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AMENDED AND RESTATED DECLARATION OF CONDOMINIUMS  
OF  
THE PANORAMA CONDOMINIUM PROJECT

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IN  
SALT LAKE COUNTY, UTAH

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PANORAMA CONDOMINIUMS HOMEOWNERS ASSOCIATION,  
a Utah corporation,  
AS DECLARANT

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AMENDED AND RESTATED

DECLARATION OF CONDOMINIUM OF THE PANORAMA CONDOMINIUMS ..... 9

RECITALS ..... 9

DECLARATION ..... 10

DEFINITIONS ..... 10

1. Additional Charges ..... 10
2. Articles of Incorporation ..... 10
3. Assessment ..... 11
4. Association ..... 11
5. Business or Trade ..... 11
6. Building ..... 11
7. By Laws ..... 11
8. Capital Improvement ..... 11
9. Committee ..... 11
10. Common Areas ..... 11
11. Common Expenses ..... 12
12. Community ..... 12
13. Community Wide Standard ..... 12
14. Declaration ..... 12
15. Dwelling Unit ..... 12
16. Eligible Insurer ..... 12
17. Eligible Mortgagee ..... 12
18. Eligible Votes ..... 12
19. Guest ..... 13
20. Improvement ..... 13
21. Land ..... 13
22. Limited Common Area ..... 13
23. Majority ..... 13
24. Management Committee ..... 13
25. Manager ..... 13
26. Map ..... 13
27. Member ..... 13
28. Mortgage ..... 13
29. Mortgagee ..... 13
30. Owner ..... 13
31. Parking Unit ..... 14
32. Permanent Resident ..... 14

33.	Person	14
34.	Project Documents	14
35.	Project	14
36.	Property	14
37.	Record of Survey Map	14
38.	Recreational, Oversized or Commercial Vehicle	14
39.	Resident	14
40.	Single Family Residence	14
41.	Survey Map	14
42.	Unit	14
43.	Unit Number	15

II. SUBMISSION ..... 15

III. COVENANTS, CONDITIONS AND RESTRICTIONS ..... 15

1.	The Building and Facilities	15
2.	Construction.	16
3.	Parking	16
4.	Nature and Incidents of Condominium Ownership	17
5.	Limited Common Area.	17
6.	Vesting of Title.	17
7.	Partition.	18
8.	Common Areas	18
9.	Right to Use and Enjoy	18
10.	Decoration of Interior Space.	18
11.	Encroachment	18
12.	Access.	18
13.	Special Rights of Management Committee	19
14.	Easements	19
15.	Description of a Unit	19
16.	Management Committee, Rights and Obligations.	19
	a. Eligible Votes/Cumulative Voting.	19
	b. Multiple Owners	2
	c. Leased Unit.	20
	d. Qualify.	20
	e. Vacancies.	20
	h. Meetings.	20
	I. Dismissal	20
	j. Removal of Committee Member/Declarant's Rights	20
	k. Replacement.	20
	l. Completion of Term	20
	m. No Compensation	21
17.	Status and General Authority of Committee.	21

a.	To Enter	21
b.	Grant Easements	21
c.	Execute Documents	21
d.	Standing	21
e.	Enter Into Contracts	21
f.	Transfer Interests in Real Property	21
g.	To Purchase	21
h.	To Add Property	22
I.	Promulgate Rules	22
j.	Meetings	22
k.	Assignment or Leasing of Open Common Area Parking Spaces; User and Move-In/Move-Out Fees	22
l.	All other Acts	22
18.	Operation, Maintenance and Alterations	22
a.	Clean & Attractive Condition	22
b.	Area of Common Responsibility	22
c.	Area of Personal Responsibility	22
d.	Utilities	23
e.	Neglect	23
f.	Alterations to Common Area	23
g.	Landscaping	24
h.	Services	24
I.	Personal Property	24
j.	Implied Powers	24
19.	Assessments	25
a.	Covenant to Pay Assessments	25
b.	Basis	25
c.	Apportionment	25
d.	Payment	25
e.	Equitable Changes	25
f.	Reserve Accounts	26
g.	Capital Improvement Table	26
h.	Acceleration	26
I.	Other Assessments	26
j.	Liens	27
k.	Assignment of Rents	28
l.	Personal Obligation	29
m.	Duty to Pay Independent	29
n.	Remedies	29
o.	No Waiver	29
p.	Statement of Account	29
q.	Superiority of Assessments	29
r.	Termination of Right to Use Amenities for Non-Payment	30

