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AVENIR SITE PLAN 3 - POD 8 NEIGHBORHOOD ASSOCIATION

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**ARTICLES OF INCORPORATION
OF
AVENIR SITE PLAN 3 – POD 8 NEIGHBORHOOD ASSOCIATION, INC.
(A Florida Corporation Not For Profit)**

In order to form a corporation not for profit under and in accordance with the provisions of Chapters 617 and 720 of the Florida Statutes, the undersigned hereby incorporates this corporation not for profit for the purposes and with the powers hereinafter set forth and, to that end, the undersigned, by these Articles of Incorporation, certifies as follows:

**ARTICLE I
DEFINITIONS**

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 AVENIR SITE PLAN 3 – POD 8 NEIGHBORHOOD ASSOCIATION, INC., a Florida corporation not for profit, whose principal address and mailing address is 550 Biltmore Way, Suite 1110, Coral Gables, Florida, 33134.

**ARTICLE III
PURPOSES**

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 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 Avenir Site Plan 3 – Pod 8 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 Avenir Site Plan 3 – Pod 8.

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.

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");

(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;

(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; or

(e) when, in its discretion, the Class "B" Member so determines.

On the Turnover Date, Class "A" Members, excluding 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.

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. If a Lot is owned jointly by two (2) or more natural persons that are not acting as trustees, that Lot's vote may be cast by any one (1) of the Owners. If two (2) or more Owners do not agree among themselves how their one (1) vote shall be cast, that vote shall not be counted for any purpose. If the Owner is a corporation, partnership, limited liability company, trust, trustee or other entity other than a natural person, the vote of that Lot shall be cast by any officer, director, partner, manager, managing member, trustee or employee, as the case may be.

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 Avenir Site Plan 3 – Pod 8 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.

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 INCORPORATOR

The name and address of the Incorporator of these Articles is: Rosa Eckstein Schechter, Esq., 550 Biltmore Way, Suite 1110, Coral Gables, Florida 33134.

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.

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:	Manuel M. Mato
Vice President:	Rosa Eckstein Schechter
Secretary/Treasurer:	David Serviansky

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 at the Turnover Meeting (as hereinafter defined) shall be five (5). Except for Declarant-appointed Directors, Directors must be Members or the parents, children or spouses of Members or officers, directors, partners, managers, managing members, or trustees of Members that are not natural persons. 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:

NAMES	ADDRESS
Manuel M. Mato	550 Biltmore Way, Suite 1110 Coral Gables, Florida, 33134
Rosa Eckstein Schechter	550 Biltmore Way, Suite 1110 Coral Gables, Florida, 33134
David Serviansky	550 Biltmore Way, Suite 1110 Coral Gables, Florida, 33134

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 Avenir Site Plan 3 – Pod 8, if and when ultimately developed, will contain up to ninety-eight (98) Lots with Homes constructed thereon

(collectively, "Total Developed Lots"). Notwithstanding the foregoing, however, Declarant has reserved the right in the Declaration to modify the plan of development for Avenir Site Plan 3 – Pod 8 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 Avenir Site Plan 3 – Pod 8 and/or the right to add land to Avenir Site Plan 3 – Pod 8 or to withdraw land from Avenir Site Plan 3 – Pod 8, 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 term "Purchaser Members" shall not include Builders. The election of not less than a majority of the Board by the Purchaser Members shall occur at either a special meeting or annual meeting of the membership to be called by the Board for such purpose ("Turnover Meeting"). The First Board shall serve until the Turnover Meeting.

E. The Turnover 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. Nominations for and the election of Directors at the Turnover Meeting and at subsequent annual meetings shall occur as set forth in the Bylaws.

F. 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 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.

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, which consent Declarant may deny in its discretion; and (ii) any "Institutional Mortgagee" (as such term is defined in the Declaration) without the prior written consent of such Institutional Mortgagee.

F. 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.

ARTICLE XV REGISTERED OFFICE AND REGISTERED AGENT

The name and street address of the initial registered office of the Association is Rosa Eckstein Schechter, Esq., 550 Biltmore Way, Suite 1110, Coral Gables, Florida, 33134.

The undersigned hereby accepts the designation of Registered Agent as set forth in Article XV of these Articles of Incorporation, and acknowledges that she is familiar with and accepts the obligations imposed upon registered agents under the Florida Not For Profit Corporation Act.

By: 

Printed Name: Rosa Eckstein Schechter

Dated: January 19, 2021

IN WITNESS WHEREOF, the Incorporator has hereunto affixed her signature, this 19 day of January, 2021.



Rosa Eckstein Schechter, Incorporator