

**Panorama Townhomes
Homeowners Association, Inc**

**AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**



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CONDITIONS AND RESTRICTIONS**

THIS AMENDED AND RESTATED DECLARATION, made on the date hereinafter set forth by the members of Panorama Townhomes Homeowners Association, Inc., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, the members of Declarant and the Declarant are the owners of certain contiguous properties in the Town of Penfield, County of Monroe, State of New York, which properties are described by perimeter description as follows:

ALL THAT TRACT OR PARCEL OF LAND, situated in the Town of Penfield, County of Monroe and State of New York, and beginning at a point in the easterly line of Panorama trail at the northwest corner of premises conveyed to James C. Webster and wife by deed recorded in the Monroe County Clerk's Office in Liber 3807 of Deeds at page 503; thence (1) running easterly along the northerly line of said Webster premises, a distance of 421.01 feet to the northeast corner thereof; thence (2) running easterly along the northerly line of premises conveyed to L. S. Quinn, Inc., by deed recorded in Liber 3323 of deeds at page 145, a distance of 200 feet to the northeast corner thereof; thence (3) running southerly along the easterly line of said Quinn premises, a distance of 40.57 feet to the north line of Cobbles Subdivision, as shown on a map thereof filed in said Clerk's Office in Liber 133 of Maps at Page 92; thence (4) running easterly along the northerly line of said Cobbles Subdivision, a distance of 360.32 feet to an angle point in the north line of Lot No. 16 of said Cobbles Subdivision; thence (5) running northeasterly on a line forming an interior angle of 139° more or less, a distance of 105.69 feet to a point in the south line of High Meadow Subdivision as shown on a map thereof filed in said Clerk's Office in Liber 147 of Maps at Page 13; thence (6) running northwesterly along the southwesterly line of said High Meadow Subdivision a distance of 142.15 feet to a point; thence (7) running northeasterly along the northwesterly line of said High Meadow Subdivision and along the arc of a curve to the right with a radius of 250 feet, a distance of 207.26 feet; thence (8) running easterly along the north line of said High Meadow Subdivision, a distance of 407.73 feet to an angle point; thence (9) continuing easterly along the north line of said High Meadow Subdivision to the northwest corner of the cul-de-sac at the west end of Saw Mill Drive as shown on a map of Hall Farm Subdivision, Section 3 filed in said Clerk's Office in Liber 144 of Maps at Page 78; thence (10) continuing easterly along the north line of said cul-de-sac a distance of 140 feet to the northeast corner; thence (11) running northerly along the west line of Lot 72 of said Hall Farm Subdivision, Section #3, a distance of 63.12 feet to a point in the south line of lands of Dolomite Products Company, Inc.; thence (12) running westerly along the southerly line of lands of Dolomite Products Company, Inc., a distance of 885.71 feet, more or less, to the southwest corner thereof; thence (13) running southwest on a line forming an interior angle of 153° 16' 49" with the last described course, a distance of 785.45 feet to a point; thence (14) running westerly on a line forming an interior angle of

212° 55' 30" with the last described course, a distance of 251.44 feet to a point in the easterly line of said Panorama Trail; thence (15) running southerly along the easterly line of said Panorama Trail, a distance of 239.32 feet to an angle point therein; thence (16) continuing southerly along the easterly line of said Panorama Trail, a distance of 226.16 feet to the place of beginning.

WHEREAS, said properties are subject to a certain Declaration of Covenants, Conditions and Restrictions made by Panorama Townhomes Homeowners Association, Inc. and dated September 29, 1978, and recorded on July 17, 1979 in Liber 5648 of Deeds, Page 73, and,

WHEREAS, the undersigned desire to amend and restate said Declaration of Covenants, Conditions and Restrictions so that this Amended and Restated Declaration of Covenants, Conditions and Restrictions shall in all respects supersede and replace said Declaration in its entirety upon the recording hereof in the Monroe County Clerk's Office;

NOW, THEREFORE, Declarant hereby declares and the members of Declarant hereby consent and agree, that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to Panorama Townhomes Homeowners Association, Inc., its successors and assigns, also defined hereinbelow as "Declarant".