s. Suspension of Right to Vote for Non-Payment	30
20. Liability of Management Committee	30
21. Kinds of Units	30
a. Residential Units.	30
b. Parking Units.	30
22. Nature and Restrictions on Ownership and Use in General.	31
a. Title to the Common Area.	31
b. Mandatory Association.	31
c. Member's Easements and Rights of Way	31
23. Restrictions and Limitations of Use.	32
a. Parties Bound	32
b. Obstructions Prohibited.	32
c. Nuisance	32
d. Unsightly Work, Hobbies or Unkempt Condition	33
e. Removing Garbage, Dust & Debris.	33
f. Subdivision of a Unit.	33
g. Firearms, Incendiary Devices and Graffiti	33
h. Temporary Structures.	33
I. Energy Conservation Equipment	33
j. Business Use.	33
k. Aerials, Antennas, and Satellite Systems	33
l. Window Coverings	34
m. Windows	34
n. Pets.	34
o. Insurance	34
p. Laws.	34
q. Damage or Waste.	34
r. Structural Alterations	34
s. Fireplaces	34
24. Leases	34
25. Insurance.	35
a. Property Insurance	35
b. Flood Insurance	35
c. Liability Insurance	36
d. Director's and Officer's Insurance	36
e. Fidelity Bond	36
f. Earthquake Insurance	36
g. The Insured.	36
h. Designated Representative	37
I. Beneficiary	37
j. Certificate of Insurance	37
k. Mortgage Provisions	37
l. Waiver of Subrogation	37

m. Individual Neglect .....	37
n. Deductible .....	37
o. Individual Insurance .....	37
p. Primary Coverage .....	37
q. Prompt Repair .....	38
r. Disbursement of Proceeds .....	38
s. Special Endorsements .....	38
t. Quality of Insurance Carrier .....	38
u. Restrictions on Policies .....	38
26. Casualty Damage or Destruction .....	38
a. Attorney in Fact .....	38
b. Authority .....	39
c. Election of Mortgagees .....	39
d. Estimates and Bids .....	39
e. Prompt Repair .....	39
f. Insurance Proceeds .....	40
g. Disbursements of Insurance Funds .....	40
h. Removal from Act .....	40
27. Termination of Legal Status of Project .....	40
28. Duty of Owner to Pay Taxes on Unit Owned .....	40
29. Amendment of this Declaration Must Be In Writing and Recorded.	41
30. Consent in Lieu of Vote .....	41
31. Mortgagee Protection .....	41
a. Effects of Voluntary and Involuntary Sale .....	41
b. Books and Records Available for Inspection .....	41
c. Right to Financial Statement .....	41
d. Management Contracts .....	42
e. Eligible Mortgagee Designation .....	42
f. No Right of First Refusal .....	42
32. Security .....	42
33. Service of Process .....	43
34. Amendment .....	43
a. Consent of Eligible Mortgagee .....	43
b. Clerical Errors .....	44
c. Notice .....	44
d. Exceptions .....	44
35. Notice and Hearing .....	44
a. Notice .....	44
b. Costs & Assessments .....	45
c. Final Determination .....	45
36. Covenants to Run with Land .....	45
37. Enforcement and Right to Recover Attorney's Assessments .....	45
38. Mechanics Liens .....	45

a. Association Goods or Services	46
b. Unit Goods or Services	46
c. Constructive Consent	46
39. Number and Gender	46
40. Severability	46
41. Topical Headings	46
42. Second Hand Smoke	46
a. Nuisance Defined	47
b. Release and Waiver	47
c. Indemnity	47
d. Reservation of Right of Action	47
e. Structural Alterations	47
f. Delivery of Copy of Project Documents to Purchaser or Resident	47
43. Effective Date	48
EXHIBIT "A" PERCENTAGES OF OWNERSHIP INTEREST	49
EXHIBIT "B" BY-LAWS OF THE PANORAMA CONDOMINIUMS APARTMENTS	55
IDENTITY	55
APPLICATION	55
ADMINISTRATION	55
1. Place of Meetings	55
2. Annual Meetings	55
3. Special Meetings	55
4. Notices	56
5. Quorum	56
6. Voting	56
7. Waivers of Notice	56
MANAGEMENT COMMITTEE	56
1. Purpose and Powers	56
2. Regular Meetings	57
3. Special Meetings	57
4. Quorum	57
5. Compensation	57
6. Waiver	57
7. Adjournments	57
8. Fidelity Bonds	57

9.	Order of Business .....	57
10.	Conduct of Meeting .....	58
	a) Open Meetings .....	58
	b) Executive Session .....	58
	c) Action Without A Formal Meeting .....	58
11.	Vacancies .....	58
OFFICERS .....		58
1.	Designation and Election .....	58
2.	Other Officers .....	58
3.	Removal of Officers and Agents. ....	58
4.	President .....	58
5.	President .....	58
6.	Secretary .....	58
7.	Treasurer. ....	58
8.	Compensation .....	58
ACCOUNTING .....		60
1.	Books and Account .....	60
2.	Report. ....	60
BUILDING ADMINISTRATIVE RULES .....		60
AMENDMENT OF BY-LAWS .....		60
FISCAL YEAR .....		61
COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS .....		61
1.	Compliance .....	61
2.	Conflict .....	61
3.	Severability .....	61
4.	Waiver .....	61
5.	Captions .....	61
6.	Interpretation .....	61
7.	Effective Date .....	62
EXHIBIT "D" SECOND HAND SMOKE DISCLOSURE & ACKNOWLEDGMENT .....		63



AMENDED AND RESTATED DECLARATION OF CONDOMINIUM  
OF  
THE PANORAMA CONDOMINIUM PROJECT

THIS AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF THE PANORAMA CONDOMINIUM PROJECT (hereinafter called the "Declaration"), is made by the PANORAMA CONDOMINIUM HOMEOWNERS ASSOCIATION, INC., of 8 Hillside Avenue, Salt Lake City, Utah, a Utah corporation (hereinafter called the "Association"), pursuant to the Provisions of the Utah Condominium Ownership Act (hereinafter referred to as the "Act").

