

**THIRD AMENDMENT AND THIRD SUPPLEMENTAL DECLARATION OF  
PARTY WALL RIGHTS, COVENANTS, CONDITIONS EASEMENTS AND  
RESTRICTIONS FOR SPC CONDOMINIUM ASSOCIATION, INC.**

COMES NOW, SPC CONDOMINIUM ASSOCIATION, INC. (the "Association"), a Montana non-profit corporation, and hereby amends and supplements that certain DECLARATION OF PARTY WALL RIGHTS, COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR SPC CONDOMINIUM recorded July 14, 2004 as Document No. 2156569 (the "Declaration"), the FIRST AMENDMENT TO DECLARATION OF PARTY WALL RIGHTS, COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR SPC CONDOMINIUM recorded July 27, 2004 as Document No. 2157841 (the "First Amendment"), SUPPLEMENTAL DECLARATION OF PARTY WALL RIGHTS, COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR SPC CONDOMINIUM recorded March 1, 2005 as Document No. 2179957 (the "Supplemental Declaration"), and the SECOND AMENDMENT TO DECLARATION OF PARTY WALL RIGHTS, COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR SPC CONDOMINIUM recorded May 26, 2006 as Document No. 2229227 (the "Second Amendment"), all recorded at the office of the County Clerk and Recorder, Gallatin County, Montana pertaining to the Association.

NOW THEREFORE, the Association, after receiving the approval of the Owners pursuant to Section 13.05 of the Declaration, hereby amends (the "Third Amendment") said Declaration on this 17th day of March, 2008, as follows:

Section 6.01 Association Obligations

Section 6.01.a. is hereby deleted and replaced with the following Sections 6.01.a. and 6.01.b.:

- 6.01.a. Association Insurance. The Association, acting through the Board, shall maintain continuously in force: (1) comprehensive general liability coverage, (2) property insurance on a replacement cost basis for the entire building structures of the development (each a "Building" or, collectively, the "Buildings"), including the values of the Common Area, Limited Common Areas, and any portion of the Buildings which may be owned by the Owners (other than personal property which shall be the sole election and responsibility of each Owner), and (3) Directors and Officers liability coverage. The Association shall maintain the aforementioned insurance coverage, as well as any other insurance coverage deemed prudent by the Board at a level of coverage that the Board deems to be reasonable. The insurance premiums, deductibles and appraisals used for determining the appropriate level of insurance for the Association shall be borne and paid for by the Association.

Insurance policies carried pursuant the coverage described in (1) and (2) of the first paragraph of this Section 6.01.a., must provide for the following:

- i. Each Owner and First Mortgagee is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Area or membership in the Association, as well as property arising out of the Owner's interest in the insured Building;
- ii. The insurer waives its right to subrogation under the policy against any Owner or members of the Owner's household and against the Association and members of the Board; and
- iii. The Owners waive their right to subrogation under the Association policy against the Association and the Board.

6.01.b. Common Area Maintenance. The Association, acting through the Board, shall maintain, repair, replace, and manage the Common Area, all facilities and improvements thereon, as well as provide for snow removal, scavenger services and maintenance of all underground utilities located in Common Area serving the Property (including water pipes, sanitary and storm sewer lines, telephone and electrical cables and gas mains). The aforementioned utility responsibilities may be relieved to the extent that the responsibility to maintain such utilities has not been assumed by any public utility agency, or other governmental authority or agency, or any Owner. In addition, the Association shall: (1) pay all taxes (other than real estate taxes), assessments and other liens and encumbrances which are assessed to or charged against the Common Area or other property owned by the Association, (2) pay all sums due for the enforcement of local laws and (3) provide such other services for the Common Area as the Board deems to be in the best interests of the Association and the Owners.

#### Section 6.01.2. Units

Section 6.01.2. is deleted in its entirety and replaced with the following text as a new Section 6.01.c.:

6.01.c. Unit Maintenance and Repair. With respect to the Units and the improvements thereon, the Association shall provide for the following: all painting, staining, refinishing, maintenance, repair, replacement and tuck pointing of the exterior surfaces of the dwellings, including, without limiting the generality of the foregoing, all roofs, sidings, outer walls, shutters, but excluding all screens, doors and glass surfaces (which shall be the Owner's responsibility), except that the Association shall paint and stain the exterior surfaces of the outer doors; maintain, repair and replace sidewalks; provide all lawn mowing; and provide such other services as the Board deems to be in the best interest of the Association and the Owners; provided, however, that the Association's obligations under this Section

with respect to sidewalks and exterior surfaces of dwellings shall be limited to maintenance, repair and replacement due to normal wear and tear.

