or relocated to final-out and/or close-out any and all such approvals, permits, orders, conditions and/or requirements. This Section 13.6 may not be suspended, superseded or modified in any manner by any amendment to this Declaration unless such amendment is consented to in writing by Declarant. This right of use and transaction of business as set forth herein and the other rights reserved by Declarant in the Neighborhood Documents may be assigned in writing by Declarant in whole or in part. For the purposes of this Section 13.6, the term "Declarant" shall include any "Lender" which has loaned money to Declarant to acquire or construct Improvements upon the Property, or its successors and assigns if such Lender, its successors or assigns, acquires title to any portion of the Property as a result of the foreclosure of any mortgage encumbering any portion of the Property securing any such loan to Declarant, or acquires title thereto by deed in lieu of foreclosure. The rights and privileges of Declarant as set

forth in this Section 13.6, which are in addition to, and are no way a limit on, any other rights or privileges of Declarant under any of the Neighborhood Documents.

Declarant, its successors, assigns, employees, contractors, sub-contractors and potential purchasers shall have access to the Avenir property at all times and the Association shall not impede any such access. Any gate system installed shall remain open during construction and sales hours to allow Declarant, its successors, assigns, employees, contractors, sub contractors and potential purchasers access to the Avenir property.

Declarant shall also have the right, but not the obligation, to conduct inspections and tests from time to time of all or any portion of the Property in order to ascertain the physical condition of the Improvements and to determine if maintenance, repair or replacement of any such Improvement is necessary. If Declarant conducts any such tests or inspections, it shall pay all costs thereof, restore the affected portion of the Property to its condition immediately prior to the inspections and tests. Declarant shall have such rights of entry on, over, under, across and through the Property as may be reasonably necessary to exercise the rights described in this Section 13. Declarant's right of inspection shall exist whether or not the Turnover Date has occurred. In the event Declarant exercises its inspection right, it is acknowledged by the Association and all the Owners that Declarant is performing any such inspection for its own benefit and not for the benefit of the Association and/or the Owners and further, Declarant shall have no obligation to inform the Association and/or the Owners of the result of any such inspection.

ALL OWNERS, OCCUPANTS AND USERS OF ESPRIT AT AVENIR ARE HEREBY PLACED ON NOTICE THAT DECLARANT AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES MAY BE, FROM TIME TO TIME, CONDUCTING EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO ESPRIT AT AVENIR. BY THE ACCEPTANCE OF THEIR DEED OR TITLE OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF ESPRIT AT AVENIR, EACH SUCH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO ESPRIT AT AVENIR WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) DECLARANT AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS WHATSOEVER ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, (iv) ANY PURCHASE OR USE OF ANY PORTION OF ESPRIT AT AVENIR HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING, AND (v) THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO DECLARANT TO SELL, CONVEY, LEASE AND/OR ALLOW THE USE OF THE APPLICABLE PORTION OF ESPRIT AT AVENIR.

13.7 Indemnification

13.7.1 Indemnification of Officers, Directors and Others

Subject to Florida law, the Association shall indemnify and defend 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) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify and defend shall be limited to those actions for which liability is limited under this Section.

The officers, directors, and committee members 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 with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. 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.

13.7.2 Indemnification Related to the Use of the Recreation Facilities, Playgrounds, Bridge and Other Common Area

BY THE USE OF RECREATION FACILITIES, ANY PLAYGROUND, THE BRIDGE OR ANY OTHER COMMON AREA (COLLECTIVELY, THE "**APPLICABLE AREAS**"), EACH OWNER, OWNER'S FAMILY, AND GUEST (COLLECTIVELY, "**PERMITTED USER**") WHO USES THE APPLICABLE AREAS AGREES TO INDEMNIFY AND HOLD HARMLESS DECLARANT, THE NEIGHBORHOOD ASSOCIATION, THE MASTER ASSOCIATION, THE RECREATION ASSOCIATION, THEIR OFFICERS, PARTNERS, AGENTS, EMPLOYEES, AFFILIATES, DIRECTORS AND ATTORNEYS (COLLECTIVELY, THE "**INDEMNIFIED PARTIES**") AGAINST ALL ACTIONS, INJURY, CLAIMS, LOSS, LIABILITY, DAMAGES, COSTS AND EXPENSES OF ANY KIND OR NATURE WHATSOEVER ("**LOSSES**") INCURRED BY OR ASSERTED AGAINST ANY OF THE INDEMNIFIED PARTIES FROM AND AFTER THE DATE HEREOF, WHETHER DIRECT, INDIRECT, OR CONSEQUENTIAL, AS A RESULT OF OR IN ANY WAY RELATED TO USE OF THE APPLICABLE AREAS BY SUCH PERMITTED USER AND/OR FROM ANY ACT OR OMISSION OF THE ANY OF THE INDEMNIFIED PARTIES. LOSSES SHALL INCLUDE THE DEDUCTIBLE PAYABLE UNDER ANY INSURANCE POLICIES.

13.8 Disputes as to Use

In the event there is any dispute as to whether the use of the Property or any portion or portions thereof complies with the covenants, restrictions, easements or other provisions contained in this Declaration, such dispute shall be referred to the Board, and a determination rendered by

the Board with respect to such dispute shall be final and binding on all parties concerned therewith. Notwithstanding anything to the contrary herein contained, any use by Declarant of the Property shall be deemed a use which complies with this Declaration and shall not be subject to a contrary determination by the Board.

13.9 Restrictions Affecting Occupancy and Alienation.

13.9.1 Restrictions on Occupancy. Subject to the rights reserved to Declarant in Section 2.1, the Homes within Esprit at Avenir are intended for the housing of persons fifty-five (55) years of age or older. The provisions of this Section 13.9 are intended to be consistent with and are set forth in order to comply with the Fair Housing Amendments Act, 42 U.S.C. §3601 et seq. (1988), as amended, the exemption set out in 42 U.S.C. §3607(b)(2)(C) and the regulations promulgated thereunder (collectively, as may be amended, the "Act") allowing discrimination based on familial status. Declarant or the Association, acting through the Board, shall have the power to amend this Section 13.9, without the consent of the Owners or any other person or entity (except Declarant), for the purpose of maintaining this Section 13.9 consistent with the Act, the regulations adopted pursuant thereto and any related judicial decisions.

13.9.1.1 Each Occupied Home shall at all times be Occupied by at least one (1) natural person fifty-five (55) years of age or older; however, in the event of the death of a person who was the sole Occupant fifty-five (55) years of age or older of a Home, any Qualified Occupant may continue to Occupy the same Home as long as the provisions of the Act are not violated by such Occupancy.

13.9.1.2 No natural person under the age of twenty (20) shall Occupy a Home.

13.9.1.3 Nothing in this Section 13.9 shall restrict the ownership of or transfer of title to any Home; provided, no Owner under the age of fifty-five (55) may Occupy a Home unless the requirements of this Section 13.9 are met nor shall any Owner permit Occupancy of the Home in violation of this Section 13.9. Owners shall be responsible for including a statement in conspicuous type in any Occupancy agreement or contract of sale relating to such Owner's Home that the Homes within Esprit at Avenir are intended for the housing of persons fifty-five (55) years of age or older, as set forth in this Section 13.9, which agreements or contracts shall be in writing and signed by the Lessee or purchaser and for clearly disclosing such intent to any prospective Lessee, purchaser, or other potential Occupant. Every lease agreement for a Home shall provide that failure to comply with the requirements and restrictions of this Section 13.9 shall constitute a default under said lease agreement.

13.9.1.4 Any Owner may request in writing that the Board make an exception to the requirements for an Age-Qualified Occupant of this Section 13.9 (other than the requirement of Section 13.9.1.2) with respect to a Home, based on documented hardship. The Board may, but shall not be obligated to, grant exceptions in its sole discretion, provided that all of the requirements of the Act would still be met.

13.9.1.5 In the event of any change in Occupancy of any Home, as a result of a transfer of title, a lease or sublease, a birth or death, change in marital status, vacancy, change

in location, or otherwise, the Owner of the Home shall immediately notify the Board in writing and provide to the Board the names and ages of all current Occupants of the Home and such other information as the Board may reasonably require to verify the age of each Occupant required to comply with the Act. In the event that an Owner fails to notify the Board and provide all required information within ten (10) days after a change in Occupancy occurs, the Association may levy monetary fines against the Owner and the Home for each day after the change in Occupancy occurs until the Association receives the required notice and information, regardless of whether the Occupants continue to meet the requirements of this Section 13.9, in addition to all other remedies available to the Association under this Declaration and Florida law.

13.9.2 Monitoring Compliance; Appointment of Attorney-in-Fact. The Association shall be responsible for maintaining records to support and demonstrate compliance with the Act. The Board shall adopt policies, procedures and rules to monitor and maintain compliance with this Section 13.9 and the Act, including policies regarding visitors, updating of age records, the granting of exemptions to compliance and enforcement. The Association shall periodically distribute such policies, procedures and rules to the Owners and make copies available to Owners, their Lessees and Lenders upon reasonable request.

13.9.3 Enforcement. The Association may enforce this Section 13.9 by any legal or equitable manner available, as the Board deems appropriate, including, without limitation, conducting a census of the Occupants of Homes, requiring that copies of birth certificates or other proof of age for one (1) Age-Qualified Occupant per Home be provided to the Board on a periodic basis, and taking action to evict the Occupants of any Home that do not comply with the requirements and restrictions of this Section 13.9. The Association's records regarding individual members shall be maintained on a confidential basis and not provided except as legally required to governing authorities seeking to enforce the Act. Each Owner shall fully and truthfully respond to any Association request for information regarding the Occupancy of Homes which, in the Board's judgment, is reasonably necessary to monitor compliance with this Section 13.9. Each Owner hereby appoints the Association as its attorney-in-fact for the purpose of taking legal or equitable action to dispossess, evict, or otherwise remove the Occupants of any Home as necessary to enforce compliance with this Section 13.9.

13.9.4 Compliance. Each Owner shall be responsible for ensuring compliance of its Home with the requirements and restrictions of this Section 13.9 and the Association rules adopted hereunder, by itself and by its Lessees and other Occupants of its Home. Each Owner, by acceptance of title to a Home, agrees to indemnify, defend and hold Declarant, any affiliate of Declarant and the Association harmless from any and all claims, losses, damages and causes of action which may arise from failure of such Owner's Home to so comply. Such defense costs shall include, but not be limited to, attorneys' fees and paraprofessional fees, and costs, at trial and upon appeal.

13.9.5 Restrictive Covenant. This Section 13.9 has been drafted in accordance with the requirements of that certain Declaration of Restrictive Covenant Regarding School Impact Fee (the "Restrictive Covenant") to be recorded in the Public Records of Palm Beach County, Florida. For additional information, please refer to the Restrictive Covenant.