Section 2. "Owner" shall mean and refer to the record owner, whether one of more persons or entities, of a fee simple title to any Unit which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, including areas herein to be occupied by dwellings, and such additions thereto as may hereinafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean and refer to all real property and improvements thereon owned by the Association for the common use and enjoyment of the Owners. The Common Area owned by the Association is described as follows: the common area comprised of approximately 423,661 square feet contains the access driveway to Panorama Trail, the individual Unit driveways, water lines and mains, sanitary sewer lines and underground utility service. Unit courtyards, walkways and exterior decks are not included in the Common Areas.

Section 5. "Unit" shall mean and refer to any dwelling within the confines of the properties, with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Panorama Townhomes Homeowners Association, Inc., its successors and assigns, also defined hereinabove as the "Association".

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 8. "By-Laws" shall mean the By-Laws of the Association duly adopted by the members of the Association and appended to this Amended and Restated Declaration as Exhibit "A".

ARTICLE II PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment through the Association in and to the Common Area in common with others, which shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

- (a) the right of the Association, pursuant to its By-Laws, to adopt rules and regulations governing the use of the Common Area and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) the right of the Association to suspend the right to use the Common Area for any period during which an assessment against his Unit remains unpaid and for a period of not more than sixty (60) day for any infraction of its published rules and regulations; however, there shall be no right of the Association to suspend the right of an Owner to ingress and egress to his Unit.
- (c) the right of the Association to dedicate or transfer all of any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be approved by the Members. No such dedication or transfer shall be effective unless approved by a vote of seventy-five percent (75%) of the Members. R
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- (d) The right of the Association, in accordance with its Certificate of Incorporation and By-Laws, to borrow money for the purpose of improving Units and the Common Area, including existing buildings, consistent with the responsibilities of the Association. 100%
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- (e) The right of the Association for an ingress and egress easement, over, under and through the access driveway to Panorama Trail, Unit driveways and Common Area for the purpose of maintaining the properties.

Section 2. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III EASEMENTS

Section 1. The Association shall have the right to grant easements, both temporary and permanent, to any or all public utilities and/or public authorities, over, under and through any part of the properties described herein.

Section 2. There is hereby created a blanket easement upon, across, over and under all of the properties for ingress, egress, installation, replacement, repair and maintenance of all utilities including but not limited to water, sewers, gas, telephones, electricity and a television cable system. An easement is hereby granted to the Association, its officers, agents, employees, including all employees of any management company having a contract with the Association, over all Common Area and to enter any residence to perform the duties of maintenance and repair of the residences or Common Area, to

repair and maintain any utilities for which an easement has been granted and to prevent any damage to any other residence. Neither the Association nor any public authority or public utility shall be liable for any damage done by any of them or their assigns, agents, employees or servants to shrubbery, trees, flowers, lawns, or other improvements of an Owner located on land covering easements for underground services, other than the liability for the reasonable cost of repairing said damage.

Section 3. Each Unit and the property included in the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs of all buildings constructed on the Properties. An easement for said encroachments and for the maintenance and repair of same, so long as such encroachments stand, shall and does exist in favor of the Owner and mortgagees, if any, of the improvement causing the encroachment. In the event that any structure containing one or more Units becomes partially or totally destroyed and then rebuilt, minor encroachments on parts of the adjacent Units or Common Areas due to construction shall be permitted, and a valid easement for said rebuilding and said encroachments and the maintenance and repair thereof shall exist.

Section 4. The recording of the Declaration shall create the following easements affecting all Units. Each Owner shall have the following easements:

- (1) An easement of enjoyment, allowing each Owner the use of the Common Area subject to the provisions set out in the Declaration.
- (2) A pedestrian easement for ingress and egress to and from each Unit across the Common Area over the walkways as set out in the Declaration.
- (3) An easement for exclusive use of driveways, walkways and courtyard areas appurtenant to each Unit.
- (4) Utility easements for the maintenance and repair of electric, telephone, gas, sanitary and storm sewer lines and water lines which are for the benefit of the owners and the respective utility company or authority.
- (5) An easement for encroachments by the Unit structures on one another due to construction or repair.