RECITALS

WHEREAS, the original Declaration of Condominium of Panorama Apartments was recorded in the Office of the County Recorder of Salt Lake County, Utah on March 1, 1973, as Entry No. 2521914, in Book 3269, at Page 179 of the Official Records (the "Declaration").

WHEREAS, the Panorama Apartments were converted into a condominium project and submitted to the provisions of the Act.

WHEREAS, operation, control and management of the Real Property has been transferred by the Declarant to the Association and the Association is responsible to maintain and regulate the following described real property located in Salt Lake County, Utah, which is more particularly described as follows (hereinafter referred to as the "Real Property").

All of Lot 4, Block 3, Plat E, Salt Lake City Survey. Also, beginning at the Northwest corner of Lot 4, Block 3, Plat "E", Salt Lake City Survey, and running thence West 5 feet thence South 161.6 feet; thence East 5 feet; thence North 161.6 feet to the point of beginning.

Subject to easements, restrictions, and rights of way appearing of record or otherwise.

WHEREAS, the Real Property consists of the land above described, together with a building comprised of multi single family residential dwelling Units, Common Area and Facilities (hereinafter referred to as the "Building"), and certain other improvements heretofore constructed upon said premises.

WHEREAS, the Declarant has constructed the Building and other improvements upon the Real Property substantially in accordance with the plans and drawings set forth in the Record of Survey Map heretofore filed of record, consisting of eight (8) sheets, prepared and certified by

Robert B. Jones, Utah Registered Land Surveyor, although there are some significant discrepancies between said plans and the actual design and construction of the Building and improvements.

WHEREAS, an Amended and Restated Record of Survey Map prepared by Robert B. Jones, Utah Registered Land Surveyor, consisting of eight (8) sheets showing the actual design construction of the Building and improvements has been or will be filed concurrently herewith

WHEREAS, the Association desires by filing this Declaration and the Amended and Restated Record of Survey Map to resubmit the Real Property and the Building and other improvements constructed thereon to the provisions of the Act as a condominium project to continue to be known as the PANORAMA CONDOMINIUM PROJECT (the "Project").

WHEREAS, the Declarant has sold the fee title to the individual Units contained in the Project, together with an undivided ownership interest in the Common Areas and Facilities appurtenant thereto, to various purchasers, subject to the covenants, limitations and restrictions herein contained.

WHEREAS, Section 12 of the Declaration provides that it may be amended with the consent of not less than two-thirds (2/3) of the undivided ownership interest in the Common Area.

WHEREAS, not less than two-thirds (2/3) of the undivided ownership interest in the Common Area has consented to the Amended and Restated Declaration of Condominium of the Panorama Condominium Project as well as the Amended and Restated Record of Survey Map.

#### DECLARATION

NOW, THEREFORE, the Association hereby declares and certifies as follows:

#### DEFINITIONS

When used in this Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated.

1. Additional Charges shall mean and refer cumulatively to all collection and administrative costs, including but not limited to all attorney's fees, late charges, accruing interest, service fees, filing and recordation fees, fines, and other expenditures incurred or charged by the Association.

2. Articles of Incorporation shall mean and refer to the Articles of Incorporation of the PANORAMA CONDOMINIUMS HOMEOWNERS ASSOCIATION, INC. on file or to be filed with the Utah Department of Commerce or its equivalent.

3. Assessment shall mean and refer to any amount imposed upon, assessed or charged a Unit Owner or Resident at the Project.

4. Association shall mean and refer to the association of all unit owners in the Project taken as, or acting as, a group.

5. Business or Trade are terms which shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether such activity is engaged in full or part-time, such activity is intended to or does generate a profit, or a license is required therefor.

6. Building shall mean and refer to any of the structures constructed in the Project.

7. By Laws shall mean and refer to the By Laws of the PANORAMA CONDOMINIUMS HOMEOWNERS ASSOCIATION, INC., a copy of which is attached to and incorporated in this Declaration by reference as Exhibit "B".

8. Capital Improvement shall mean and refer to all nonrecurring expenses (as opposed to day-to-day expenses) to repair, maintain or replace significant fixed assets in the Project intended to extend the useful life of, restore, enhance, improve or ameliorate the utility, value or beauty of the Common Areas or Facilities.

9. Committee shall mean and refer to the Management Committee.

10. Common Areas shall mean and refer to all real property in the Project owned in common by the Unit Owners including but not limited to the following items:

a) The real property and interests in real property submitted hereby, including the entirety of the Tract and all improvements constructed thereon, excluding the individual Units.

b) All Common Areas and Facilities designated as such in the Survey Map or Maps;

c) All Limited Common Areas designated as such in the Survey Map or Maps;

d) All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the Project and intended for the common use of all Unit Owners, such as telephone, electricity, gas, water, sewer and cable television;

e) The Project's outdoor grounds, lighting, perimeter fences, landscaping, retaining walls, sidewalks, open parking spaces, and roadways;

f) All portions of the Project not specifically included within the individual Units; and

g) All other parts of the Project normally in common use or necessary or convenient to the use, existence, maintenance, safety, operation or management of the Property owned by the Association for the common benefit of its Members.