#### Section 6.02.2. Owner Insurance

Section 6.02.2. is hereby deleted in its entirety and replaced with the following text:

6.02.2. Insurance. Each Owner shall maintain insurance covering liability protection, and such other appropriate insurance as required by the Association or deemed appropriate by the Board. All insurance policies pursuant to this Section 6.02.2. and renewals thereof must name the Association as an additional insured, contain standard and customary terms for the provided coverage with no less than \$300,000 for liability protection, must require 30 days notice to the Association in the event of non-renewal or cancellation, and, at the request of the Association, must be delivered to the Association. Should the Owner fail to insure or fail to pay the premiums on any insurance or fail to deliver the policies or certificates to the Association, then the Association, at its option, without inquiry into whether or not the Unit is currently insured, may, but need not, have the insurance written or renewed and pay the premiums for the account of the Owner. All sums paid for procurement or renewal of the insurance premium, for enforcement of collection, and all expenses paid or incurred in connection therewith, including attorney's fees, shall become a lien upon said Unit enforceable in the manner and to the extent herein set forth in this Declaration and the failure of such Owner to pay such costs shall carry with it the same consequences as the failure to pay any assessments levied hereunder when due, as herein provided. Inaction on the part of the Association shall never be considered as a waiver of any right accruing to the Association on account of any default hereunder on the part of an Owner. Each Owner waives their right to subrogation against the Association, the other Owners and the Board under each Owner's liability insurance policies or other insurance policy required under this Section 6.02.2.

#### Section 7.03 Assessment Procedure – Annual Assessment

Item 3. of the Supplemental Declaration, item 6. of the Second Amendment, Section 7.03.1., Section 7.03.2., Section 7.03.3. and Section 7.03.4. are hereby deleted in entirety and replaced with the following text:

7.03.1. No later than December 1 of each year, the Board shall prepare a budget for the Association for the ensuing year which shall include estimated cash expenditures and reasonable amounts as reserves for repairs and maintenance, as well as replacement of the improvements in the Common Area and those portions of the Units for which the Association is responsible. The budget

with respect to sidewalks and exterior surfaces of dwellings shall be limited to maintenance, repair and replacement due to normal wear and tear.

#### Section 6.02.2. Owner Insurance

Section 6.02.2. is hereby deleted in its entirety and replaced with the following text:

6.02.2. Insurance. Each Owner shall maintain insurance covering liability protection, and such other appropriate insurance as required by the Association or deemed appropriate by the Board. All insurance policies pursuant to this Section 6.02.2. and renewals thereof must name the Association as an additional insured, contain standard and customary terms for the provided coverage with no less than \$300,000 for liability protection, must require 30 days notice to the Association in the event of non-renewal or cancellation, and, at the request of the Association, must be delivered to the Association. Should the Owner fail to insure or fail to pay the premiums on any insurance or fail to deliver the policies or certificates to the Association, then the Association, at its option, without inquiry into whether or not the Unit is currently insured, may, but need not, have the insurance written or renewed and pay the premiums for the account of the Owner. All sums paid for procurement or renewal of the insurance premium, for enforcement of collection, and all expenses paid or incurred in connection therewith, including attorney's fees, shall become a lien upon said Unit enforceable in the manner and to the extent herein set forth in this Declaration and the failure of such Owner to pay such costs shall carry with it the same consequences as the failure to pay any assessments levied hereunder when due, as herein provided. Inaction on the part of the Association shall never be considered as a waiver of any right accruing to the Association on account of any default hereunder on the part of an Owner. Each Owner waives their right to subrogation against the Association, the other Owners and the Board under each Owner's liability insurance policies or other insurance policy required under this Section 6.02.2.

#### Section 7.03 Assessment Procedure – Annual Assessment

Item 3. of the Supplemental Declaration, item 6. of the Second Amendment, Section 7.03.1., Section 7.03.2., Section 7.03.3. and Section 7.03.4. are hereby deleted in entirety and replaced with the following text:

7.03.1. No later than December 1 of each year, the Board shall prepare a budget for the Association for the ensuing year which shall include estimated cash expenditures and reasonable amounts as reserves for repairs and maintenance, as well as replacement of the improvements in the Common Area and those portions of the Units for which the Association is responsible. The budget

shall include other contingencies as the Board deems necessary and advisable and shall be delivered, in reasonable detail, to each Owner no later than December 15<sup>th</sup> of the preceding year to the year in which such budget applies (the "Budget Year"). Subject to any additional assessments pursuant to Section 7.03.2., on or before January 1<sup>st</sup> of each Budget Year, each Owner shall be personally liable for and obligated to pay the Association four (4) quarterly assessments (collectively, the "Annual Assessment" or "annual assessment") associated with each Budget Year. If a Unit is owned by more than one Owner, such Owners are jointly and severally liable to the Association for the total amounts due and owing for such Unit, regardless of each Owner's percentage ownership interest in such Unit. The quarterly assessments shall be based on the principles pursuant to Section 7.08 applied to the total budget and further allocated on a quarterly basis. On or before the annual meeting of the Owners each year, the Board shall supply all Owners an itemized accounting of accrued expenses, as well as actual and paid expenses for the preceding Budget Year. In addition, in such itemized accounting, the Board shall account for all cash income to the Association and, as compared to expenses, the resulting cash surplus or shortfall. The Board, in its sole discretion, shall determine the application of any resulting cash surplus taking into account the current financial status and future cash outflows of the Association. In the case of a cash shortfall, the Board, in its sole discretion, shall determine the appropriate steps to alleviate such cash shortfall consistent with the provisions of this Article 7.

7.03.2. If the quarterly assessments pursuant to Section 7.03.1. prove inadequate for any reason, including non-payment by any Owner of such Owner's respective assessment, the Board may: (a) subject to any limitations on the use of capital reserves, charge the deficiency against any existing capital reserves, (b) levy a further assessment, (c) levy a special assessment pursuant to Section 7.04. In the case of assessments under (b) and (c) above, the methodology pursuant to Section 7.08 shall be employed by the Board. The Board shall serve notice of such further assessment under (b) or (c) of this Section 7.03.2. to all Owners by a statement in writing showing the amount due and the reasons for the assessment. If a Unit is owned by more than one Owner, such Owners are jointly and severally liable to the Association for the total amounts due and owing for such Unit under (b) and (c) of this Section 7.03.2., regardless of each Owner's percentage ownership interest in such Unit. At the discretion of the Board, such additional assessment shall become due within a reasonable time period after notice of the assessment is received by the Owners.

7.03.3. The failure or delay of the Board to provide an annual budget to any Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the costs of the Association pursuant to Section 6.01 and fund necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual budget, each Owner shall continue to pay such Owner's quarterly assessment at the then existing



amount established for the previous quarter until the quarterly installment which is due after the new annual budget shall have been mailed or otherwise delivered to each Owner.

#### Section 7.10 Assessments on Units Owned by Declarant

Section 7.10 is hereby amended as follows:

The reference to "Section 6.01 (b)" shall be changed to "Section 6.01(c)".

#### Section 7.11 Collection of Assessments

Section 7.11 is hereby deleted in its entirety and replaced with the following text:

#### Section 7.11 Collection of Assessments

Any installment of an assessment pursuant to Sections 7.03 1. or 7.03 2. that is not paid when due shall be delinquent if said installment is not paid within thirty (30) days after the due date, and thereafter, any Board member or Officer of the Association may authorize the Association's accountant to charge interest on such late payment at an interest rate equal to the lesser of: (i) the twelve percent (12%) or (ii) the maximum interest rate permitted by law. Further, if said amount and the associated interest expense continue to remain outstanding, the Board may, upon notice to the Owner owing such amounts, accelerate the maturity of all remaining assessments due with respect to the current Budget Year and such aggregated amount shall immediately become due and payable. At the time of acceleration, interest shall accrue on such aggregated amount until paid at an interest rate equal to the lesser of: (i) eighteen percent (18%) per annum or (ii) the maximum interest rate permitted by law.

The Association may bring an action against any Owner that is delinquent in paying assessments and recover such amounts, including interest, attorney's fees and other costs associated with such action. To the extent permitted by any decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid assessments, accelerated assessments, together with interest, attorney's fees and other costs as provided above, shall become a lien or charge against the delinquent Owner's Unit and may be foreclosed upon by any action brought in the name of the Association.

#### Section 9.03 Obstructions

Section 9.03. is hereby deleted in its entirety and replaced with the following text:

#### Section 9.03 Obstructions/Cleanliness

There shall be no obstruction of the Common Area, nor shall ready access to any Unit be obstructed or impeded in any manner. In addition, each Owner shall keep the applicable Limited Common Area in the immediate proximity of said Owner's Unit free and clear of

all trash, debris and, other inappropriate objects or materials, such object or materials (as deemed inappropriate in the sole discretion of the Board).