ARTICLE IV PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Units in the Properties and placed on the dividing lines between the Units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

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Section 2. Sharing of Responsibility and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of such wall in proportion to such use.

Section 3. Destruction by Fire of Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it. If the other Owner thereafter makes use of the wall, he shall contribute to the costs of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owner to call for a larger contribution from the other under any rule of law regarding liability for willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any provisions of this Article any Owner who by his willful act or negligence causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with the Land. The right and/or obligation of any Owner to make or receive a contribution to or from any other Owner under this Article shall be appurtenant to the land and to each Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall under provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose an additional arbitrator, and the decision shall be by a majority of the arbitrators, and the decision shall be binding.

ARTICLE V EXTERIOR MAINTENANCE

In addition to maintenance of the Common Areas, the Association shall provide exterior maintenance upon each Unit which is subject to assessment hereunder as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, foundations, and other such exterior improvements. Such exterior maintenance shall not include glass surfaces. The Association may more particularly define and establish items for which it is responsible hereunder in the By-Laws. In the event that the need for maintenance or repairs is caused through the willful or negligent act of an Owner, his family, guests or invitees, or the Owner's failure to properly maintain and/or repair, the cost of such maintenance or repair shall be added to and become part of the assessment to which such Unit is subject. The above obligation does not include any maintenance or repairs caused by fire or other casualty to the premises owned individually or by Members of the Association.

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ARTICLE VI VOTING RIGHTS

Section 1. Every Owner of a Unit, which is subject to assessment, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit, which is subject to assessment.

Section 2. The Association shall have one class of voting membership, which shall consist of all Owners. The Members shall be entitled to one vote for each Unit owned. When more than one person holds an interest in any Unit all such persons shall be Members. The vote of such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Unit.

ARTICLE VII COVENANT FOR ASSESSMENTS

Section 1. Each Owner hereby covenants and by acceptance of the deed to his or her Unit shall be deemed to agree to pay the Association:

- 1) Annual assessments or charges for maintenance of the Common Area.
- 2) Special assessments for capital improvements, if deemed appropriate by the Board of Directors of the Association.
- 3) Upon default in such payments, interest, costs and reasonable attorney's fees.

At least thirty (30) days before the annual assessment period the Board of Directors shall send notice of the assessment amount to each Owner subject thereto. The rate of assessment is to be uniform for all Units equal to one-thirteenth of the total annual assessment. The annual assessments are a personal obligation of the Owner at the time the assessment comes due and payable, and claims of the Association against a defaulting Owner may be enforced by legal action brought by the Association.

*HOA
2005*

The lien of the assessments [and the Declaration] shall be subordinate to the lien of any first purchase money mortgage given by a Unit Owner.

The annual maintenance assessment may be increased above the maximum [as may have been] previously adopted only by a vote of two-thirds (2/3) of the Members, voting in accordance with the By-Laws of the Association at a meeting notice of which has been given and at which a quorum is present as hereafter provided.

Section 2. Special Assessments. In addition to the annual assessment for maintenance authorized above, the Association may levy, in any assessment year, one or more assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or replacement of a capital improvement upon the Common Areas or the Units, including fixtures and personal property related

thereto, provided that any such assessment shall have the assent of seventy-five percent (75%) of the votes of Members who are voting in accordance with the By-Laws of the Association at a meeting notice of which has been given and at which a quorum is present, as hereafter provided.

Need to pass
16 members

Section 3. Notice and Quorum for Any Action Authorized Under Sections 1 and 2.