11. Common Expense shall mean and refer to:

a) All sums lawfully assessed against the Owners;

b) Expenses of administration, maintenance, repair or replacement of the Common Areas and Facilities;

c) Expenses allocated by the Association;

d) Expenses agreed upon as common expenses by the Association; and

e) Expenses declared common expenses by the Project Documents.

12. Community shall mean and refer to the Project.

13. Community Wide Standard shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the Community, as determined by the Management Committee from time to time.

14. Declaration shall mean and refer to this Amended and Restated Declaration of Condominium of the PANORAMA CONDOMINIUMS PROJECT.

15. Dwelling Unit shall mean and refer to a Unit.

16. Eligible Insurer shall mean and refer to an insurer or governmental guarantor of a mortgage or trust deed who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

17. Eligible Mortgagee shall mean and refer to a mortgagee, beneficiary under a trust deed, or lender who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

18. Eligible Votes shall mean and refer to those votes available to be cast on any issue

before the Association or the Committee. A vote which is for any reason suspended is not an "eligible vote".

19. Guest shall mean and refer to an invitee, temporary visitor or any person whose presence within the Project is approved by or is at the request of a particular Resident.

20. Improvement shall mean and refer to any physical change or addition to the Land to make it more valuable.

21. Land shall mean and refer to all of the Real Property subject to this Declaration.

22. Limited Common Area shall mean and refer to those Common Areas designated in this Declaration or in the Record of Survey Map as reserved for the use of a certain Unit Owner to the exclusion of the other Unit Owners.

23. Majority shall mean and refer to those eligible votes of Owners or other groups as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

24. Management Committee shall mean and refer to the committee of Owners elected to manage, operate and control the Project, and regulate the Association.

25. Manager shall mean and refer to the person or entity appointed or hired by the Association to manage and operate the Project and/or assist in the administration of the Association.

26. Map shall mean and refer to the Amended and Restated Record of Survey Map on file in the office of the County Recorder of Salt Lake County, Utah.

27. Member shall mean when referring to the Association each Owner because he is obligated, by virtue of his ownership of a Utah, to be a member of the Association, and when referring to the Management Committee, each Owner duly appointed, elected and qualified to serve on that entity.

28. Mortgage shall mean and refer exclusively to either a first mortgage or first deed of trust on any Unit, but shall not mean or refer to an executory contract of sale.

29. Mortgagee shall mean and refer exclusively to either a mortgagee under a first mortgage or a beneficiary under a first deed of trust on any Unit, but shall not mean or refer to a seller under an executory contract of sale.

30. Owner shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Salt Lake County, Utah) of a fee or an undivided fee interest in a Unit, excluding a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party

has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

31. Parking Unit shall mean and refer to a separate physical part of the Property intended for independent use and ownership for the purpose of parking a motor vehicle.

32. Permanent Resident shall mean and refer to anyone who resides in the Project for more than four (4) consecutive weeks or for more than eight (8) weeks in any calendar year.

33. Person shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

34. Project Documents shall mean and refer to the Act, Declaration, By Laws, and Rules and Regulations.

35. Project shall mean and refer to the PANORAMA CONDOMINIUMS PROJECT.

36. Property shall mean and refer to all of the land or real estate, improvements and appurtenances submitted to the Act and this Declaration.

37. Record of Survey Map shall mean and refer to the "Amended and Restated Record of Survey Map or Maps of the PANORAMA CONDOMINIUMS PROJECT" on file in the office of the County Recorder of Salt Lake County, Utah, as amended.

38. Recreational, Oversized or Commercial Vehicle shall mean and refer to any recreational, commercial or oversized car, van, truck, vehicle, motor home, tractor, trailer, golf cart, mobile home (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, or any other recreational, oversized or commercial transportation device of any kind.

39. Resident shall mean and refer to any person living, abiding, dwelling, occupying or staying in a Unit at the Project. This includes but is not limited to all lessees, tenants and the family members, agents, representatives, or employees of Owners, tenants or lessees.

40. Single Family Residence shall mean and refer to both the architectural style of a Unit and the nature of the residential use and activities permitted therein.

41. Survey Map shall mean and refer to the Amended and Restated Record of Survey Map on file in the office of the County Recorder of Salt Lake County, Utah.

42. Unit shall mean and refer to a separate physical part of the Property intended for independent use, including one or more rooms or spaces located in one or more floors or part or parts of floors in a building. Mechanical equipment and appurtenances located within any one Unit, or located without said Unit but designated and designed to serve only that Unit, such as

appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Unit; so shall all decorated surfaces of interior walls, floors and ceilings, including but not limited to all paint, wallpaper, wall coverings, windows and window frames, doors and door frames, trim, carpeting, tile and linoleum. All pipes, wires, conduits, or other utility lines or installations constituting a part of the Unit or serving only the Unit, and any structural members, parts, components or any other property of any kind, including fixtures or appliances within any Unit, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the Building within which the Unit is located shall be deemed to be part of the Unit.