13.10 Amendment and Modification

The process of amending or modifying this Declaration shall be as follows:

13.10.1 Until the Turnover Date, all amendments or modifications shall only be made by Declarant without the requirement of the Association's consent or the consent of the Owners so long as such amendments or modifications do not materially impair the common plan of development of Esprit at Avenir; provided, however, that the Association shall, forthwith upon request of Declarant, join in any such amendments or modifications and execute such instruments to evidence such joinder and consent as Declarant shall, from time to time, request.

13.10.2 After the Turnover Date, this Declaration may be amended by: (i) the consent of the Owners owning two thirds (2/3) of all Lots; together with (ii) the approval or ratification of a majority of the Board. The aforementioned consent of the Owners owning two thirds (2/3) of the Lots may be evidenced by a writing signed by the required number of Owners or by the affirmative vote of the required number of Owners at any regular or special meeting of the Association called and held in accordance with the Bylaws and evidenced by a certificate of the Secretary or an Assistant Secretary of the Association.

13.10.3 Amendments for correction of scrivener's errors or other nonmaterial changes may be made by Declarant alone until the Turnover Date and by the Board thereafter and without the need of consent of the Owners.

13.10.4 Notwithstanding anything to the contrary herein contained, no amendment to this Declaration shall be effective which shall impair or prejudice the rights or priorities of Declarant, the Association or of any Institutional Mortgagee under the Neighborhood Documents without the specific written approval of such party affected thereby. Finally, notwithstanding anything to the contrary contained herein, no amendment to this Declaration shall be effective which shall eliminate or modify the provisions of Section 13.6 and any such amendment shall be deemed to impair and prejudice the rights of Declarant.

13.10.5 A true copy of any Amendment to this Declaration shall be sent certified mail by the Association to Declarant and to all Institutional Mortgagees holding a mortgage on any portion of the Property requesting notice. The amendment shall become effective upon the recording amongst the Public Records of the County of said amendment to this Declaration which sets forth any amendment or modification to this Declaration.

13.10.6 Notwithstanding anything contained herein to the contrary, Declarant may, without the consent of any Owners, file any amendment(s) to this Declaration which may be required by an Institutional Mortgagee for the purpose of satisfying said Institutional Mortgagee's development criteria or such other criteria as may be established by such Institutional Mortgagee's secondary mortgage market purchasers, including, without limitation, the FNMA and the FHLMC; provided, however, any such filed amendment(s) must be in accordance with any applicable rules, regulations and other requirements promulgated by HUD.

13.10.7 Any proposed amendment to this Declaration which would affect the surface water management system shall be submitted to the CDD, the Water Management District or appropriate government engineers, as applicable, for a determination of whether the proposed amendment necessitates a modification of the surface water management permit.

13.11 Delegation

The Association, pursuant to a resolution duly adopted by the Board, shall have the continuing authority to delegate all or any portion of its responsibilities for maintenance, operation and administration, as provided herein, to any managing agency or entity selected by the Board from time to time and whether or not related to Declarant.

13.12 Term

This Declaration and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein shall run with and bind the Property, and inure to the benefit of Declarant, the Association and the Owners and their respective legal representatives, heirs, successors and assigns for a term of fifty (50) years from the date of recording this Declaration amongst the Public Records of the County, after which time this Declaration shall be automatically renewed and extended for successive periods of ten (10) years each unless at least one (1) year prior to the termination of such fifty (50) year term or any such ten (10) year extension there is recorded amongst the Public Records of the County an instrument agreeing to terminate this Declaration signed by the Owners owning two thirds (2/3) of the Lots and Institutional Mortgagees holding first mortgages encumbering two thirds (2/3) of all Lots encumbered by first mortgages held by Institutional Mortgagees, upon which event this Declaration shall be terminated upon the expiration of the fifty (50) year term or the ten (10) year extension during which such instrument was recorded.

In the event this Declaration is terminated or the Association ceases to exist for any reason, the Owners shall be jointly and severally responsible for the costs to maintain and shall maintain the Common Area in the manner described herein. This provision shall survive the termination of this Declaration and shall run with the Property in perpetuity. Any Owner may, however, petition the Circuit Court for the appointment of a Receiver to manage the affairs of the Association in the event of dissolution of the Association.

13.13 Rights of Mortgagees

13.13.1 Right to Notice. The Association shall make available for inspection upon request, during normal business hours or under reasonable circumstances, the Neighborhood Documents and the books, records and financial statements of the Association to the Owners and the holders, insurers or guarantors of any first mortgages encumbering any portion of the Property. In addition, evidence of insurance shall be issued to each Owner and mortgagee holding a mortgage encumbering a Home upon written request to the Association. A mortgagee shall be entitled to receive timely written notice of any proposed action that requires the consent of a specified percentage of mortgagees. To be entitled to receive notices under this Section, the mortgagee (or mortgage insurer or guarantor) must send a written request to the Association stating both its name and address and the address of the Lot on which it has (or insures or guaranties) the mortgage.

13.13.2 Rights of Listed Mortgagee. Upon written request to the Association, identifying the name and address of the holder, insurer, or guarantor (such holder, insurer or guarantor is herein referred to as a "Listed Mortgagee") of a mortgage encumbering a Lot and the

legal description of such Lot, the Association shall provide such Listed Mortgagee with timely written notice of the following:

- (a) Any condemnation, loss or casualty loss which affects any material portion of the Property;
- (b) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (c) Any proposed action which would require the consent of mortgagees holding a mortgage encumbering a Lot; and
- (d) Any failure by an Owner owning a Lot encumbered by a mortgage held, insured or guaranteed by such Listed Mortgagee to perform such Owner's obligations under the Neighborhood Documents, including, but not limited to, any delinquency in the payment of Assessments, or any other charge owed to the Association by said Owner where such failure or delinquency has continued for a period of sixty (60) days.

13.13.3 Right of Listed Mortgagee to Receive Financial Statement. Any Listed Mortgagee shall, upon written request made to the Association, be entitled to financial statements of the Association for the prior fiscal year free of charge and the same shall be furnished within a reasonable time following such request.

13.14 Approval of Association Lawsuits by Owners

Notwithstanding anything contained herein to the contrary, in order to prevent the Board from incurring expenses not contemplated by the Neighborhood Documents, for which the Owners will be responsible, the Association shall be required to obtain the approval of three fourths (3/4) of the total voting interests (at a duly called meeting of the Owners at which a quorum is present) prior to engaging persons or entities for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

- (a) the collection of Assessments;
- (b) the collection of other charges which the Owners are obligated to pay pursuant to the Neighborhood Documents;
- (c) the enforcement of the use and occupancy restrictions contained in the Neighborhood Documents;
- (d) dealing with an emergency when waiting to obtain the approval of the Owners creates a substantial risk of irreparable injury to the Property or to the Owner(s) (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the requisite vote of three fourths [3/4] of the Owners); or
- (e) filing a compulsory counterclaim.

13.15 Compliance With Provisions

Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot except as elsewhere herein provided does consent and agree to, and shall be conclusively deemed to have consented and agreed to, every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in such property. Declarant shall not in any way or manner be held liable or responsible for any violation of this Declaration by any person other than Declarant.

13.16 Security

The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. NOTWITHSTANDING THE FOREGOING, NEITHER DECLARANT, THE ASSOCIATION, THE MASTER DECLARANT, THE MASTER ASSOCIATION, NOR THE CDD MAKES ANY REPRESENTATIONS WHATSOEVER AS TO THE SECURITY OF THE PREMISES OR THE EFFECTIVENESS OF ANY MONITORING SYSTEM OR SECURITY SERVICE, IF ANY. ALL OWNERS AGREE TO RELEASE DECLARANT, THE ASSOCIATION, THE MASTER DECLARANT, THE MASTER ASSOCIATION AND THE CDD AND AGREE NOT TO BRING ANY CLAIM AGAINST SUCH PARTIES DUE TO ANY LOSS OR INJURY ARISING FROM THE OCCURRENCE OF ANY CRIME OR OTHER ACT, EVENT OR INCIDENT WHICH MAY HAVE BEEN PREVENTED BY ANY SUCH MONITORING SYSTEM OR SECURITY SERVICE. NEITHER THE ASSOCIATION, DECLARANT, NOR ANY SUCCESSOR DECLARANT, THE MASTER DECLARANT, NOR ANY SUCCESSOR MASTER DECLARANT, NOR THE MASTER ASSOCIATION, NOR THE CDD SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY OR SAFETY WITHIN THE PROPERTY AND NEITHER THE ASSOCIATION, THE MASTER ASSOCIATION, THE CDD, DECLARANT, NOR ANY SUCCESSOR DECLARANT, MASTER DECLARANT, NOR ANY SUCCESSOR MASTER DECLARANT GUARANTEES OR WARRANTS, EXPRESSLY OR IMPLIEDLY, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY SUCH MONITORING SYSTEM OR SECURITY SERVICE, OR THAT ANY SYSTEM OR SERVICES WILL PREVENT INTRUSIONS, FIRES, DAMAGE, INJURY, DEATH OR OTHER OCCURRENCES, OR THE CONSEQUENCES OF SUCH OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE SYSTEM OR SERVICES ARE DESIGNED TO MONITOR SAME. NEITHER THE ASSOCIATION, THE MASTER ASSOCIATION, THE CDD, DECLARANT, NOR ANY SUCCESSOR DECLARANT, MASTER DECLARATION, NOR ANY SUCCESSOR MASTER DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY.

13.17 Covenant Running With The Land

All provisions of this Declaration shall, to the extent applicable and unless otherwise expressly provided herein to the contrary, be construed to be covenants running with the Lots and Homes and the Property and with every part thereof and interest therein, and all of the provisions hereof shall be binding upon and inure to the benefit of Declarant and subsequent Owner(s) of the Homes, Lots and Property or any part thereof, or interest therein, and their respective heirs, successors, and assigns. However, the same are not intended to create nor shall they be construed

as creating any rights in or for the benefit of the general public, unless specifically provided herein to the contrary. All present and future Owners, lessees, and occupants of the Lots and Homes, as applicable, shall be subject to and shall comply with the provisions of this Declaration and the Articles, Bylaws and applicable rules and regulations as they exist and may from time to time be amended. The acceptance of a deed of conveyance of a Lot and Completed Home, or the entering into a lease of or occupancy of a Home, shall constitute an adoption and ratification by such Owner, lessee, or occupant of the provisions of this Declaration, and the Articles, Bylaws, and applicable rules and regulations of the Association, as they may be amended from time to time. In the event that any easements granted herein shall fail for want of a grantee in being or for any other purpose, the same shall constitute and be covenants running with the land.

13.18 No Public Right or Dedication

Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any portion of the Common Area to the public, or for any public use.

13.19 No Representations or Warranties

NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY DECLARANT OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE PROPERTY, ITS PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS, FITNESS FOR INTENDED USE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF, EXCEPT AS SPECIFICALLY AND EXPRESSLY SET FORTH IN THIS DECLARATION.