Written notice of any meeting of the Members called for the purpose of taking any action authorized under Sections 1 and 2 shall be sent to all Members less than fourteen (14) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

If at such meeting the required seventy-five percent (75%) approval is not given, the Secretary shall hold open the ballot for thirty (30) days to enable members not present at the meeting to vote. If at the end of thirty (30) days period the required seventy-five percent (75%) approval has not been given, then the proposal shall be deemed to have been defeated.

Section 4. Rate of Assessment. Maintenance, tax, capital improvements and service assessments must be fixed at a uniform rate for all Units, except that special assessments for shingle staining, exterior painting and roofing shall be based on the estimated cost for each Unit.

Section 5. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all Units on the first day of January of each year. The Board of Directors shall fix the amount of the annual assessments against each Unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessments shall be sent to each Owner subject thereto. The due dates shall be established by the Board of Directors, and, unless the Board otherwise provides, one-twelfth (1/12) of the annual assessments shall be due upon the first day of each month. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Unit have been paid.

Section 6. Effect of Nonpayment of Assessments. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest prevailing legal rate of interest. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, with interest, costs and reasonable attorneys fees of any such action added to the amount of such assessment. Each Owner, by his acceptance of a deed to a Unit, hereby expressly vests in the Association the right and power to bring all actions against such Owner personally for the collection of such charges as a debt, and to enforce the aforesaid lien

by all methods available for the enforcement of such liens, including foreclosures by an action brought in the name of the Association in a like manner as foreclosure of a mortgage lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided in this section shall be in favor of the Association and shall be for the benefit of all Owners. The Association, acting on behalf of the Owners, shall have the power to bid for an Owner's interest foreclosed at foreclosure sale and to acquire and to hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use or the Common Area or by abandonment of his Unit.

Section 7. Subordination of Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage placed by a lending institution. Sale or transfer of any Unit shall not affect the assessment lien. No sale or transfer shall relieve such Unit from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VIII ARCHITECTURAL CONTROL

No building, fence, wall, antenna or other structure or air conditioning compressor shall be constructed, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved by the Board of Directors of the Association, or by an architectural committee composed of three (30 or more representatives appointed by the Board. In the event said Board fails to approve such design and location with thirty (30) days after said plans and specifications have been submitted to it, the request shall be deemed approved.

A variance application must be submitted to and approved by the Board of Directors before any exterior additions or modifications are made to any structure or Common Area.

ARTICLE IX USE RESTRICTION

No commercial or business activities shall be permitted upon the Properties. Home office use not requiring client visits and without external signage is permitted. No commercial vehicles may be stored or parked on any portion of the Properties, except entirely within an enclosed garage, other than those vehicles making deliveries or providing services to the Units. Similarly, no boating vessel, trailer or recreational vehicle may be parked or left on the Properties except, entirely within an enclosed garage. Visitor parking may be

limited to areas designated by the Association. No advertising signs shall be placed or permitted to remain on the property. Except in the individual courtyard of a Unit no planting or gardening shall be done except by the Association or with its approval, and such planting done in the Unit courtyards shall be kept trimmed so as not to encroach upon neighboring Units or the Common Area.

ARTICLE X INSURANCE AND CASUALTY DAMAGE

Section 1. Insurance Assessments. The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain a master insurance policy providing coverage for all Units against loss or damage by fire or other hazards covered by the standard "all risk" coverage in an amount sufficient to cover the full replacement cost of any repair or reconstruction work necessary to restore the damaged Unit or Units to their original condition. The Board shall also obtain a broad form of public liability policy covering all Common Areas, and all damage, injury or loss of life caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. The Association may secure such other forms of insurance coverage as its Board of Directors may from time to time direct with the cost thereof to be paid as an operating expense of the Association assessable to its members as provided in Article VII hereof. The coverage shall be written on such basis, at such rates and upon such terms as the Board of Directors of the Association shall from time to time in its discretion determine. The Association shall carry Directors and Officers Liability Insurance in an amount deemed appropriate by the Board of Directors. Premiums for all such insurance shall be included in the Unit [service] assessment, payable monthly. All such insurance coverage, including insurance on individual Units obtained by the Board of Directors shall be written in the name of the Association as Trustee for each of the individual Unit Owners. In addition to the aforesaid insurance, any Owner may, if he wishes, at his own expense, obtain and carry any and all other insurance he deems advisable. It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, homeowner's liability insurance, theft and other insurance covering personal property damage and loss.

