

THIS AGREEMENT DATED THIS 17th DAY OF April, 2008

BETWEEN:

CONDOMINIUM CORPORATION 012 2324
(referred to herein as the "Corporation")

OF THE FIRST PART

- and -

SUNSET MARINA LTD.
(referred to herein as "Marina")

OF THE SECOND PART

AGREEMENT FOR PROCEDURES ON FUTURE DEVELOPMENT

WHEREAS Marina has been instrumental in the development of Sunset Harbour, a bare land condominium community located on Pigeon Lake in the Province of Alberta;

AND WHEREAS as part of the development of Sunset Harbour a Restrictive Covenant has been registered against all Units, which covenant includes certain architectural controls established to ensure Sunset Harbour is developed as a harmonious and stylized community with the highest standards of development being maintained;

AND WHEREAS the said Restrictive Covenant identifies all units as the "Servient Lands" and Unit 23 as the "Dominant Lands", giving the owner of Unit 23 the right and authority to control development; to receive and approve house plans consistent with the architectural controls, and to allow relaxations from the specific architectural controls where such relaxations are in keeping with the overall harmony within Sunset Harbour;

AND WHEREAS the owner of Unit 23 is currently Marina;

AND WHEREAS the Corporation, through its duly elected Board of Directors, desires to undertake an approvals process that is consistent and uniform for all future development and that includes a clear and efficient method for consultation, approval, and resolution of disputes arising from the approvals process;

AND WHEREAS Marina is prepared to consent to an approvals process for all future development to be organized and operated by the Corporation, including the right to grant relaxations which do not significantly deviate from the

architectural controls, it being understood and agreed that the ultimate decision making power for approvals and relaxations remains with the owner of Unit 23 at all times;

NOW THEREFORE in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1.0 Checklist and Notice to Unit Owners

- 1.1 Within forty five (45) days from the date of this Agreement, the Corporation will complete a "Development Approvals Checklist With Timelines" (the "Checklist") to be used by the Corporation and unit owners who are planning new construction at Sunset Harbour after the date of this Agreement. The Checklist shall include all timelines for review, modifications, and appeals when plans are submitted.
- 1.2 The Checklist shall also include a requirement that the Corporation must refer all drawings received from owners to an architectural controls firm for assessment against the architectural controls of Sunset Harbour.
- 1.3 Once developed, the Corporation shall send to each registered owner of a unit who has not yet commenced construction, to the address on file with the Condominium Manager, the following:
 - (a) A copy of the Restrictive Covenant and Architectural Guidelines;
 - (b) A copy of the Checklist;
 - (c) A letter informing the unit owner that the Checklist will be followed for all approvals and that all steps in the approvals process will be coordinated through the Corporation's Manager;
 - (d) A copy of this Agreement.
- 1.4 The letter shall identify a contact member of the Corporation for any questions or concerns regarding the process. The letter shall also inform the owner that he may informally discuss conceptual drawings with the Corporation at any time prior to submitting formal plans.

2.0 Submitting Plans for Review

- 2.1 Plans should be submitted to the Condominium Manager in both hard copy and electronic PDF format.

- 2.2 Plans that are incomplete or are not of a "cape cod" will be rejected outright without any further review.
- 2.3 In all other circumstances, plans will be forwarded by the Condominium Manager to members of the Board of the Corporation and if so requested, to Marina.
- 2.4 Plans will also be forwarded to the architectural controls firm retained by the Corporation for assessment.

3.0 Requests for Relaxations from Architectural Controls

- 3.1 Where an owner wishes to obtain a relaxation from the specific architectural controls contained in the Restrictive Covenant, such request must be made in writing at the time plans are submitted.
- 3.2 The Corporation will refer all requests for relaxations to the architectural controls firm for consideration.