43. Unit Number shall mean and refer to the number, letter or combination thereof designating a particular Unit.

## II. SUBMISSION

The Association hereby resubmits the Real Property described above, the Building and other improvements constructed thereon, together with all appurtenances thereto, to the provisions of the Act as a Condominium Project to be known as the PANORAMA CONDOMINIUM PROJECT. The Association hereby declares that the Project and every part thereof is to be held and shall be sold, conveyed, devised, leased, granted, encumbered, used, occupied and otherwise affected in any manner, subject to provisions of this Declaration and the Act. Each and all of the provisions hereof are hereby declared to be in furtherance of the general plan and scheme of condominium ownership, and are further declared to be for the benefit of the Project and every part thereof, and for the benefit of each Unit Owner. All provisions hereof shall be deemed to run with the land as covenants running with the land or as an equitable servitude, as the case may be, and shall bind all persons hereafter acquiring or owning any interest in the Project, however such interest may be obtained.

## III. COVENANTS, CONDITIONS AND RESTRICTIONS

1. The Building and Facilities. The Building has been constructed as shown in the Map. The Building is a multi-unit structure containing a total of forty-eight (48) single family residential Units described more particularly as follows:

Floor	Number of Units
1st	5
2nd	8
3rd	8
4th	8
5th	8
6th	5
7th	5
8th	1 (Penthouse)

In addition to the Units identified above, the 1st floor includes two (2) utility rooms, a lobby, an elevator, and nine (9) carports. and the basement floor contains storage areas, a small lobby, thirty-seven (37) covered Parking Units and other facilities as indicated in the Map. Also, there are three (3) outside Parking Units as shown on sheet 1 of the Map marked as "Blacktop Parking."

2. Construction. The Building is of reinforced columns with precast concrete beams for flooring on all floors. The foundation is constructed of ten (10 ") inch process concrete with some stone facing decor in front. All outside walls are of three-fourths (3/4") inch marbled concrete sheer panel and one-half (1/2") inch gypsum board (asphalt impregnated). Ceramic tile on a three-quarter (3/4") inch mud base has been installed below and above the windows for aesthetic purposes. Partitions are constructed of wood. Interior walls are comprised of one-half (1/2") inch gypsum board with fireproofing installed in between the boards.

3. Parking. As appears more fully in the Survey Map, the Project contains a number of covered parking stalls which constitute Parking Units (Numbers 1 through 46). In addition to providing the vertical dimensions of such Parking Units, the Survey Map shows the horizontal dimensions thereof. Except for a roof and the perimeter walls of the Building, however such Parking Units are not enclosed and shall not be enclosed in the future. The Project also contains three (3) open parking stalls designated as Parking Unit Nos. 47, 48, and 49. In addition to providing the horizontal dimensions of such Parking Units, the Survey Map shows the vertical dimensions thereof. Such Parking Units are, however, neither covered nor enclosed and shall not be covered or enclosed in the future. All motor vehicles in the Project shall be subject to the following restrictions:

a. The parking rules and regulations as they may be adopted or amended by the Committee from time to time;

b. The parking areas are not designed for Recreational, Commercial or Oversized motor vehicles which must be parked or stored outside the Project.

c. No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, Recreational, Commercial or Oversized vehicle or any other transportation device of any kind may be parked or stationed (except for purposes of loading or unloading), in such a manner so as to create an obstacle or potentially dangerous situation, or along any street or road, or in front of the Building or any Parking Unit, carport, driveway, walkway or in an unauthorized Common Area.

d. Residents may only park their motor vehicles within their Parking Units, carports, or in other designated Common Areas.

e. Residents may not park their motor vehicles in "red zones," "fire lanes," or unauthorized areas.

f. Visitors or guests shall park their motor vehicles in Common Areas designated for "guest" or "visitor" parking.



g. No Owners or Residents shall repair or restore any vehicle of any kind in, on or about any Unit or the Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

h. No carport or Parking Unit may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonable parked in the carport or Parking Unit as originally designed and constructed.

i. No motor vehicle shall be parked in such a manner as to inhibit or block access to a Unit, carport, Parking Unit, entrance, exit or parking area.

j. All parking areas shall be used solely for the parking and storage of motor vehicles used for personal transportation. All vehicles must be registered, licensed and operable.

k. Vehicles parked in violation of this Declaration or parking Rules and Regulations adopted by the Management Committee may, without further notice, be impounded, towed and stored, at the Owner's sole risk and expense. The Association, Management Committee and members of the Committee shall be indemnified, saved and held harmless from any loss, damage or claim caused by or arising out of the impounding, towing or storing of a motor vehicle pursuant hereto.

4. Nature and Incidents of Condominium Ownership. The Project is hereby divided into Condominium Units: each consisting of a fee simple interest in a Unit and an undivided fee simple interest in the Common Areas in accordance with the attached Exhibit "A" setting forth the respective percentage of undivided interest in the Common Areas appurtenant to each Unit. Such undivided interests in the Common Areas are hereby declared to be appurtenant to the respective Units. The proportionate share of the Unit Owners in the Common Areas is based on the proportionate value that each of the Units bears to the total value of the property as set forth in Exhibit "A."