Section 2. Damage or Destruction; Use of Insurance Proceeds. In the event of destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as originally constructed. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal government agency, with the provision agreed to by said bank or institution that such funds may be withdrawn by signature of at least one member of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall then negotiate with any contractor of its choice. In the event that insurance proceeds are insufficient to pay all the costs of repairing

and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all Owners of the damaged Units in such proportions as the Board of Directors shall deem fair and equitable in the light of the damage sustained by such Units to make up any deficiency. In the event of an uninsured casualty, the Board of Directors may levy a special assessment against all Owners in such proportions as the Board of Directors deem fair and equitable in the light of the damage sustained by such Units to cover the cost of repair. In the event that such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be deposited in the Reserve Fund. In the event of damage or destruction by fire or other casualty to any Unit covered by insurance written in the name of an individual Owner, said Owner shall, upon receipt of the insurance proceeds, contract to repair or rebuild such damaged or destroyed portions of the Unit in a good workmanlike manner in conformance with the original condition of said Unit. In the event such Owner refuses or fails to so repair and rebuild any and all such damage to the unit within thirty (30) days, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such Owner to repair and rebuild any such Unit in good and workmanlike manner in conformance with the original condition of the Unit. The Owner shall then repay the Association in the amount actually expended for such repairs, and the Association shall have a lien securing the payment of same identical to that provided for delinquent assessments, and subject to foreclosure.

ARTICLE XI GENERAL PROVISIONS

Section 1. Enforcement. The Association shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by this Declaration. Failure by the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

12-2-06

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time it shall be automatically extended for periods of ten (10) years. This Declaration may be amended by an instrument signed by not less than seventy-five percent (75%) of the Unit Owners. Any amendment must be recorded.

IN WITNESS WHEREOF, the undersigned being the Declarant and the Members of the Declarant, have executed this instrument as of the dates set forth below.

DECLARANT: PANORAMA TOWNHOMES HOMEOWNERS ASSOCIATION, INC

Dated _____, 2006 By: _____

STATE OF NEW YORK
COUNTY OF MONROE SS:

On this _____ day of _____, 2006, before me personally came _____, to me known, who, being by me duly sworn, did depose and say that he resides in Penfield, New York and that he is President of the Panorama Townhomes Homeowners Association, Inc., the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

Notary Public

EXHIBIT "A"
BY-LAWS OF
PANORAMA TOWNHOMES HOMEOWNERS ASSOCIATION, INC.

ARTICLE I
NAME, PURPOSE AND OFFICE

NAME AND LOCATION. The name of the corporation is PANORAMA TOWNHOMES HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "Association." The principal office of the corporation shall be located in the Town of Penfield, Monroe County, New York, but meetings of members and Directors may be held at such places within the State of New York, County of Monroe, as may be designated by the Board of Directors. The Association has been formed for the exclusive purpose of promoting the common good and social welfare of the members of the Corporation.

ARTICLE II
DEFINITIONS

Section 1. "Association" shall mean and refer to PANORAMA TOWNHOMES HOMEOWNERS ASSOCIATION, INC., its successors and assigns.

Section 2. "Common Area" shall mean all real property, which has been or will be conveyed to the Association pursuant to the Declaration for the common use and enjoyment of its members.

Section 3. "Common Facilities" shall mean all structures or other improvements to or located on the Common Area for the common use and enjoyment of the Association and its Members.

Section 4. "Declaration" shall mean and refer to the Amended and Restated Declaration of Covenants, Conditions and Restrictions of the Association, dated January 5, 2006, to which these by-laws are attached and made a part of.