13.20 Association and Declarant as Attorney-In-Fact

Each Owner, by reason of having acquired ownership of a Lot and Completed Home, whether by purchase, gift, operation of law or otherwise, and each occupant of a Home, by reason of his or her occupancy, is hereby declared to have acknowledged and agreed to his or her automatic consent to any rezoning, replatting, covenant in lieu of unity of title, change, addition or deletion made in, on or to Esprit at Avenir by Declarant (hereinafter, collectively, the "Modifications") and, in respect thereto, each Owner of a Lot and occupant of a Home hereby designates the Association to act as agent and attorney-in-fact on behalf of such Owner or occupant to consent to any such Modification. If requested by Declarant, each Owner shall evidence his or her consent to a Modification in writing (provided, however, that any refusal to give such written consent shall not obviate the automatic effect of this provision). Further, each Owner, by reason of having acquired ownership of a Lot and Completed Home, hereby agrees to execute, at the request of Declarant, any document and/or consent which may be required by any government agency to allow Declarant and/or its affiliates to complete the plan of development of Esprit at Avenir, as such plan may be hereafter amended, and each such Owner hereby further appoints Declarant as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of each such Owner, any and all of such documents and/or consents. This power of attorney is irrevocable and is coupled with an interest. The provisions of this Section 13 may not be amended without Declarant's prior written consent.

13.21 Declarant's Reservation of Rights

Notwithstanding anything contained in the Neighborhood Documents to the contrary, Declarant reserves the right to change the zoning of any portion of the Property now existing or hereafter changed to be other than single-family residential (e.g., multi-family residential or commercial) and/or to make such uses of all or any part of the Property as shall be permitted by applicable zoning regulations as they may exist from time to time. Declarant, however, is not obligated by this Declaration to cause any portion of the Property to be rezoned or developed for any such uses. In the event Declarant changes the zoning of the Property, Declarant hereby reserves the right to amend this Declaration or to create one or more sub-declarations subjecting such property(ies) to additional or different specified or prohibited uses.

Additionally, in the event Declarant changes the zoning of the Property or any portion thereof to a use other than single-family residential and amends this Declaration or creates a sub-declaration, in order to insure representation on the Board for various groups having dissimilar interests, Declarant reserves the right to establish voting groups for election of Directors to the Board. In such event, each voting group shall be entitled to elect one (1) or more Director(s) to the Board. Each voting group may have different voting rights as determined by Declarant.

In the event Declarant establishes other uses of or for the Property as aforesaid, Declarant reserves the right to change the method pursuant to which Assessments are shared among the Lots and other portions of the Property. The expenses may be divided among each type of property use (e.g., single-family residential, multi-family residential and commercial) based upon, but not necessarily proportional to, the percentage of each type of property use, the level of services received by each type of property use and other relevant factors as determined by Declarant. Additionally, expenses which specifically relate to a specific property use will only be assessed against that type of property. The percentages for each type of property will be based upon the total acreage of the Property.

The portion of the anticipated Operating Expenses which are assessed against the single-family residential property shall be divided equally among the contributing Lots or units by dividing such portion of the Operating Expenses which are being assessed to the single-family residential property by the total number of contributing Lots or units.

The portion of the anticipated Operating Expenses which are assessed against the multi-family residential property shall be divided equally among the contributing multi-family units by dividing such portion of the Operating Expenses which are being assessed to the multi-family residential property by the total number of contributing units.

The portion of the anticipated Operating Expenses which are assessed against the commercial property shall be divided among the owners of the commercial property based upon a fractional formula, the numerator of which is the total square feet of buildings and paved areas of each commercial parcel and the denominator of which is the total square feet of all buildings and paved areas.

13.22 Northern Palm Beach County Airport

NOTICE: The Property subject to 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.

13.23 Highways

ALL OWNERS, OCCUPANTS AND USERS OF AVENIR ARE HEREBY PLACED ON NOTICE THAT AVENIR IS NEAR COCONUT BOULEVARD, 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. ADDITIONALLY, COCONUT BOULEVARD IS INTENDED TO BE EXTENDED NORTH TO THE BEE LINE HIGHWAY AND WILL BE OPEN TO USE BY THE GENERAL PUBLIC.

13.24 Prescribed Burning

Prescribed burning may be conducted in the conservation areas of Avenir. 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 such areas. EACH OWNER, OCCUPANT AND USER ACKNOWLEDGES AND AGREES THAT (I) SUCH PRESCRIBED BURNING SHALL NOT BE DEEMED A NUISANCE, (II) MASTER DECLARANT, DECLARANT AND EACH OF THEIR RESPECTIVE 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.

13.25 Palm Beach County Shooting Sports Park

NOTICE: The property subject of this Declaration is in the vicinity of the Palm Beach County Shooting Sports Park. 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 the Palm Beach County Shooting Sports Park. Any buyer should conduct any investigation that the buyer deems prudent and necessary to assess the impact, if any, of the Palm Beach County Shooting Sports Park, including, but not limited to, related noise that may affect the buyer's use and enjoyment of the property.

13.26 Animal, Reptile and Wildlife Hazards

Florida's natural areas, which include conservation areas, conservation easement property, preservation areas, Lakes and wetlands, provide habitat for many wild animals and reptiles, including possible bears, poisonous snakes and alligators. Animals can be upset by human presence and unexpectedly become aggressive or harmed by efforts to avoid you. Always keep your distance and avoid interaction with all wildlife.

All Owners, and their family members, guests, invitees and lessees, should always follow the suggestions listed below to assist in human protection from a potentially unpleasant experience as well as the protection of our wildlife:

- (a) Any wild animal can be dangerous. Always be cautious and observant.
- (b) Do not feed the wildlife. Food meant for human consumption can harm an animal. Animals that get food from humans may become aggressive.
- (c) Help keep wildlife "wild" by keeping your distance. Move away from animals without disturbing them and do not block an animal's path.
- (d) Photograph and observe wildlife from a safe distance, by using binoculars, spotting scopes or telephoto lenses.
- (e) If an animal or reptile approaches you, move away and maintain a safe distance.
- (f) Do not walk pets within or near any natural area, or near any bodies of water.
- (g) Keep young children at a safe distance from natural areas and bodies of water.

BY ACCEPTANCE OF A DEED TO THEIR LOT EACH OWNER ACKNOWLEDGES THAT AVENIR, AND AREAS IN THE VICINITY OF AVENIR, MAY CONTAIN WILDLIFE SUCH AS, BUT NOT LIMITED TO, INSECTS, VENOMOUS AND NON-VENOMOUS SNAKES AND OTHER REPTILES, ALLIGATORS, AND OTHER ANIMALS, SOME OF WHICH MAY POSE HAZARDS TO PERSONS OR PETS COMING IN CONTACT WITH THEM. THE DECLARANT, THE MASTER DECLARANT, THE CDD, THE ASSOCIATION AND THE MASTER ASSOCIATION

SHALL HAVE NO RESPONSIBILITY FOR MONITORING SUCH WILDLIFE OR NOTIFYING OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE. EACH OWNER AND HIS OR HER LESSEES, GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN SAFETY.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, this Declaration has been signed by Declarant and joined in by the Association on the respective dates set forth below.

WITNESSES AS TO DECLARANT:

Signature [Signature]
Print Name Tyler Craffney
Address: 4540 Portofino way
West Palm Beach 33409

Signature [Signature]
Print Name Robert Breckler
Address: 12285 SW Forti Way
Port St. Lucie, FL 34987

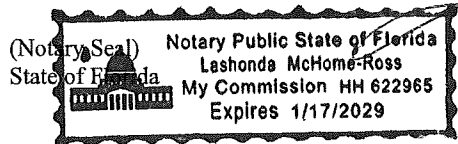
DECLARANT:

KH ESPRIT LLC, a Florida limited liability company

By: [Signature]
Name: Brian Grove
Title: Authorized Signatory

STATE OF FLORIDA)
) SS
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 8th day of August 2025, by Brian Grove as Authorized Signatory of KH ESPRIT LLC, a Florida limited liability company, on behalf of such company. The above-named individual is ☒ personally known to me or ☐ has produced _____ as identification.



Notary Public
Print Name: Lashonda McHome-Ross
My Commission No: HH 622965
My Commission expires: January 17, 2029

WITNESSES AS TO ASSOCIATION:

ASSOCIATION:

ESPRIT AT AVENIR NEIGHBORHOOD
ASSOCIATION, INC., a Florida
corporation not for profit

Signature [Signature]

Print Name Tyler Goffney

Address: 4540 portofino way

West Palm Beach 33409

Signature [Signature]

Print Name David Rippe

Address: 105 NE 18th St

Delray Beach, FL 33444

STATE OF FLORIDA)

) SS

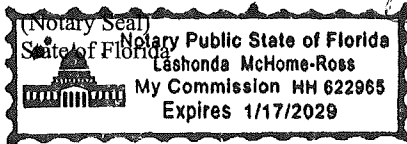
COUNTY OF PALM BEACH)

By: [Signature]

Name: Brian Grove

Title: President

The foregoing instrument was acknowledged before me by means of ☒ physical presence
or ☐ online notarization, this 8th day of August 2025, by Brian Grove as
Authorized Signer of Esprit at Avenir Neighborhood Association, Inc., a Florida corporation not for
profit, on behalf of such company. The above-named individual is ☐ personally known to me or
☐ has produced _____ as identification.



Notary Public
Print Name: Lashonda McHome-Ross

My Commission No: HH 622965

My Commission expires: January 17, 2029

EXHIBIT "A"
Legal Description of Property

Lots 1 through 491, inclusive, of the Plat of AVENIR – POD 16, as recorded in Plat Book 136, Page 168, of the Public Records of Palm Beach County, Florida.

EXHIBIT “B”
Amended and Restated Articles of Incorporation of
Esprit at Avenir Neighborhood Association, Inc.

State of Florida



Department of State

I certify from the records of this office that ESPRIT AT AVENIR NEIGHBORHOOD ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on September 14, 2023.

The document number of this corporation is N23000011130.

I further certify that said corporation has paid all fees due this office through December 31, 2023, and its status is active.

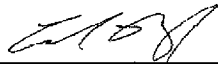
I further certify that said corporation has not filed Articles of Dissolution.

I further certify that this is an electronically transmitted certificate authorized by Section 15.16, Florida Statutes and authenticated by the code, 025A00017600-080825-N23000011130-1/1, noted below.

Authentication Code: 025A00017600-080825-N23000011130-1/1

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Eighth day of August, 2025




Secretary of State



I certify the attached is a true and correct copy of the Restated Articles of Incorporation, filed on August 6, 2025, for AVENIR - POD 16 NEIGHBORHOOD ASSOCIATION, INC. which changed its name to ESPRIT AT AVENIR NEIGHBORHOOD ASSOCIATION, INC., a Florida corporation, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H25000275274. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below

The document number of this corporation is N23000011130.

Authentication Code: 025A00017600-080825-N23000011130-1/1



Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Eighth day of August, 2025


Secretary of State

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ARTICLES OF RESTATEMENT

OF

ESPRIT AT AVENIR NEIGHBORHOOD 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 ESPRIT AT AVENIR NEIGHBORHOOD 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 - POD 16 NEIGHBORHOOD ASSOCIATION, INC.