5. Limited Common Area. Limited Common Area is reserved for the use of a certain Unit Owner to the exclusion of the other Owners. The Limited Common Areas shall consist of decks, (or balconies), fireplaces, and storage areas as indicated in the Map. The deck adjoining a Unit shall be used in connection with such Unit to the exclusion of the use thereof by the other Unit Owners. Owners may not extend their deck as physically constructed and as shown on the Map onto the roof area. The right of exclusive use of a Limited Common Area shall not be separated from the Unit to which it relates. The storage space, identified on the Map with the same number by which the Unit is identified on the Map, shall be used in connection with such Unit to the exclusion of the use thereof by the other Owners of Common Areas except by invitation.

6. Vesting of Title. Title to a Unit may be held or owned by any person or entity and in any manner in which title to any other real property may be hold or owned in the State of Utah, including, but without limitation, joint tenancy or tenancy in common.

7. Partition. No part of a Unit or the legal rights comprising ownership of a Unit may be separated from any other part thereof during the period of condominium ownership prescribed herein, so that each Unit, the undivided interest in the Common Areas appurtenant to such Unit, and the exclusive right to use and occupy the Limited Common Area appurtenant to such Unit, shall always be conveyed, devised, encumbered, and otherwise affected only together and may never be separated from one another. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Unit or any part thereof shall constitute a gift, devise, bequest, transfer, encumbrance, or conveyance respectively, of the entire Unit, together with all appurtenant right created by law or by this Declaration.

8. Common Areas. The Common Areas shall be owned in common by all the Owners of Units, and no Unit Owner may bring any action for partition thereof.

9. Right to Use and Enjoy. Subject to the limitations contained in this Declaration, any each Unit Owner shall have the non-exclusive right to use and enjoy the Common Areas and Facilities, and shall have the exclusive right to use and enjoy the Limited Common Areas designated herein for exclusive use by such Unit Owner.

10. Decoration of Interior Space. Each Owner shall have the exclusive right at his sole cost and expense to maintain, repair, paint, re-paint, tile, wax, wallpaper, cover, or otherwise refinish and decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of his Unit and all walls, ceilings, floors, and doors within such boundaries.

11. Encroachment. If any part of the Common Area encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Areas or the Units. Encroachments referred to herein include, but are not limited to encroachments caused by error in the original construction of the Building or the improvements on the Property, by errors in the Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

12. Access. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of the other Units shall have the irrevocable right, to be exercised by the Management Committee as their agent, to have access to each Unit and to all Common Areas and Facilities from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas or improvements located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas and Facilities or to another Unit or Units. The Management Committee shall also have such right independent of any agency relationship. Damage to the interior of any part of a Unit or Units resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Areas and Facilities or as a result of emergency repairs within

another Unit at the instance of the Management Committee or of Unit Owners shall be an expense of all the Unit Owners; provided, however, that if such damage is the result of negligence of the Owner of a Unit, then such Owner shall be financially responsible for all of such damage. Such damage shall be repaired and the property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Management Committee by judgment, lien or foreclosure as set forth below. Each Owner shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to his Unit, and to the Limited Common Areas designated for use in connection with his Unit, and each Owner shall have the right to the horizontal and lateral support of a Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

13. Special Rights of Management Committee. The Management Committee shall have a non exclusive easement to make such use of the Common Areas and Facilities as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration, including the right to construct and maintain in the Common Areas maintenance and storage facilities for use by the Management Committee.

14. Easements. All conveyances of Units hereafter made shall be deemed to grant and reserve such reciprocal easements as shall give effect to the rights set forth above even though no specific reference to such easements appears in any such conveyance.

15. Description of a Unit. Every contract for the sale of a Unit and every other instrument affecting title to a Unit may describe that Unit by the number shown on the Map with the appropriate reference to the Map and to this Declaration, as each shall appear on the records of the County Recorder of Salt Lake County, Utah, in substantially the following fashion:

UNIT NO. \_\_\_\_ as shown in the Record of Survey Map for THE PANORAMA CONDOMINIUM PROJECT appearing in the records of the County Recorder or Salt Lake County, Utah, in Book \_\_\_\_, at Page \_\_\_\_ of Plats and as defined and described in the AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF THE PANORAMA CONDOMINIUM PROJECT, appearing in such records in Book \_\_\_\_, at Page \_\_\_\_ of the Official Records, together with an undivided ownership interest in and to the Common Areas appurtenant thereto.

Such description will be construed to describe the Unit, together with the appurtenant undivided interest in the Common Areas and Facilities, and to incorporate all the rights incident to ownership of a Unit and all the limitations of such ownership as described in this Declaration.