Section 5. "Dwelling Structure" shall mean and refer to a dwelling structure erected on a Lot, whether attached to or separated from other like dwelling structures by one or more common party walls, each being capable of separate ownership and designed for occupancy by a single family.

Section 6. "Lot" shall mean and refer to any plot of land shown upon the recorded subdivision map of the map of properties, with the exception of the Common Areas, which is improved by one (1) Dwelling Structure.

Section 7. "Maps" shall mean and refer to any and all subdivision maps recorded or filed, from time to time, in the Monroe County Clerk's Office covering the Properties.

Section 8. "Member" shall mean and refer to every Owner of a Unit, which is subject to assessments. Membership in the Association shall be appurtenant to and may not be separated from such Unit ownership.

Section 9. "Owner" shall mean and refer to the record owner, whether now or hereafter owned, whether one (1) or more persons or entities, of a fee simple title to any Unit which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, unless or until secured parties have acquired title pursuant to a foreclosure, or any proceedings in lieu of foreclosure.

Section 10. "Properties" shall mean and refer to that certain real property subject to and described in the Declaration of Covenants, Conditions and Restrictions as hereinafter in section 11 defined and such additions thereto as may hereafter be brought within the jurisdiction of the Association, and subjected to the Declaration.

ARTICLE III MEMBERSHIP: MEETINGS OF MEMBERS

Section 1. Exercise of Rights and Privileges. The exercise of membership rights and privileges is contingent upon payment of any and all assessments provided for in the Declaration. Such rights and privileges may be suspended during such time as any assessment remains unpaid, or for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association.

Section 2. Annual Meetings. A regular annual meeting shall be held on or about the fourth Tuesday of May of each year, at the hour of 7:30 o'clock PM, or at such other times during the day as may be more convenient for the majority of said Members.

*4th Tuesday
in May*

Section 3. Special Meetings. Special Meetings of the Members may be called by two (2) or more members of the Board of Directors, or upon written request of the Members who are entitled to cast one-fourth (1/4) of all the votes of the membership.

Section 4. Notice of Meetings. Written notice of each meeting shall be given by, or at the direction of, the Secretary by mailing a copy thereof, postage prepaid, at least fourteen (14) days before such meeting to each Member entitled to vote thereat. Such notice shall be sent to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the purpose, place, day and hour of the meeting.

*14 days in
advance*

Section 5. Quorum. The presence of Members, or of proxies, entitled to cast one-half (1/2) of the votes of the Members entitled to vote shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or these By-Laws. If, however, such quorum shall not be present or represented by proxies at any meeting, the Members present and entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum, as aforesaid, shall be present or be represented by such proxies.

Section 6. Proxies. At all meetings of Members, the casting of votes may be accomplished in person or by proxy. All proxies shall be in writing and be filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon the conveyance by the Member of that Member's Unit.

Section 7. Notice and Quorum for Raising Maintenance Assessments and Levying Special Assessments. Written notice of any meeting called for the purpose of raising maintenance assessments or levying special assessments as is more particularly described in Article VII, Section 2 of the Declaration, shall be sent to all Members not less than fourteen (14) days, nor more than thirty (30) days, in advance of the meeting. The presence of Members or of proxies entitled to cast two-thirds (2/3) of all Members entitled to vote shall constitute a quorum for any meeting called for the increase in maintenance assessments or for the levying of a special assessment.

ARTICLE IV BOARD OF DIRECTORS: SELECTION; TERM OF OFFICE

Section 1. Number. The affairs of the Association shall be managed by a Board of Directors who must be Members of the Association. The number of members of the Board of Directors shall not be less than three (3).

Section 2. Term of Office. At each annual meeting, the Members shall elect Directors for a term of three (3) years, or until their successors are duly elected and qualified.

Section 3. Removal. Any Director may be removed from the Board of Directors, with or without cause, by a majority vote of the Members of the Association. The Director proposed to be removed shall be entitled to no less than five (5) days notice in writing of the meeting at which such removal is to be voted upon, and shall be entitled to appear before and be heard at such meeting. In the event of death, resignation or removal of a Director, that Director's successor shall be elected by the remaining members of the Board and shall serve for the unexpired term of said Director.