2. The date of filing of the Corporation’s original articles of incorporation is September 14, 2023 and its Document Number is N23000011130.

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 August 5, 2025.

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 August 5, 2025.

ESPRIT AT AVENIR NEIGHBORHOOD
ASSOCIATION, INC.

/s/ Brian Grove

By: _____

Name: Brian Grove

Title: Vice President

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**AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF
ESPRIT AT AVENIR NEIGHBORHOOD ASSOCIATION, INC.
(A Florida Corporation Not For Profit)**

RECITALS

WHEREAS, the Articles of Incorporation of AVENIR - POD 16 NEIGHBORHOOD ASSOCIATION, INC. were filed with the Department of State of the State of Florida on September 14, 2023, under Document Number N23000011130 (the “Original Articles”), as amended from time to time;

WHEREAS, pursuant to the Conditional Assignment of Declarant Rights recorded on February 1, 2024 in Official Records Book 34806, at Page 1242 of the Public Records of Palm Beach County, KH ESPRIT LLC, a Florida limited liability company, became the “Declarant” under the Neighborhood Declaration of Covenants, Restrictions and Easements for Avenir – Pod 16 effective January 16, 2024;

WHEREAS, pursuant to Article XIII, Section A of the Original Articles, prior to the First Conveyance, the Original Articles may be amended by an instrument in writing signed by the Declarant and without the vote of the Members or the Board of Directors; and

WHEREAS, the First Conveyance has not occurred, and Declarant desires to amend and restate the Original Articles in their entirety, all as more particularly set forth in these Restated Articles.

NOW, THEREFORE, pursuant to the authority and for the reasons aforementioned, the undersigned does hereby amend and restate the Original Articles in their entirety as follows:

The foregoing recitals are true and correct and are incorporated herein by reference.

**ARTICLE I
DEFINITIONS**

The following words and phrases when used in these Articles of Incorporation (unless the context clearly reflects another meaning) shall have the following meanings, or if not defined below as defined in the Declaration:

1. “Articles” means these Amended and Restated Articles of Incorporation and any amendments hereto.

2. “Assessments” means the assessments for which all Owners are obligated to the Association and includes “Individual Home Assessments” and “Special Assessments” (as such terms are defined in the Declaration), “Assessments” as levied by the Master Association and any

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and all other assessments which are levied by the Association and the Master Association in accordance with the Neighborhood Documents and the Master Documents.

3. "Association" means Esprit at Avenir Neighborhood Association, Inc., a Florida corporation not for profit. The "Association" is NOT a condominium association and is not intended to be governed by Chapter 718, the Condominium Act, Florida Statutes. The Association is an "Additional Association" as defined in the Master Declaration.

4. "Avenir" means that planned community being developed by Master Declarant in the County in accordance with the Master Declaration.

5. "Board" means the Board of Directors of the Association.

6. "Bylaws" means the Bylaws of the Association and any amendments thereto.

7. "Community Development District" or "CDD" means the Avenir Community Development District which is a special purpose government unit organized in accordance with the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended, and which may acquire, fund, construct, operate and maintain certain infrastructure and community services within and outside Avenir.

8. "County" means Palm Beach County, Florida.

9. "Declarant" means KH ESPRIT LLC, a Florida limited liability company, and any successor or assign thereof to which KH ESPRIT LLC, a Florida limited liability company, specifically assigns all or part of the rights of Declarant under the Declaration by an express written assignment, whether recorded in the Public Records of the County or not. The written assignment may give notice as to which rights of Declarant are to be exercised and as to which portion of the Property. In any event, any subsequent declarant shall not be liable for any default or obligations incurred by any prior declarant, except as may be expressly assumed by the subsequent declarant.

10. "Declaration" means the Neighborhood Declaration of Protective Covenants, Restrictions and Easements for Esprit at Avenir, which is intended to be recorded amongst the Public Records of the County, and any amendments thereto.

11. "Director" means a member of the Board.

12. "Esprit at Avenir" means that planned residential development located in the County, which encompasses the Property and which is located within and is part of Avenir. Esprit at Avenir is presently intended to comprise four hundred ninety-one (491) Homes but subject to change in accordance with the Declaration.

13. "Home" means an attached residential dwelling unit constructed within Esprit at Avenir, which is designed and intended for use and occupancy as a single-family residence.

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14. "Lot" shall mean and refer to any parcel of land within Esprit at Avenir as shown on the Plat or any additional plat upon which a Home is permitted to be constructed, together with the Improvements thereon. Upon completion of construction of a Home on a Lot, such Lot and the Improvements thereon are sometimes collectively referred to as a Lot in the Declaration and the Neighborhood Documents. Any portion of Avenir owned by the CDD shall not be considered a Lot.

15. "Master Association" means Avenir Master Property Owners Association, Inc., Inc., a Florida corporation not for profit, organized to administer the Master Declaration and having among its members all "Parcel Owners" (as such term is defined in the Master Declaration), which are subject to assessment by the Master Association. Esprit at Avenir is a "Residential Parcel" under and as defined in the Master Declaration and as shown on the Master Plan (as such term is defined in the Master Declaration). Where a "Parcel" is made subject to an "Additional Association," the Additional Association, and not the Parcel Owner, shall be deemed the "Member" of the Master Association and entitled to cast all votes attributable to such Additional Association, in a representative capacity, as the "Voting Member," as more particularly described in the Master Documents (all such terms as defined in the Master Declaration). The Association is an Additional Association under the Master Declaration.

16. "Master Declaration" means the Master Declaration of Covenants, Conditions and Restrictions for Avenir recorded or to be recorded in the Public Records of the County, and all amendments and supplements thereto.

17. "Master Documents" means the Master Declaration, the Amended and Restated Articles of Incorporation and By-Laws of the Master Association, the Design Guidelines (adopted or to be adopted pursuant to Article IV of the Master Declaration), the Use Restrictions, attached as Exhibit "B" to the Master Declaration, any rules and regulations promulgated by the Master Association and all of the instruments and documents referred to therein and executed in connection therewith, and any amendments to any of the documents thereto.

18. "Member" means the Owner of a Lot in Esprit at Avenir.

19. "Neighborhood Documents" means in the aggregate the Declaration, the Articles and the Bylaws, the Plat, and any additional plat, and all of the instruments and documents referred to therein.

20. "Owner" means the record owner, whether one (1) or more persons or entities, of the fee simple title to any Lot or Home within Esprit at Avenir, and includes Declarant for as long as Declarant owns fee simple title to a Lot or Home, but excluding therefrom those having such interest as security for the performance of an obligation.

21. "Plat" means the plat of AVENIR – POD 16, recorded in Plat Book 136, Page 168, of the Public Records of the County. In the event an additional plat is recorded in the Public Records of the County with respect to the Additional Property made subject to the Declaration pursuant to a Supplemental Declaration, then the term "Plat" as used herein shall also mean the additional plat. Further, where the context so requires, the term "Plat(s)" shall also mean and refer

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to any plat recorded with respect to any portion of Avenir. Not all of the property shown on the Plat is subject to the Declaration.

Unless otherwise defined herein, the terms defined in the Declaration are incorporated herein by reference and shall appear in initial capital letters each time such terms appears in these Articles.

ARTICLE II NAME

The name of this corporation shall be ESPRIT AT AVENIR NEIGHBORHOOD ASSOCIATION, INC., a Florida corporation not for profit, whose principal address and mailing address is 105 NE 1st Street, Delray Beach, FL 33444.

ARTICLE III PURPOSE

The purpose for which the Association is organized is to take title to, operate, administer, manage, insure, lease and maintain the Property in accordance with the terms of, and purposes set forth in, the Neighborhood Documents and to carry out the covenants and enforce the provisions of the Neighborhood Documents.

ARTICLE IV POWERS

The Association shall have the following powers and shall be governed by the following provisions:

A. The Association shall have all of the common law and statutory powers of a corporation not for profit.

B. The Association shall have all of the powers granted to the Association in the Neighborhood Documents. All of the provisions of the Declaration and Bylaws which grant powers to the Association are incorporated into these Articles.

C. The Association shall have all of the powers reasonably necessary to implement the purposes of the Association, including, but not limited to, the following:

1. To perform any act required or contemplated by it under the Neighborhood Documents.

2. To make, establish, amend, abolish (in whole or in part) and enforce reasonable rules and regulations governing the use of the Property.

3. To make, levy and collect Assessments for the purpose of obtaining funds from its Members to pay Operating Expenses and other costs defined in the Declaration and Master

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Declaration and costs of collection, and to use and expend the proceeds of Assessments in the exercise of the powers and duties of the Association.

4. To enforce by legal means the obligations of the Members and the provisions of the Neighborhood Documents.

5. To employ personnel, retain independent contractors and professional personnel, and enter into service contracts to provide for the maintenance, operation, administration and management of the Property and to enter into any other agreements consistent with the purposes of the Association, including, but not limited to, agreements with respect to professional management of the Property and to delegate to such professional manager certain powers and duties of the Association.

6. To enter into the Declaration and any amendments thereto and instruments referred to therein.

7. To provide, to the extent deemed necessary by the Board, any and all services and do any and all things which are incidental to or in furtherance of things listed above or to carry out the Association mandate to keep and maintain Esprit at Avenir in a proper and aesthetically pleasing condition and to provide the Owners with services, amenities, controls and enforcement which will enhance the quality of life at Esprit at Avenir.

8. To borrow money and to obtain such financing as is necessary to maintain, repair and replace the Property in accordance with the Declaration and, as security for any such loan, to collaterally assign the Association's right to collect and enforce Assessments levied for the purpose of repaying any such loan.

9. Notwithstanding anything contained herein to the contrary, the Association shall be required to obtain the approval of three-fourths (3/4) of all Members (at a duly called meeting of the Members at which a quorum is present) prior to the engagement of legal counsel by the Association for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

- (a) the collection of Assessments;
- (b) the collection of other charges which Owners are obligated to pay pursuant to the Neighborhood Documents;
- (c) the enforcement of any applicable use and occupancy restrictions contained in the Neighborhood Documents;
- (d) dealing with an emergency when waiting to obtain the approval of the Members creates a substantial risk of irreparable injury to the Property or to Member(s) (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the requisite vote of three-fourths (3/4) of the Members); or

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- (e) filing a compulsory counterclaim.

The costs of any legal proceedings initiated by the Association, which are not included in the above exceptions shall be financed by the Association only with monies that are collected for that purpose by Special Assessment(s) and the Association shall not borrow money, use reserve funds, or use monies collected for other Association obligations

ARTICLE V
MEMBERS AND VOTING

The qualification of Members of the Association, the manner of their admission to membership, the manner of the termination of such membership and the manner of voting by Members shall be as follows:

A. Until such time as the first deed of conveyance of a Home from Declarant to an Owner is recorded amongst the Public Records of the County ("First Conveyance"), the membership of the Association shall be comprised solely of Declarant. Until the First Conveyance, Declarant shall be entitled to cast the one (1) and only vote on all matters requiring a vote of the membership.