4.0 Approval/Modification/Refusal

- 4.1 Within the times specified in the timeline, the Corporation shall give notice to the owner and Marina as to whether the plans submitted are approved, will be approved with modifications, or are rejected.
- 4.2 If plans are to be approved with modifications, the modifications must be clearly stated in the notice to the owner. The owner must be given the time specified in the Checklist to modify the plans if the modifications are accepted by the owner. In such case, the plans shall not be reviewed again by the architectural control firm.
- 4.3 If plans are rejected, the reasons for the plans being rejected must be clearly stated in the notice to the owner.

5.0 Appeals

- 5.1 Where in any circumstances (other than paragraph 2.2 above) plans are not approved by the Corporation or if a relaxation requested by the owner is not granted, the owner shall have the right to appeal the decision to Marina. The appeal must be given to Marina and the Corporation in writing within the time specified in the Checklist.
- 5.2 Within the time specified in the Checklist or any extension agreed to, Marina will review the appeal and will advise the owner and the Corporation whether the appeal has been accepted or refused.

- 5.3 Notwithstanding paragraph 5.2 above, in the event Marina does not notify the owner and the Corporation of its decision within the time specified in the Checklist, Marina shall be deemed to have refused the appeal.

6.0 Dispute Resolution Regarding Appeals

- 6.1 The decision of Marina on appeal shall be final and binding on the owner.
- 6.2 If the Corporation does not agree with the decision of Marina on appeal, the Corporation shall have the right to arbitrate such decision.
- (a) The arbitration shall be governed by the *Arbitration Act, Alberta* and shall be before a single arbitrator selected by the Corporation.
 - (b) The parties to the arbitration shall be the Corporation and Marina and if he so chooses, the unit owner.
 - (c) The issue for arbitration will be limited to whether the appeal allowed by Marina has been granted reasonably taking into account the purpose of the architectural controls and the limits imposed on relaxations which may be granted therefrom.
 - (d) The arbitrator may endorse or rescind any approval granted by Marina on appeal and the decision of the arbitrator shall be final and binding.
 - (e) In the event the arbitrator rescinds Marina's decision on appeal, the Corporation and Marina will each bear their own costs and the costs of the arbitrator will be borne equally. In the event the arbitrator endorses Marina's decision, the Corporation will pay all costs of the arbitrator and will indemnify and pay to Marina all of Marina's costs of the arbitration (including all reasonable solicitor-client costs). The Corporation acknowledges and agrees that beyond the provisions of this paragraph, Marina is not liable for and is released from any and all claims, loss, costs and damages, both monetary and non-monetary, where Marina has exercised discretion in granting relaxations in conformity to the architectural controls.
 - (f) The parties may mutually agree to cancel the arbitration prior to it commencing in the event there is agreement on the decision in dispute.

7.0 Future Modifications of Existing Homes

- 7.1 If at any time an owner requests major modifications to the exterior of his home and such modifications would require a relaxation from the architectural controls, the owner must request the modification in writing and in such case, the approvals procedure outlined herein shall be followed.
- 7.2 Modifications intended to bring homes more into conformity with the architectural controls shall not required approval but notice of such modifications must be given to the Corporation.

8.0 Termination

- 8.1 This Agreement shall continue in force but shall automatically terminate in the event the Corporation is dissolved under the *Condominium Property Act* of Alberta.
- 8.2 Marina may terminate this Agreement in the event the Corporation at any time fails or refuses to continue the approvals process for a period of not less than one hundred and twenty (120) days.
- 8.3 The Corporation shall not have the right to terminate this Agreement.

9.0 Miscellaneous Provisions

9.1 Units Designated Commercial

- (a) The parties acknowledge that Units 22, 23, 24 and 25 are the only Units in Sunset Harbour that may be used for either residential or commercial purposes.
- (b) The parties acknowledge that Marina is the owner of Units 23 and 22.
- (c) The parties acknowledge that this Agreement shall not apply to Unit 23.
- (d) The parties further acknowledge and agree that this Agreement shall not apply to Unit 22 provided Marina or its successor in title is the owner of both Units 22 and 23.
- (e) Where Unit 22 is no longer owned by the owner of Unit 23, then in such case any development on Unit 22, whether for commercial or residential purposes, shall be subject to approval of the owner of Unit 23 and shall be subject to this Agreement.