Section 4. Compensation. No Director shall receive any regular compensation for any service rendered to the Association. The Board may, however, by resolution, contract for and compensate any Director rendering unusual, exceptional or professional services to the Association in an amount appropriate to the value of such services. However, any

Director may be reimbursed for actual expenses incurred in the performance of that Director's duties.

Section 5. Actions Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting, which they could take at such meeting, by obtaining written approval of a majority of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

ARTICLE V NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a chairman, who shall be a member of the Board of Directors, and two (2) additional Members of the Association who may or may not be members of the Board, who shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. The person receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held periodically at such place and hour as may be fixed from time to time by resolution of the Board.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by any two (2) Directors.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision of a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**ARTICLE VII
POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 1. Powers. The Board of Directors shall have the power, in addition to the other powers already enumerated herein, to:

- a) Exercise all the powers and privileges and perform all the duties and obligations of the Association, as vested in or delegated to it by and through the Declaration, and not reserved to the Members by other provisions of these By-Laws, the Articles of Incorporation or the Declaration.
- b) Establish, levy, collect and enforce all regular and special assessments by any lawful means pursuant to the terms of the Declaration.
- c) Pay all expenses incurred by the Association in the conduct of its business, including all licenses, taxes and other governmental charges.
- d) Acquire by gift, purchase or otherwise, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.
- e) Dedicate, sell or transfer any or all of the Common Area or Common Facilities to any public agency, authority or utility for such purposes and subject to conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless two-thirds (2/3) of the Members have agreed to same in writing.
- f) Participate in mergers and consolidations with other not-for-profit corporations organized for the same purposes, or annex additional residential property and common areas, provided such merger or consolidation shall have the consent of two-thirds (2/3) of the members.
- g) Adopt and publish rules and regulations governing the use of the Common Areas and Common Facilities, and the personal conduct of the Members and their families and guests thereon.
- h) Suspend Members' voting rights during any period in which such Member shall be in default in payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations.
- i) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive meetings of the Board.

- j) Employ a manager, independent contractors, managing agents or such employees as the Board deems necessary and to prescribe their duties so as to facilitate the efficient operation of the Properties, the Common Areas and the Common Facilities. It shall be the primary purpose of such management to provide for the administration, management, repair and maintenance of the Properties, the Common Area and Common Facilities, and the receipt and disbursement of funds as may be authorized by the Board, and shall be subject in all respects to the Articles of Incorporation, the Declaration and these By-Laws.
- k) Have and exercise any and all powers, rights and privileges which a corporation organized under the Not-For-Profit corporation law of the State of New York by law may now or hereafter have or exercise.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- a) cause to be kept a complete record of all its acts and corporate affairs and regularly to present a written report thereon in compliance with New York statutes to the Members at the Annual Meeting of the Members, or at any Special Meeting to present a written report only when the same is requested in writing by at least one-fourth (1/4) of the Members who are entitled to vote.
- b) supervise all officers, agents and employees of the Association, and to see that their duties are properly performed.
- c) as more fully provided in the Declaration, to
 - 1) fix the amount of maintenance and special assessments to be assessed and levied against each Unit at least fourteen (14) days in advance of such assessment and levy, as provided in the Declaration;
 - 2) send written notice of each assessment to every Owner subject thereto at least fourteen (14) days in advance of such assessment;
 - 3) foreclose the lien against any Unit for which assessments are not paid within thirty (30) days after their due date, or to bring an action at law against the Owner thereof personally obligated to pay the same;
- d) issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of such certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- e) Procure and maintain adequate liability and hazard insurance for the Units and Common Areas and Common Facilities;
- f) Cause the Common Areas and Common Facilities to be maintained;

- g) Cause all officers or employees having financial responsibilities to be bonded as the Board may deem appropriate;
- h) Prepare or cause to be prepared audited annual financial statements of the Association, which are to be mailed to each Member by March 15 of each year.