B. Upon the First Conveyance, Declarant shall be a Member as to each of the remaining Lots until each such Lot is conveyed to another Owner, and thereupon and thereafter each and every Owner, including Declarant as to Lots owned by Declarant, shall be a Member and exercise all of the rights and privileges of a Member.

C. Membership in the Association for Owners other than Declarant shall be established by the acquisition of ownership of fee simple title to a Lot as evidenced by the recording of an instrument of conveyance amongst the Public Records of the County. Where title to a Lot is acquired by conveyance from a party other than Declarant by means of sale, gift, inheritance, devise, judicial decree or otherwise, the person, persons or entity thereby acquiring such Lot shall not be a Member unless or until such Owner shall deliver a true copy of a deed or other instrument of acquisition of title to the Association.

D. The Association shall have two (2) classes of voting membership:

1. Class "A" Members shall be all Members, with the exception of Declarant while Declarant is a Class "B" Member, each of whom shall be entitled to one (1) vote for each Lot owned.

2. Class "B" Member shall be Declarant, who shall be entitled to three (3) times the total number of votes of all Class "A" Members plus one (1) vote. Class "B" membership shall cease and be converted to Class "A" membership upon the earlier to occur of the following events ("Turnover Date"):

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(a) three (3) months after the conveyance of ninety percent (90%) of the “Total Developed Lots” (as defined below) by Declarant, as evidenced by the recording of instruments of conveyance of such Homes amongst the Public Records of the County;

(b) upon the Class “B” Member abandoning or deserting its responsibility to maintain and complete the amenities or infrastructure as disclosed in the Neighborhood Documents. There is a rebuttable presumption that Declarant has abandoned and deserted the Property if Declarant has unpaid Assessments or guaranteed amounts under Section 720.308 of the HOA Act for a period of more than two (2) years;

(c) upon the Class “B” Member filing a petition seeking protection under Chapter 7 of the Federal Bankruptcy Code;

(d) upon the Class “B” Member losing title to the Property through a foreclosure action or the transfer of a deed in lieu of foreclosure, unless the successor owner has accepted an assignment of developer rights and responsibilities first arising after the date of such assignment;

(e) upon a receiver for the Class “B” Member being appointed by a circuit court and not being discharged within 30 days after such appointment, unless the court determines within 30 days after such appointment that transfer of control would be detrimental to the Association or the Members; or

(f) when, in its discretion, the Class “B” Member so determines.

On the Turnover Date, Class “A” Members, including Declarant, shall assume control of the Association and elect not less than a majority of the Board.

Notwithstanding the foregoing, Class “A” Members are entitled to elect at least one (1) member of the Board when fifty percent (50%) of the Total Developed Lots have been conveyed to Members other than Declarant.

E. The designation of different classes of membership are for purposes of establishing the number of votes applicable to certain Lots, and nothing herein shall be deemed to require voting solely by an individual class on any matter which requires the vote of Members, unless otherwise specifically set forth in the Neighborhood Documents.

F. No Member may assign, hypothecate or transfer in any manner his/her membership in the Association except as an appurtenance to his/her Lot.

G. Any Member who conveys or loses title to a Lot by sale, gift, devise, bequest, judicial decree or otherwise shall, immediately upon such conveyance or loss of title, no longer be a Member with respect to such Lot and shall lose all rights and privileges of a Member resulting from ownership of such Lot.

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H. There shall be only one (1) vote for each Lot, except for the Class “B” Member as set forth herein. If there is more than one (1) Member with respect to a Lot as a result of the fee interest in such Lot being held by more than one (1) person, such Members collectively shall be entitled to only one (1) vote. The vote of the Owners of a Lot owned by more than one (1) natural person or by a corporation or other legal entity shall be cast by the person named in a certificate signed by all of the Owners of the Lot, or, if appropriate, by properly designated officers, partners or principals of the respective legal entity (“Voting Representative”), and filed with the Secretary of the Association, and such certificate shall be valid until revoked by a subsequent certificate. If such a certificate is not filed with the Secretary of the Association, the vote of such Lot shall not be considered for a quorum or for any other purpose.

Notwithstanding the foregoing provisions, whenever any Lot is owned by a husband and wife they may, but shall not be required to, designate a Voting Representative. In the event a certificate designating a Voting Representative is not filed by the husband and wife, the following provisions shall govern their right to vote:

1. When both are present at a meeting, each shall be regarded as the agent and proxy of the other for purposes of casting the vote for each Lot owned by them. In the event they are unable to concur in their decision upon any topic requiring a vote, they shall lose their right to vote on that topic at that meeting, but shall count for purposes of establishing a quorum.

2. When only one (1) spouse is present at a meeting, the person present may cast the Lot vote without establishing the concurrence of the other spouse, absent any prior written notice to the contrary by the other spouse. In the event of prior written notice to the contrary to the Association by the other spouse, the vote of said Lot shall not be considered, but shall count for purposes of establishing a quorum.

3. When neither spouse is present, the person designated in a “Proxy” (as defined in the Bylaws) signed by either spouse may cast the Lot vote, when voting by Proxy is allowed, absent any prior written notice to the contrary to the Association by the other spouse or the designation of a different Proxy by the other spouse. In the event of prior written notice to the contrary to the Association or the designation of a different Proxy by the other spouse, the vote of said Lot shall not be considered, but shall count for purposes of establishing a quorum.

I. A quorum shall consist of persons entitled to cast at least thirty percent (30%) of the total number of votes of the Members.

J. The Association shall be the “Member” (as such term is defined in the Master Declaration) of the Master Association and shall have the right to cast all votes attributable to the Esprit at Avenir in a representative capacity on behalf of the Association and its Members. The “voting member” of the Master Association, on behalf of the Association and its Members, on all other matters requiring a vote of the Owners, shall be the President of the Association. In the absence of the President, the Directors shall designate any one of their number to serve as the “voting member” of the Master Association. The Association shall designate its “voting member” in writing to the Master Association prior to any vote taken therein.

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ARTICLE VI
TERM

The term for which this Association is to exist shall be perpetual. In the event of dissolution of the Association (unless same is reinstated), other than incident to a merger or consolidation, all of the assets of the Association shall be conveyed to a similar homeowners association or a public agency having a similar purpose, or any Member may petition the appropriate circuit court of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and its properties in the place and stead of the dissolved Association and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association and its properties.

In the event and upon dissolution of the Association, if the Veterans Administration ("VA") is guaranteeing or the U.S. Department of Housing and Urban Development ("HUD") is insuring the mortgage on any Lot, then unless otherwise agreed to in writing by HUD or VA, if required by such governmental agencies rules and regulations, any remaining real property of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that acceptance of such dedication is refused, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to such similar purposes. Such requirement shall not apply if VA is not guaranteeing and HUD is not insuring any mortgage and/or if not required by HUD or VA regulations; provided if either agency has granted project approval for Avenir, then HUD and/or VA shall be notified of such dissolution, if and as required by HUD and/or VA applicable rules and regulations.

ARTICLE VII
INTENTIONALLY OMITTED

ARTICLE VIII
OFFICERS

The affairs of the Association shall be managed by the President of the Association, assisted by the Vice President(s), Secretary and Treasurer, and, if any, by the Assistant Secretary(ies) and Assistant Treasurer(s), subject to the directions of the Board. Except for officers elected prior to the Turnover Date, officers must be Members, or the parents, children or spouses of Members.

The Board shall elect the President, Secretary and Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall, from time to time, determine. The President shall be elected from amongst the membership of the Board, but no other officer need be a Director. The same person may hold two (2) or more offices, the duties of which are not incompatible; provided, however, the office of President and a Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person.

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ARTICLE IX
FIRST OFFICERS

The names of the officers who are to serve until the first election of officers by the Board are as follows:

President	Victoria Imhoff
Vice President	Brian Grove
Secretary	Tyler Gaffney
Treasurer	Tyler Gaffney

ARTICLE X
BOARD OF DIRECTORS

A. The number of Directors on the first Board of Directors of the Association (“First Board”) and the “Initial Elected Board” (as hereinafter defined) shall be three (3). The number of Directors elected by the Members subsequent to the “Declarant’s Resignation Event” (as hereinafter defined) shall be not less than three (3) nor more than five (5), as the Board shall from time to time determine prior to each meeting at which Directors are to be elected. Except for Declarant-appointed Directors, Directors must be Members or the parents, children or spouses or officers or directors of Members. There shall be only one (1) vote for each Director.

B. The names and addresses of the persons who are to serve as Directors on the First Board are as follows:

<u>NAMES</u>	<u>ADDRESSES</u>
Victoria Imhoff	105 NE 1st Street, Delray Beach, FL 33444
Tyler Gaffney	105 NE 1st Street, Delray Beach, FL 33444
Brian Grove	105 NE 1st Street, Delray Beach, FL 33444

Declarant reserves the right to replace and/or designate and elect successor Directors to serve on the First Board for so long as the First Board is to serve, as hereinafter provided.

C. Declarant intends that Esprit at Avenir, if and when ultimately developed, will contain approximately four hundred ninety-one (491) Lots with Homes constructed thereon (collectively, “Total Developed Lots”). Notwithstanding the foregoing, however, Declarant has

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reserved the right in the Declaration to modify the plan of development for Esprit at Avenir and the right to, among other things, modify the site plan and the right to change the recreational facilities and amenities, if any, Home product types and the number of Homes to be constructed within Esprit at Avenir) and/or the right to add land to Esprit at Avenir or to withdraw land from Esprit at Avenir, all in its sole and absolute discretion.

D. Upon the Turnover Date, the Members other than Declarant ("Purchaser Members") shall be entitled to elect not less than a majority of the Board. The election of not less than a majority of the Board by the Purchaser Members shall occur at a special meeting of the membership to be called by the Board for such purpose ("Initial Election Meeting"). The First Board shall serve until the Initial Election Meeting.

E. The Initial Election Meeting shall be called by the Association, through the Board, as provided in Paragraph D hereof. A notice of meeting shall be forwarded to all Members in accordance with the Bylaws; provided, however, that the Members shall be given at least fourteen (14) days prior notice of such meeting. The notice shall also specify the number of Directors which shall be elected by the Purchaser Members and the remaining number of Directors designated by Declarant.

F. At the Initial Election Meeting, Purchaser Members, who shall include all Members other than Declarant, the number of which may change from time to time, shall elect two (2) of the Directors, and Declarant, until the Declarant's Resignation Event, shall be entitled to (but not obligated to) designate one (1) Director (same constituting the "Initial Elected Board"). Declarant reserves and shall have the right, until the Declarant's Resignation Event, to name the successor, if any, to any Director it has so designated.

G. The Board shall continue to be so designated and elected, as described in Paragraph F above, at each subsequent "Annual Members' Meeting" (as defined in the Bylaws), until the Annual Members' Meeting following the Declarant's Resignation Event or until a Purchaser Member-elected Director is removed in the manner hereinafter provided.