- (f) Where any re-division of Unit 23 occurs (referred to as "Unit 23A") and the owner of Unit 23A is not the owner of Unit 23, then in such case any development on Unit 23A, whether for commercial or residential purposes, shall be subject to approval of the owner of Unit 23 and shall be subject to this Agreement.
- (g) Any development on Units 24 and 25, whether for commercial or residential purposes, shall be subject to approval of the owner of Unit 23 and shall be subject to this Agreement.

9.2 Notices

Any communication of any nature whatsoever to be made or given shall be made in writing and may be made by personal delivery or by fax as follows:

TO THE CORPORATION

Address: 5515 – 44 Avenue
Wetaskiwin, AB T9A 0C8

Attention: June Boyda, Manager
Fax Number: (780) 401-3161

TO MARINA

Address: R.R. #1
Falun, Alberta T0C 1H0

Attention: Rick Wilson

Copy to: Sharek Logan Collingwood van Leenen LLP
701, 10060 Jasper Avenue
Edmonton, Alberta T5J 3R8

Attention: Bruce J. Collingwood
Fax: 780 413-3152

or to such other address or fax as may be given by one party to the other for purposes of notices. Any communication by fax or other electronic means shall be deemed to be made or given on the date of actual delivery if made prior to 5:00 p.m. on a business day at the place where the communication is sent, and otherwise will be deemed made or given on the next business day.

9.3 **Entire Agreement**

This Agreement constitutes the entire agreement between the parties and there are no additional terms, conditions, warranties or collateral agreements other than as are set forth herein.

9.4 **Further Assurance**

The Parties and each of them do hereby covenant and agree to do such things and execute such further documents, agreements and assurance as may be necessary or advisable from time to time in order to carry out the terms and conditions of this Agreement in accordance with their true intent.

9.5 **Singular, Plural and Gender**

Wherever the singular, plural, masculine, feminine or neuter is used throughout this Agreement the same shall be construed as meaning the singular, plural, masculine, feminine, neuter, body politic or body corporate where the fact or context so requires and the provisions hereof and all covenants herein shall be construed to be joint and several when applicable to more than one party.

9.6 **Jurisdiction**

The laws of the Province of Alberta shall govern this Agreement and the parties agree to attorn to the jurisdiction of the courts of the Province of Alberta.

9.7 **Assignment**

Neither party may assign this Agreement.

9.8 **Unenforceable Terms**

If any term, covenant or condition of this Agreement or the application thereof to any party or circumstance shall be invalid or unenforceable to any extent the remainder of this Agreement or application of such term, covenant or condition to a party or circumstance other than those to which it is held invalid or unenforceable shall not be affected thereby and each remaining term, covenant or condition of this Agreement shall be valid and shall be enforceable to the fullest extent permitted by law.

9.9 **Amendments**

This Agreement may not be altered or amended in any of its provisions unless any such changes are reduced to writing and signed by the parties.

9.10 **Enurement**

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their heirs, executors, administrators and successors.

9.11 **Waiver**

The parties agree that the waiver of strict performance of any condition, covenant, or stipulation in this Agreement shall not constitute a waiver of any subsequent breach of the same or other covenant, condition, or stipulation.

9.12 **Time is of the Essence**

Time is of the essence in this Agreement.

9.13 **Counterpart**

This Agreement may be executed and delivered in counterpart and delivered by facsimile, each of which will be deemed to be an original and such counterparts together will be deemed to constitute one and the same instrument provided that any party delivering this Agreement by facsimile shall deliver an original thereof to the other party upon request.

IN WITNESS WHEREOF the parties have executed this Agreement by the hand and seal of its duly authorized officers as of the date first written above.

CONDOMINIUMMINIUM
CORPORATION 012-2324

Per: _____


Per: _____


SUNSET MARINA LTD.

Per: _____