16. Management Committee, Rights and Obligations. The business, property and affairs of the Association shall be managed by the Management Committee composed of five (5) members, who shall serve three (3) year terms and shall be elected and serve subject to the following restrictions:

a. Eligible Votes/Cumulative Voting. No vote shall be cast or counted for any Unit

not in good standing. At the Annual Meeting each unit Owner may vote his percentage of undivided ownership interest in favor of as many candidates for Committee membership as there are seats on the Committee to be filled.

b. Multiple Owners. When more than one person or entity holds such interest in a Unit, the vote for such Unit shall be exercised as those persons or entities themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the vote of the Unit shall be suspended in the event more than one person or entity seeks to exercise it.

c. Vote of a Unit Which Has Been Leased. Any Owner of a Unit which has been leased may, in the lease or other written instrument, assign the voting right appurtenant to that Unit to the lessee, provided that a copy of such instrument is furnished to the Secretary at least three days prior to any meeting.

d. Qualify. To qualify, a Member of the Committee must be an individual Owner or the legal representative of an organizational Owner in good standing.

e. Vacancies. Any vacant seat on the Committee shall be filled with a Member of the Association duly elected or appointed.

h. Meetings. The Committee shall meet at least once every calendar month.

i. Dismissal. Any Committee member who fails on three (3) successive occasions to attend Committee meetings (whether regular or special) or who has failed to attend at least twenty-five percent (25%) of all Committee meetings (whether regular or special) held during any twelve (12) month period shall automatically forfeit his seat. In such cases, the remaining Committee Members shall elect a replacement to sit on the Committee until the next meeting of the Association.

j. Removal of Committee Members. Committee Members may be removed at any time by the affirmative vote of a majority of the Members of the Association.

k. Replacement. Committee Members who resign or are dismissed pursuant to subsection (h) above shall be replaced by an appointment of the remaining Members of the Committee. Committee Members removed by the affirmative vote of a majority of the Members of the Association shall be replaced by election by a Majority of the Members of the Association present at a special meeting called for that purpose. A replacement Member shall finish the term of office of the original Member of the Committee whom he replaced.

l. Completion of Term. Unless he resigns, is dismissed, removed by the affirmative vote of a Majority of the Members of the Association or otherwise loses his seat as herein provided, a Member shall serve on the Committee until his successor qualifies and is properly appointed or elected.

m. No Compensation. Committee members shall not be compensated for their services (unless compensation is approved by a majority of the members of the Association) but shall be reimbursed for all expenses reasonably incurred in connection with Committee business and approved by the Committee.

17. Status and General Authority of Committee. Any instrument executed by the Management Committee that recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument. The Association shall, in connection with its exercise of any of the powers delineated below, constitute a legal entity capable of dealing in its own name. The Management Committee shall have, and is hereby granted, the following authority and powers:

a. To Enter. The power and authority to enter into or upon any Unit or Limited Common Area to make repairs and to do other work reasonably necessary for the proper maintenance and operation of the Project. Except in the case of an emergency, reasonable notice shall be given to the Residents.

b. Grant Easements. The authority, without the vote or consent of the Owners, Mortgagees, insurers or guarantors of any Mortgage, or of any other person, to grant or create, on such terms as it deems advisable, reasonable permits, licenses, and non-exclusive easements over, under, across, and through the Common Areas for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance, operation or regulation of the Project.

c. Execute Documents. The authority to execute and record, on behalf of all Owners, any amendment to the Declaration or Plat Map which has been approved by the vote or consent necessary to authorize such amendment.

d. Standing. The power to sue and be sued.

e. Enter Into Contracts. The authority to enter into contracts which in any way concern the Project, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained.

f. Transfer Interests in Real Property. The power and authority to exchange, convey or transfer any interest in real property, so long as it has been approved by at least seventy five percent (75%) of the members in the Association.

g. To Purchase. The power and authority to purchase, otherwise acquire, and accept title to any interest in additional real property, so long as the purchase or acquisition has been approved by at least seventy five percent (75%) of the members in the Association.

h. To Add Property. The power and authority to add any real property or interest therein to the Project so long as it has been approved by at least seventy five (75%) of the members in the Association.

i. Promulgate Rules. The authority to promulgate such reasonable administrative guidelines, rules, regulations, and procedures as may be necessary or desirable to aid the committee in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with this Declaration.

j. Meetings. The authority to establish procedures for the presiding over and conducting of Association and Committee meetings. This includes but is not limited to the power to decide if the meeting or any part thereof shall be open or closed to Members of the Association or Residents not on the Committee, retire to executive session, regulate record keeping, and regulate, control or prohibit the electronic reproduction (e.g., video, audio, etc.) of Association or Committee meetings.

k. Assignment or Leasing of Open Common Area Parking Spaces; User and Move-In/Move-Out Fees. The authority to assign or lease overflow or excess parking spaces to Residents, to charge a user fee for the recreational amenities, or to assess a move-in and move-out fee.

l. All other Acts. The power and authority to perform any and all other acts, and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions on behalf of the Owners and the Association.

18. Operation, Maintenance and Alterations. Each Unit, all Limited Common Area, and the Common Area shall be maintained, repaired and replaced subject to the following restrictions:

a. Clean & Attractive Condition. The Units, Limited Common Area and Common Area shall be maintained in a usable, clean, functional, attractive and good condition, consistent with Community Standards.

b. Area of Common Responsibility. The Association shall maintain, repair and replace all of the Common Area and Facilities. This includes the exterior surfaces of the Building, painting, the replacement of trim, the maintenance and repair of roof, gas, sewer and other common utility lines, and all other improvements or materials located within or used in connection with the Common Areas and Facilities, swimming pool, tennis courts, social center, common landscaping, green space, flower beds, sprinkler system, the entrance to and exit from the Project, and all foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits of the Building, Parking Units, open parking and storage areas, and any common item not included in the Area of Personal Responsibility.