Article 12 LEASE OF UNITS

Article 12 is hereby deleted in its entirety and replaced with the following text:

ARTICLE 12  
LEASE/RENT OF UNITS

Any lease or other use agreement for the use of a Unit shall be between each Owner, or Owner's representative on behalf of such Owner, and a lessee or user and shall be in writing (or, if not in writing, the requirements of this Article shall be incorporated into the lease by the existence of this Article 12) and provide that the terms of such lease or other agreement are subject to, and such lessee shall comply with: (1) the provisions of this Declaration, the Articles of Incorporation, By-laws and (2) the rules and regulations of the Association. There shall be no subleasing or assignment of leases unless approved in writing by the Board. Under any lease or other use agreement, any failure by either party to such agreement to comply with the requirements of this Article 12 shall be a default under said lease or use agreement and authorizes the Owner to terminate the lease or use agreement without liability and to evict the lessee in accordance with Montana law.

IN WITNESS HEREOF the undersigned Owners of SPC CONDOMINIUM ASSOCIATION, INC., representing a Quorum pursuant to Section 5.07 of the Association's by-laws and representing a vote of at least seventy-five percent (75%) of the Owners pursuant to Section 13.05 of the Declaration, hereby has caused this Third Amendment and Third Supplemental Declaration to be made, approved, adopted and executed according to and under the provisions of the Unit Ownership Act, Title 70, Section 23., M.C.A. and the Declaration, as amended and supplemented.

As a Member and Unit Owner of the SPC CONDOMINIUM ASSOCIATION, INC., I hereby approve the THIRD AMENDMENT AND THIRD SUPPLEMENTAL DECLARATION OF PARTY WALL RIGHTS, COVENANTS, CONDITIONS EASEMENTS AND RESTRICTIONS FOR SPC CONDOMINIUM ASSOCIATION, INC. dated March 17, 2008.

Date: \_\_\_\_\_

Titled Owner Name: \_\_\_\_\_

Titled Owner Signature: \_\_\_\_\_

Titled Owner Name: \_\_\_\_\_

Titled Owner Signature: \_\_\_\_\_

Authorized Officer Name\*: \_\_\_\_\_

Authorized Officer Signature\*: \_\_\_\_\_

Authorized Officer Title\*: \_\_\_\_\_

\*In the circumstance where the Unit is owned by a corporation or partnership

STATE OF \_\_\_\_\_

: ss.

County of \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, in the year 2008, before me,  
\_\_\_\_\_, Notary Public for the State of \_\_\_\_\_,  
personally \_\_\_\_\_ appeared,

known to me to be the persons or authorized officials whose name is subscribed to the  
within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official  
seal the day and year hereinabove first written.

(NOTARIAL SEAL)

Notary Public for the State of \_\_\_\_\_  
Residing at \_\_\_\_\_,  
My Commission expires: \_\_\_\_\_

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**AFFIRMATIVE VOTE STATEMENT**

As a Member and Unit Owner of the SPC CONDOMINIUM ASSOCIATION, INC., I hereby approve the THIRD AMENDMENT AND THIRD SUPPLEMENTAL DECLARATION OF PARTY WALL RIGHTS, COVENANTS, CONDITIONS EASEMENTS AND RESTRICTIONS FOR SPC CONDOMINIUM ASSOCIATION, INC. dated March 17, 2008.

Date: \_\_\_\_\_ Unit #: \_\_\_\_\_

Titled Owner Name: \_\_\_\_\_

Titled Owner Signature: \_\_\_\_\_

Titled Owner Name: \_\_\_\_\_

Titled Owner Signature: \_\_\_\_\_

Titled Owner Name: \_\_\_\_\_

Titled Owner Signature: \_\_\_\_\_

Entity Name\*: \_\_\_\_\_

Authorized Officer Name\*: \_\_\_\_\_

Authorized Officer Signature\*: \_\_\_\_\_

Authorized Officer Title\*: \_\_\_\_\_

\*In the circumstance where the Unit is owned by a corporation, partnership or other entity

STATE OF \_\_\_\_\_

: ss.

County of \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, in the year 2008, before me,  
\_\_\_\_\_, Notary Public for the State of \_\_\_\_\_,  
personally \_\_\_\_\_ appeared,

\_\_\_\_\_, known  
to me to be the persons or authorized officials whose name is subscribed to the within instrument,  
and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the  
day and year hereinabove first written.

(NOTARIAL SEAL)

Notary Public for the State of \_\_\_\_\_  
Residing at \_\_\_\_\_,  
My Commission expires: \_\_\_\_\_