Section 3. Performance of Duties: Conflicts of Interest. The Directors and Officers of the Association may freely make contracts, enter transactions or otherwise act for and in behalf of the Association relating to or incidental to its operation notwithstanding the fact that they may also be acting as individuals or as directors of the corporation, or as agents for other persons or business concerns, or may be interested therein as stockholders of said corporations or business concerns, or otherwise, provided, however, that in all such dealings falling within the just stated categories, such dealings shall at all times be at arm's length and in the best interests of the Association.

ARTICLE VIII OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of the Association shall be a President, a Vice-President and a Secretary/Treasurer.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members of the Association. Election shall be by majority vote.

Section 3. Term. The officers shall be elected annually by the Board, and each shall hold office for one (1) year unless that Officer shall sooner resign or shall be removed or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any Officer may be removed from office with or without cause by the Board. The Officer proposed to be removed shall be entitled to no less than five (5) days notice in writing of the meeting at which the removal is to be voted upon and shall be entitled to appear before and be heard at that meeting. Any officer may resign at any time by giving written notice to the President or the Secretary/Treasurer. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer replaced.

Section 7. Multiple Offices. No person shall simultaneously hold more than one (1) of the offices except in the case of special officer created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers shall be as follows, or as may later be established by written resolution of the Board of Directors:

- a) President: The President shall preside at all meetings of the Board of Directors; see that the orders and resolutions of the Board are carried out; shall sign, when appropriate, all leases, contracts and other written instruments, and shall authorize all checks and promissory notes.
- b) Vice-President: The Vice-President shall act in the place and stead of the President in the event of the President's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of such officer by the Board.
- c) Secretary/Treasurer: The Secretary/Treasurer shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, keep the corporate seal of the Association and affix it to all papers requiring said seal, serve notice of meetings of the Board and of the Members, keep appropriate current records showing the Members of the Association, together with their addresses. He shall also receive and deposit in appropriate bank accounts all monies of the Association and disburse such funds as directed by resolution of the Board of Directors; keep proper books of account, cause an annual audit of the Association's books to be made by a public accountant at the completion of each fiscal year; prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting and deliver a copy of each to the Members.

ARTICLE IX COMMITTEES

The Board of Directors may appoint an Architectural Committee and a Nominating Committee as provided in the Declaration and by these By-Laws. In addition, the Board of Directors may appoint other committees as deemed appropriate in carrying out its purpose.

**ARTICLE X
BOOKS AND RECORDS**

The books, records and papers of the Association shall, at all times during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any Member, and copies may be purchased at reasonable cost.

**ARTICLE XI
ASSESSMENTS**

As more fully provided in the Declaration, each member is obligated to pay to the Association the assessments set out therein which are secured by a continuing lien on the Unit against which the assessment is made. Any assessments, which are not paid when due, shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum lawful rate per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Unit. Interest costs and reasonable attorneys' fees for any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or by abandonment of his Unit.

**ARTICLE XII
CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the words: PANORAMA TOWNHOMES HOMEOWNERS ASSOCIATION, INC.,
CORPORATE SEAL.

**ARTICLE XIII
AMENDMENTS**

Section 1. Amendment. These By-Laws may be amended at a regular or special Meeting of the Members by a vote of a majority of a quorum of Members present in person or by proxy.

Section 2. Conflicts Between Documents. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control. In the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

**ARTICLE XIV
INDEMNIFICATIONS**

To the extent permitted by law, the Association shall indemnify and hold harmless any person made a party to any proceeding by reason of the fact that such person is, or was, a director or officer of the Association against any loss and expense incurred by said person by reason of such proceeding, including the settlement thereof, except in relation to matters as to which such person is adjudicated to be liable for gross misconduct in the performance of that person's duties.

**ARTICLE XV
MISCELLANEOUS**

The fiscal year of the Association shall begin on the first day of January and end on the last day of December of every year.