A Director (other than a Declarant-appointed Director) may be removed from office upon the affirmative vote of a majority of the voting interests of Members for any reason deemed to be in the best interests of the Members. A meeting of the Purchaser Members to so remove a Director (other than a Declarant-appointed Director) shall be held upon the written request of ten percent (10%) of the Members.

H. Upon the earlier to occur of the following events ("Declarant's Resignation Event"), Declarant shall cause all of its designated Directors to resign:

1. When Declarant no longer holds at least five percent (5%) of the Lots for sale in the ordinary course of business and all Lots sold by Declarant have been conveyed as evidenced by the recording of instruments of conveyance of such Lots amongst the Public Records of the County; or

2. When Declarant causes the voluntary resignation of all of the Directors designated by Declarant and does not designate replacement Directors.

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Upon Declarant's Resignation Event, the Directors elected by Purchaser Members shall elect a successor Director to fill the vacancy caused by the resignation or removal of Declarant's designated Director. This successor Director shall serve until the next Annual Members' Meeting and until his successor is elected and qualified. In the event Declarant's Resignation Event occurs prior to the Initial Election Meeting, the Initial Election Meeting shall be called in the manner set forth in Paragraph E of this Article X, and all of the Directors shall be elected by the Purchaser Members at such meeting.

I. At each Annual Members' Meeting held subsequent to Declarant's Resignation Event, all of the Directors shall be elected by the Members. At the first Annual Members Meeting held after the Initial Election Meeting, a "staggered" term of office of the Board shall be created as follows:

1. a number equal to fifty percent (50%) of the total number of Directors rounded to the nearest whole number is the number of Directors whose term of office shall be established at two (2) years and the Directors serving for a two (2) year term will be the Directors receiving the most votes at the meeting; and

2. the remaining Directors' terms of office shall be established at one (1) year.

At each Annual Members' Meeting thereafter, as many Directors of the Association shall be elected as there are Directors whose regular term of office expires at such time, and the term of office of the Directors so elected shall be for two (2) years, expiring when their successors are duly elected and qualified.

J. The resignation of a Director who has been designated by Declarant or the resignation of an officer of the Association who has been elected by the First Board shall be deemed to remise, release, acquit, satisfy and forever discharge such officer or Director of and from any and all manner of action(s), cause(s) of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which the Association or Purchaser Members had, now have or will have or which any personal representative, successor, heir or assign of the Association or Purchaser Members hereafter can, shall or may have against said officer or Director for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of such resignation, except for such Director's or officer's willful misconduct or gross negligence.

ARTICLE XI INDEMNIFICATION

Each and every Director and officer of the Association shall be indemnified by the Association against all costs, expenses and liabilities, including attorney and paralegal fees at all trial and appellate levels and post-judgment proceedings, reasonably incurred by or imposed upon him/her in connection with any negotiation, proceeding, arbitration, litigation or settlement in which he/she becomes involved by reason of his/her being or having been a Director or officer of

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the Association, and the foregoing provision for indemnification shall apply whether or not such person is a Director or officer at the time such cost, expense or liability is incurred. Notwithstanding the above, in the event of any such settlement, the indemnification provisions provided in this Article XI shall not be automatic and shall apply only when the Board approves such settlement and reimbursement for the costs and expenses of such settlement as being in the best interest of the Association, and in the event a Director or officer admits that he/she is or is adjudged guilty of willful misfeasance or malfeasance in the performance of his/her duties, the indemnification provisions of this Article XI shall not apply. The foregoing right of indemnification provided in this Article XI shall be in addition to and not exclusive of any and all rights of indemnification to which a Director or officer of the Association may be entitled under statute or common law.

ARTICLE XII BYLAWS

The Bylaws shall be adopted by the First Board, and thereafter may be altered, amended or rescinded in the manner provided for in the Bylaws. In the event of any conflict between the provisions of these Articles and the provisions of the Bylaws, the provisions of these Articles shall control.

ARTICLE XIII AMENDMENTS

A. Prior to the First Conveyance, these Articles may be amended only by an instrument in writing signed by Declarant of these Articles and filed in the Office of the Secretary of State of the State of Florida.

B. After the First Conveyance, and prior to the Turnover Date, these Articles may be amended solely by a majority vote of the Board, without the prior written consent of the Members, at a duly called meeting of the Board.

C. After the Turnover Date, these Articles may be amended in the following manner:

1. (a) The Board shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the Members, which may be at either the Annual Members' Meeting or a special meeting. Any number of proposed amendments may be submitted to the Members and voted upon by them at one (1) meeting.

(b) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each Member within the time and in the manner provided in the Bylaws for the giving of notice of meetings.

(c) At such meeting, a vote of the Members shall be taken on the proposed amendment(s). The proposed amendment(s) shall be adopted upon receiving the affirmative vote of a majority of the voting interests.

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2. An amendment may be adopted by a written statement (in lieu of a meeting) signed by all Members and all members of the Board setting forth their intention that an amendment to the Articles be adopted.

D. These Articles may not be amended without the written consent of a majority of the members of the Board.

E. Notwithstanding any provisions of this Article XIII to the contrary, these Articles shall not be amended in any manner which shall prejudice the rights of: (i) Declarant, without the prior written consent thereto by Declarant, for so long as Declarant holds either a leasehold interest in or title to at least one (1) Home or Lot; and (ii) any "Institutional Mortgagee" (as such term is defined in the Declaration) without the prior written consent of such Institutional Mortgagee.

F. Notwithstanding the foregoing provisions of this Article XIII to the contrary, no amendment to these Articles shall be adopted which shall abridge, prejudice, amend or alter the rights of Declarant hereunder, including, but not limited to, Declarant's right to designate and select members of the First Board or otherwise designate and select Directors as provided in Article X hereof, nor shall any amendment be adopted or become effective without the prior written consent of Declarant so long as Declarant holds either a leasehold interest in or title to at least one (1) Lot.

G. Any instrument amending these Articles shall identify the particular article or articles being amended and shall provide a reasonable method to identify the amendment being made. A certified copy of each such amendment shall be attached to any certified copy of these Articles, and a copy of each amendment certified by the Secretary of State shall be recorded amongst the Public Records of the County.

ARTICLE XIV MERGERS AND CONSOLIDATIONS

Subject to the provisions of the Declaration applicable to the Property and to the extent permitted by law, the Association may participate in mergers and consolidations with other nonprofit corporations organized for the same purposes, provided that any such merger or consolidation shall be approved in the manner provided by Chapter 617, Florida Statutes, as the same may be amended from time to time. For purposes of any vote of the Members required pursuant to said statutes, for so long as Declarant shall own any portion of the Property, any such merger or consolidation shall require Declarant's prior approval.



August 8, 2025

FLORIDA DEPARTMENT OF STATE
Division of Corporations

ESPRIT AT AVENIR NEIGHBORHOOD ASSOCIATION, INC. 2ND F
105 NE 1ST STREET
DELRAY BEACH, FL 33444US

Re: Document Number N23000011130

The Restated Articles of Incorporation for AVENIR - POD 16 NEIGHBORHOOD ASSOCIATION, INC. which changed its name to ESPRIT AT AVENIR NEIGHBORHOOD ASSOCIATION, INC., a Florida corporation, were filed on August 6, 2025.

The certification you requested is enclosed. To be official, the certification for a certified copy must be attached to the original document that was electronically submitted and filed under FAX audit number H25000275274.

Should you have any questions concerning this matter, please telephone (850) 245-6050, the Amendment Filing Section.

Summer Chatham
Supervisor
Division of Corporations

Letter Number: 025A00017600

EXHIBIT "C"
Amended and Restated
Bylaws of Esprit at Avenir Neighborhood Association, Inc.

**AMENDED AND RESTATED BYLAWS
OF
ESPRIT AT AVENIR NEIGHBORHOOD ASSOCIATION, INC.**

Section 1. Identification of Association

These are the Amended and Restated Bylaws of ESPRIT AT AVENIR NEIGHBORHOOD ASSOCIATION, INC. ("Association") as duly adopted by its Board of Directors ("Board"). The Association is a corporation not for profit, organized pursuant to Chapters 617 and 720, Florida Statutes.

1.1. The office of the Association shall be for the present at 105 NE 1st Street, Delray Beach, FL 33444, and thereafter may be located at any place designated by the Board.

1.2. The fiscal year of the Association shall be the calendar year.

1.3. The seal of the Association shall bear the name of the Association, the word "Florida" and the words "Corporation Not For Profit."

Section 2. Explanation of Terminology

The terms defined in the Amended and Restated Articles of Incorporation of the Association ("Articles") as well as in the Amended and Restated Neighborhood Declaration of Protective Covenants, Restrictions and Easements for Esprit at Avenir ("Declaration") are incorporated herein by reference and shall appear in initial capital letters each time such terms appear in these Amended and Restated Bylaws ("Bylaws").

Section 3. Membership; Members' Meetings; Voting and Proxies

3.1. The qualification of Members, the manner of their admission to membership in the Association, the manner of termination of such membership and the voting by Members shall be as set forth in the Articles.

3.2. The Members shall meet annually ("Annual Members' Meeting"). The Annual Members' Meeting shall be held at the office of the Association or at such other place in the County as the Board may determine and, on such day and at such time as designated by the Board in the notice of such meeting commencing with the year following the year in which the Articles are filed with the Secretary of State. The purpose of the Annual Members' Meeting shall be to hear reports of the officers, elect members of the Board (when that shall be appropriate as determined by the provisions of the Articles) and transact any other business authorized to be transacted at such Annual Members' Meeting.

3.3. Special meetings (meetings other than the Annual Members' Meeting) of the Members shall be held at the office of the Association or at such other place within the County whenever called by the President or Vice President or by a majority of the Board. A special

meeting must be called by such President or Vice President upon receipt of a written request from Members having the right to vote at least one-third (1/3) of the total number of votes entitled to be cast by Members at any such special meeting.

3.4. Except as otherwise provided in the Articles, a written notice of each Members' meeting, whether an Annual Members' Meeting or a special meeting (collectively "Meeting"), shall be given to each Member entitled to vote thereat at his last known address as it appears on the books of the Association and shall be mailed or hand delivered to the said address or electronically transmitted to the location furnished by the Member for that purpose not less than fourteen (14) days nor more than forty-five (45) days prior to the date of the Meeting. Proof of such mailing, delivery or electronic transmission shall be given by the affidavit of the person giving the notice. Any notice given hereunder shall state the time and place of the Meeting and the purposes for which the Meeting is called. The notices of all Annual Members' Meetings shall, in addition, specify the number of Directors of the Association to be designated by Declarant and the number of Directors to be elected by the Members, if applicable. Notwithstanding any provisions hereof to the contrary, notice of any Meeting may be waived before, during or after such Meeting by a Member or by the person entitled to vote for such Member by signing a document setting forth the waiver of such notice.

3.5. The Members may, at the discretion of the Board, act by written response in lieu of a Meeting provided written notice of the matter or matters to be agreed upon is given to the Members or duly waived in accordance with the provisions of these Bylaws. Unless some greater number is required under the Neighborhood Documents and except as to the election of Directors, which shall be accomplished by plurality vote, the decision of a majority of the votes cast by Members as to the matter or matters to be agreed or voted upon shall be binding on the Members provided a quorum is either present at such Meeting or submits a response if action is taken by written response in lieu of a Meeting, as the case may be. The notice with respect to actions to be taken by written response in lieu of a Meeting shall set forth the time period during which the written responses must be received by the Association.

3.6. (a) A quorum of the Members shall consist of Members entitled to cast thirty percent (30%) of the total number of votes of the Members. A quorum of any class of Members shall consist of Class Members of such class entitled to cast thirty percent (30%) of the total number of votes of the class. Limited "Proxies" and general "Proxies" (as hereinafter defined in Paragraph 3.10) may be used to establish a quorum.

(b) When a quorum is present at any Meeting and a question which raises the jurisdiction of such Meeting is presented, the holders of a majority of the voting rights present in person or represented by written Proxy shall be required to decide the question. However, if the question is one upon which a vote other than the majority vote of a quorum is required by express provision of the Neighborhood Documents or by law, then such express provision shall govern and control the required vote on the decision of such question.

3.7. At any Annual Members' Meeting when elections of Directors are to occur, written ballots are to be supplied to Members for such purposes. Members may vote for Directors

in person or by Proxy. Members are not permitted to vote for Directors by absentee ballot. Furthermore, at any Annual Members' Meeting at which Directors are to be elected, the "Chairman" (as hereinafter defined in Paragraph 7.2) shall appoint an "Election Committee" consisting of three (3) Members to supervise the election, count and verify ballots, disqualify votes if such disqualification is justified under the circumstances and certify the results of the election to the Board. The Election Committee shall be able to determine questions within its jurisdiction by plurality vote of all three (3) members, but matters resulting in deadlocked votes of the Election Committee shall be referred to the entire Board for resolution.

3.8. If a quorum is not in attendance at a Meeting, the Members who are present, either in person or by Proxy, may adjourn the Meeting from time to time until a quorum is present with no further notice of such adjourned Meeting being required unless otherwise determined by the Board.

3.9. Minutes of all Meetings shall be kept in a businesslike manner and be available for inspection by the Members and Directors at all reasonable times. The Association shall retain minutes for at least seven (7) years subsequent to the date of the meeting the minutes reflect.

3.10. Voting rights of Members shall be as stated in the Articles with respect to the election of all Boards other than the First Board. Such votes may be cast in person or by absentee ballot. Proxies may be used to vote on other agenda items at meetings at which Directors are to be elected, and may also be used to establish a quorum. "Proxy" is defined to mean an instrument containing the appointment of a person who is substituted in the place and stead of the person or authorized representative of an entity entitled to vote. Proxies shall be in writing signed by the person or authorized representative of an entity giving the same and shall be valid only for the particular Meeting designated therein and, if so stated in the Proxy, any adjournments thereof, provided, however, any proxy automatically expires ninety (90) days after the date of the meeting for which it was originally given. A Proxy must be filed with the Secretary of the Association before the appointed time of the Meeting in order to be valid. Any Proxy may be revoked prior to the time a vote is cast in accordance with such Proxy.

3.11. The voting on any matter at a Meeting shall be by secret ballot upon request of the holders of twenty percent (20%) of the votes represented at such Meeting and entitled to be cast on such matter, if such request is made prior to the vote in question.

Section 4. Board; Directors' Meetings

4.1. The business and administration of the Association shall be by its Board.

4.2. The election and, if applicable, designation of Directors shall be conducted in accordance with the Articles. Except for Declarant-appointed Directors, Directors must be Members or the parents, children or spouses of Members.

4.3. (a) Any person elected or designated as a Director shall have all the rights, privileges, duties and obligations of a Director of the Association.

(b) The term of a Director's service shall be as stated in the Articles and, if not so stated, shall extend until the next Annual Members' Meeting and thereafter until his/her successor is duly elected and qualified or until he/she resigns or is removed in the manner elsewhere provided.

4.4. The organizational meeting of a newly elected Board shall be held within ten (10) days of its election at such place and time as shall be fixed by the Directors at the meeting at which they were elected. Provided the organizational meeting is held directly following the Annual Members' Meeting, no further notice of the organizational meeting shall be necessary; if not, however, notice of the organizational meeting shall be given in accordance with Section 720.303(2) of the HOA Act.

4.5. Regular meetings of the Board may be held at such times and places at the office of the Association or at such other place in the County as shall be determined from time to time by a majority of the Directors. Special meetings of the Board may be called at the discretion of the President or the Vice President. Special meetings must be called by the Secretary at the written request of at least one-third (1/3) of the Directors. Any such special meeting may be held at the office of the Association or at such other place in the County at such time and place as determined by the Directors requesting such meeting or in such other place as all of the Directors shall agree upon.

4.6. Notice of the time and place of regular and special meetings of the Board, or adjournments thereof, shall be given to each Director personally, by mail, telephone or electronically transmitted if correctly directed to an electronic mail address at which the Director has consented to receive notice at least three (3) days prior to the day named for such meeting unless such notice is waived before, during or after such meeting. Any Director may waive notice of the meeting in writing before, during or after a meeting and such waiver shall be deemed equivalent to the receipt of notice by such Director.

4.7 Notice of all Board meetings shall be given to the members in accordance with the HOA Act.

4.8. A quorum of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. Matters approved by a majority of the Directors present at a meeting at which a quorum is present shall constitute the official acts of the Board, except as may be otherwise specifically provided by law, by the Articles or elsewhere herein. If at any meeting of the Board there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any meeting that takes place on account of a previously adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted. In the case of the adjournment of a meeting, no further notice of the adjourned meeting need be given unless otherwise determined by the Board.

4.9. The presiding officer at all Board meetings shall be the President. In the absence of the President, the Directors shall designate any one of their number to preside.

4.10. Directors' fees, if any, shall be determined by the Members.

4.11. Minutes of all meetings of the Board shall be kept in a businesslike manner and be available for inspection by Members and Directors at all reasonable times.

4.12. The Board shall have the power to appoint an "Executive Committee(s)" of the Board consisting of not less than three (3) Directors. An Executive Committee(s) shall have and exercise such powers of the Board as may be delegated to such Executive Committee(s) by the Board.

4.13. Meetings of the Board shall be open to all Members. The Board may also hold closed meetings to the extent permitted by applicable law, including, by way of example but not by way of limitation, when the discussion at a meeting is governed by attorney-client privilege. Members shall have the right to participate in meetings with reference to all designated agenda items in accordance with the HOA Act and any rules and regulations promulgated by the Association. In the event a Member conducts himself or herself in a manner detrimental to the carrying on of the meeting, then any Director may expel said Member from the meeting by any reasonable means which may be necessary to accomplish said Member's expulsion. Also, any Director shall have the right to exclude from any meeting of the Board any person who is not able to provide sufficient proof that he or she is a Member or a duly authorized representative, agent or proxy holder of a Member, unless said person has been specifically invited by any of the Directors to participate in such meeting.

4.14. Any action required or permitted to be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, specifically setting forth the action to be taken, shall be signed by all the Directors entitled to vote with respect to the subject matter thereof and such consent shall have the same force and effect as a unanimous vote of the Directors, provided, however, whenever assessments are to be considered, they may be considered only at a meeting of the Directors properly noticed in accordance with the HOA Act.

Section 5. Powers and Duties of the Board

5.1. All of the powers and duties of the Association shall be exercised by the Board. Such powers and duties of the Board shall include, but not be limited to,

5.1.1. all powers and duties set forth in the Neighborhood Documents; and

5.1.2. all of the powers and duties of a director of a corporation not for profit not inconsistent therewith.

5.2. The Association may employ a manager to perform any of the duties, powers or functions of the Association. Notwithstanding the foregoing, the Association may not delegate to the manager the power to conclusively determine whether the Association should make expenditures for capital additions or improvements chargeable against the Association funds. The members of the Board shall not be personally liable for any omission or improper exercise by the manager of any duty, power or function delegated to the manager by the Association.

Section 6. Late Fees

An Owner who fails to timely pay any Assessment shall be charged a late charge of Twenty-Five Dollars (\$25) or five percent (5%) of the past due amount, whichever is greater, by the Association for such late Assessment. This amount is subject to change in the Board's sole discretion. In addition, any party who fails to pay any Assessment within ten (10) days of the due date shall be charged interest thereon from the date due until paid at 18% per annum. Lot Owners shall be responsible to pay all Legal Fees incurred in connection with the collection of late Assessments whether or not an action at law to collect said Assessment and foreclose the Association's lien has been commenced.

Section 7. Officers of the Association

7.1. Executive officers of the Association shall be the President, who shall be a Director, one or more Vice Presidents, a Treasurer and a Secretary, all of whom shall be elected annually by the Board. Any officer may be removed without cause from office by vote of the Directors at any meeting of the Board. The Board may, from time to time, elect such other officers and assistant officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association. One person may hold any two offices simultaneously, except when the functions of such offices are incompatible, but no person shall hold the office of President and any of the following offices simultaneously: Vice President, Secretary or Assistant Secretary.

7.2. The President shall be the chief executive officer of the Association. He/she shall have all of the powers and duties which are usually vested in the office of the President of an association or a corporation not for profit, including, but not limited to, the power to appoint such committees from among the Members at such times as he/she may, in his/her discretion, determine appropriate to assist in the conduct of the affairs of the Association. If in attendance, the President ("Chairman") shall preside at all meetings of the Board and the Members; provided, however, that the President may appoint a substitute. The President shall also be the "voting member" to the Master Association board of directors and will cast the votes of the Owners on all Master Association matters requiring a vote of the Owners. In the absence of the President, the Directors shall designate any one of their number to serve as the "voting member" of the Master Association. The Association shall designate its "voting member" in writing to the Master Association prior to any vote taken therein.

7.3. In the absence or disability of the President, the Vice President shall exercise the powers and perform the duties of the President. If there is more than one (1) Vice

President, the Board shall designate which Vice President is to perform which duties. The Vice President(s) shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board. In the event there shall be more than one Vice President elected by the Board, then they shall be designated as "First Vice President", "Second Vice President", etc., and shall exercise the powers and perform the duties of the presidency in such order.

7.4. The Secretary shall keep the minutes of all meetings of the Board and the Members, which minutes shall be kept in a businesslike manner and be available for inspection by Members and Directors at all reasonable times. The Secretary shall have custody of the seal of the Association and affix the same to instruments requiring such seal when duly authorized and directed to do so. The Secretary shall be custodian for the corporate records of the Association, except those of the Treasurer, and shall perform all of the duties incident to the office of Secretary of the Association as may be required by the Board or the President. The Assistant Secretary, if any, shall perform the duties of the Secretary when the Secretary is absent and shall assist the Secretary under the supervision of the Secretary.

7.5. The Treasurer shall have custody of all of the monies of the Association, including funds, securities and evidences of indebtedness. The Treasurer shall keep the assessment rolls and accounts of the Members and shall keep the books of the Association in accordance with good accounting practices and he/she shall perform all of the duties incident to the office of the Treasurer. The Assistant Treasurer, if any, shall perform the duties of the Treasurer when the Treasurer is absent and shall assist the Treasurer under the supervision of the Treasurer.

7.6. The compensation, if any, of the officers and other employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from hiring a Director as an employee of the Association or preclude contracting with a Director or a party affiliated with a Director for the management or performance of contract services for all or any part of Esprit at Avenir.

Section 8. Resignations

Any Director or officer may resign his/her post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Homes owned by any Director or officer (other than appointees of Declarant) shall constitute a written resignation of such Director or officer.

Section 9. Accounting Records; Fiscal Management

9.1. The Association shall prepare financial reports and maintain accounting records in accordance with the HOA Act. The accounting records of the Association shall be open to inspection by Members and Institutional Mortgagees or their respective authorized representatives at reasonable times and in accordance with, but subject to the limitations of, the

HOA Act. Such authorization as a representative of a Member must be in writing and signed by the person giving the authorization and dated within sixty (60) days of the date of the inspection. Such records shall include, but not be limited to: (i) a record of all receipts and expenditures; (ii) an account for each Lot within Esprit at Avenir which shall designate the name and address of the Owner thereof, the amount of Individual Lot Assessments and all other Assessments, if any, charged to the Lot, the amounts and due dates for payment of same, the amounts paid upon the account and the dates paid, and the balance due; (iii) any tax returns, financial statements and financial reports of the Association; and (iv) any other records that identify, measure, record or communicate financial information. Additionally, inspection of records by Members must be in accordance with the rules and regulations promulgated by the Board from time to time.

9.2. The Board shall adopt a Budget (as defined and provided for in the Declaration) of the anticipated Operating Expenses for each forthcoming calendar year (the fiscal year of the Association being the calendar year) at a special meeting of the Board ("Budget Meeting") called for that purpose to be held during the month of November or December of the year preceding the year to which the Budget applies. Prior to the Budget Meeting, a proposed Budget for the Operating Expenses shall be prepared by or on behalf of the Board. Within thirty (30) days after adoption of the Budget, a copy thereof shall be furnished to each Member, upon request, and each Owner shall be given notice of the Individual Home Assessment applicable to his/her Home(s). The copy of the Budget, if requested, shall be deemed furnished and the notice of the Individual Home Assessment shall be deemed given upon its delivery or upon its being mailed to the Owner shown on the records of the Association at his/her last known address as shown on the records of the Association.

9.3. In administering the finances of the Association, the following procedures shall govern: (i) the fiscal year shall be the calendar year; (ii) any monies received by the Association in any calendar year may be used by the Association to pay expenses incurred in the same calendar year; (iii) there shall be apportioned between calendar years on a *pro rata* basis any expenses which are prepaid in any one calendar year for Operating Expenses which cover more than such calendar year; (iv) Assessments shall be made quarterly in amounts no less than are required to provide funds in advance for payment of all of the anticipated current Operating Expenses and for all unpaid Operating Expenses previously incurred; and (v) items of Operating Expenses incurred in a calendar year shall be charged against income for the same calendar year regardless of when the bill for such expenses is received. Notwithstanding the foregoing, the Assessments for Operating Expenses and any periodic installments thereof shall be of sufficient magnitude to insure an adequacy and availability of cash to meet all budgeted expenses in any calendar year as such expenses are incurred in accordance with the accrual basis method of accounting.

9.4. Individual Home Assessments shall be payable as provided in the Declaration.

9.5. No Board shall be required to anticipate revenue from Assessments or expend funds to pay for Operating Expenses not budgeted or which shall exceed budgeted items, and no Board is required to engage in deficit spending. Should there exist any deficiency which

results from there being greater Operating Expenses than monies from Assessments, then such deficits shall be carried into the next succeeding year's Budget as a deficiency or shall be the subject of a Special Assessment or an upward adjustment to the Individual Home Assessment.

9.6. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board in which the monies of the Association shall be deposited. Withdrawal of monies from such account shall be only by checks signed by such persons as are authorized by the Board.

9.7. A report of the accounts of the Association shall be made annually by an accountant and a copy of the report shall be furnished to each Member who requests same in writing no later than the first day of April of the year following the year for which the report is made. The report shall be deemed to be furnished to the Member upon its delivery or mailing to the Member at his/her last known address shown on the records of the Association.

Section 10. Rules and Regulations

The Board may at any meeting of the Board adopt rules and regulations or amend, modify or rescind then existing rules and regulations for the operation of Esprit at Avenir; provided, however, that such rules and regulations are not inconsistent with the terms or provisions of the Neighborhood Documents. Copies of any rules and regulations promulgated, amended or rescinded shall be mailed or delivered to all Members at the last known address for such Members as shown on the records of the Association at the time of such delivery or mailing and shall not take effect until forty-eight (48) hours after such delivery or mailing, or, in the event both forms of notification are used, whichever is later. Notwithstanding the foregoing, when rules and regulations are to regulate the use of a specific portion of the Property, same shall be conspicuously posted and such rules and regulations shall be effective immediately upon such posting. Care shall be taken to insure that posted rules and regulations are conspicuously displayed and easily readable and that posted signs or announcements are designed with a view toward protection from weather and the elements. Posted rules and regulations which are torn down or lost shall be promptly replaced.

Section 11. Parliamentary Rules

The then latest edition of Robert's Rules of Order shall govern the conduct of all meetings of the Members and the Board; provided, however, if such rules of order are in conflict with any of the Neighborhood Documents, Robert's Rules of Order shall yield to the provisions of such instrument.

Section 12. Roster of Owners

Each Owner shall file with the Association a copy of the deed or other document showing his or her ownership of a Lot in Esprit at Avenir. The Association shall maintain such information. The Association shall also maintain the electronic mailing addresses and numbers designated by Owners for receiving notices sent by electronic transmission of those Owners consenting to receive

notice by electronic transmission. The electronic mailing address and numbers provided by Owners to receive notice by electronic transmission shall be removed from Association records when consent to receive notice by electronic transmission is revoked. The Association may rely on the accuracy of such information for all purposes until notified in writing of changes therein. The Association may rely on the accuracy of such information for all purposes until notified in writing of changes therein.

Section 13. Amendment of the Bylaws

13.1. These Bylaws may be amended as hereinafter set forth in this Section 13.

13.2 After the Turnover Date, any Bylaw of the Association may be amended or repealed, and any new Bylaw of the Association may be adopted by either:

(i) a majority vote of the Members at any Annual Members' Meeting or any special meeting of the Members called for that purpose or by majority action of the Members who have acted by written response in lieu of a Meeting as permitted by these Bylaws; or

(ii) by the affirmative vote of a majority of the Directors then in office at any regular meeting of the Board or at any special meeting of the Board called for that purpose or by written instrument signed by all of the Directors as is permitted by these Bylaws, provided that the Directors shall not have any authority to adopt, amend or repeal any Bylaw if such new Bylaw or such amendment or the repeal of a Bylaw would be inconsistent with any Bylaw previously adopted by the Members.

13.3. Notwithstanding any of the foregoing provisions of this Section 13 to the contrary, until the Turnover Date, all amendments or modifications to these Bylaws and adoption or repeal of Bylaws shall only be made by action of the First Board as described in the Articles, which First Board shall have the power to amend, modify, adopt and repeal any Bylaws without the requirement of any consent, approval or vote of the Members.

13.4. Notwithstanding the foregoing provisions of this Section 13, there shall be no amendment to these Bylaws which shall abridge, prejudice, amend or alter the rights of: (i) Declarant, without the prior written consent thereto by Declarant for so long as Declarant holds title to at least one (1) Home; or (ii) any Institutional Mortgagee without the prior written consent of such Institutional Mortgagee.

13.5. Any instrument amending, modifying, repealing or adding Bylaws shall identify the particular section or sections affected and give the exact language of such modification, amendment or addition or of the provisions repealed. A copy of each such amendment, modification, repeal or addition attested to by the Secretary or Assistant Secretary of the Association shall be recorded amongst the Public Records of the County.

Section 14. Mediation

Pursuant to the HOA Act, mandatory mediation before the Department of Business and Professional Regulation (“Department”) shall be required prior to institution of court litigation for disputes involving certain actions or inactions, as described therein.

Section 15. Recall of Board Members and Election Disputes

Pursuant to the HOA Act, mandatory binding arbitration before the Department shall be required for election disputes and disputes involving the recall of any member of the Board. Any member of the Board may be recalled and removed from office as provided for and described in the HOA Act.

Section 16. Notice and Hearing Procedure.

In those instances which specifically provide an Owner the right of Notice and a Hearing, the following procedures and provisions shall apply:

A. Notice. The Association shall notify the Owner in writing of the noncompliance and set forth the corrective action to be taken. A fine or suspension of use rights may not be imposed without notice of at least fourteen (14) days to the Owner sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director, or employee of the Association. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. At the Association’s option, any fine may be levied on a daily basis in the event of a continuing violation without the necessity of a new hearing and without any limitation on the amount of such fine.

B. Hearing. Should the Owner still be in noncompliance, the noncompliance shall be presented to the Board after which the Board shall hear reasons why a fine should or should not be imposed. A written decision of the Board shall be submitted to the Owner, as applicable, not later than twenty-one (21) days after said meeting.

C. Payment. A fine shall be paid not later than thirty (30) days after notice of the imposition of the fine.

D. Fines. An Owner shall be responsible for all Legal Fees incurred in connection with the collection of a fine whether or not an action at law to collect said fine is commenced. All monies received from fines shall be allocated as directed by the Board, subject always to the provisions of this Declaration. A fine of less than One Thousand and No/100 Dollars (\$1,000.00) may not become a lien against a Lot.

E. Failure to Pay Assessments. Notice and Hearing as provided in Subparagraphs A and B above shall not be required with respect to the imposition of suspension of use rights or imposition of suspension of voting rights upon any Owner because of such Owner's failure to pay Assessments or other monetary obligations or charges which are due for more than ninety (90) days.

F. Access. Suspension of use rights to Association Property shall not impair the right of an Owner or tenant of a Home to have vehicular and pedestrian ingress to and egress from such Home, including, but not limited to, the right to park, nor to provide access to utility services provided to the Home.

Section 17. Interpretation

In the case of any conflict between the Articles and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control; and in the event of any conflict between the Articles and the Declaration, the Declaration shall control.

The foregoing Amended and Restated Bylaws of Esprit at Avenir Neighborhood Association, Inc. were adopted by the Board of Directors as of the date of filing the Amended and Restated Articles of Incorporation for the Association.