c. Area of Personal Responsibility. Each Owner shall reasonably maintain, repair

and replace his Unit, including his individual utility services, furnace and heating system, refrigeration and air conditioning system, fixtures, windows and doors. Each Owner shall maintain his Limited Common Area in a clean, attractive, tidy, uncluttered, safe, sanitary and functional condition so as not to detract from the uniform appearance or design of the Project and in a manner consistent with Community Standards.

d. Utilities. Each Owner shall pay for his electricity, power, lights, phone, cable television and any other individual utility services not the express responsibility of the Association. The Association shall pay for all gas, garbage pick-up and sewer charges.

e. Neglect. If the Committee determines that any Owner has failed or refused to discharge properly his duties under the Area of Personal Responsibility or that the need for maintenance, repair, or replacement of the Common Area and Facilities is caused through the willful or negligent act of any Owner, his family, guests, lessees, or invitees, and it is not covered or paid by insurance, in whole or in part, then the Association may, but is not obligated to, provide such maintenance, repair or replacement at the Owner's sole cost and expense, subject to the following:

(1) Notice of Intent to Repair. Except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide necessary maintenance, repair, or replacement at Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Committee. The Owner shall have ten (10) days after receipt of notice within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days.

(2) Emergency Situation. In an emergency, prior notice is not required but written notice of the day, date, time, nature of the repair and the name and title of the person or persons making the repair shall be given to the Owner and/or Resident.

(3) Right of Entry. The Association or its agents or employees shall have a right to entry upon or into any Unit or Limited Common Area as necessary to perform such work and shall not be liable for trespass for such entry or work.

(4) Debt and Lien. The amount of the expenses referred to above is the debt of the Owner at the time the assessment is made and is collectible as such. If any Owner fails or refuses to pay said expenses when due, that amount constitutes a lien on the interest of the Owner in the Property.

f. Alterations to the Common Area. No Owner or Resident may make any structural alterations to the Common Area (including the Limited Common Area) without the prior written consent of the Committee.

g. Landscaping. All landscaping in the Project shall be maintained and cared for in a manner consistent with the standards of design and quality originally established by the original Declarant and in accordance with Community Standards. Specific written guidelines, standards, controls, and restrictions on landscaping may be adopted or amended by the Committee from time to time. All landscaping shall be maintained in a neat and orderly condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees, shrubs and bushes shall be neatly trimmed. In a word, all landscaping shall be tasteful, so as not to affect adversely the value or use of any other Unit, or to detract from the uniform design and appearance of the Project.

h. Services. The Management Committee may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Management Committee shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Management Committee or by any person or entity with whom or which it contracts. The Management Committee may delegate some of its management responsibilities to a professional management company, an experienced on-site manager, independent contractors, or through service contracts; provided, however, and anything to the contrary notwithstanding, the Committee may elect to terminate any such contract entered into upon at least sixty (60) days prior written notice and no such contract shall be for a term greater than one (1) year. The Management Committee may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. The Management Committee may arrange with others to furnish lighting, heating, water, trash collection, snow removal, pool service, grounds maintenance, sewer service, and other common services to each Unit.

i. Personal Property. The Management Committee may acquire and hold for the use and benefit of all of the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interests in the Common Areas. Such interest shall not be transferable except with the transfer of a Unit. A transfer of a Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto, and such beneficial interest may in no event be reserved by the transferor of a Unit. Each owner may use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a Unit under foreclosure shall entitle the purchaser to the interest in such personal property associated with the Foreclosed Unit.

j. Implied Powers. The Management Committee may exercise any other right or privilege given to It expressly by this Declaration or by law, and every other right or privilege reasonably to be implied from the existence or any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.



19. Assessments.

a. Covenant to Pay Proportionate Share of Common Expenses. Each Unit Owner by the acceptance of a deed or other document of conveyance to a Unit, whether or not it be so expressed in the deed or document, shall be deemed to covenant and agree with each other to pay to the Association his share of the Common Expenses and any assessments established by the Management Committee for the purposes provided in this Declaration. Such assessments shall be fixed established and collected from time to time in the manner provided hereunder.

b. Basis. The Common Expenses shall be based upon advance estimates of cash requirements by the Management Committee to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas and Facilities or furnishing utility services to the Units, which estimates may include, among other things, expenses of management grounds maintenance, taxes and special assessments levied by governmental authorities; premiums for all insurance which the Management Committee is required or permitted to maintain pursuant hereto, common utilities, lighting, power, gas, cooling and heating; water charges; trash collection, sewer service charges, repairs and maintenance, wages and benefits for Management Committee employers; legal and accounting fees; any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Management Committee for the benefit of the Owners under or by reason of this Declaration.

c. Apportionment. Common Expenses shall be apportioned among all Units in proportion to their respective undivided interests in the Common Areas.

d. Payment. Annual assessments shall be made on a calendar year basis. The Management Committee shall give written notice to each Owner as to the amount of the annual assessment with respect to his Unit not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year. Unless otherwise determined by the Management Committee in its sole discretion, each annual assessment shall be due and payable in monthly installments on the 1st day of each and every month and no separate notices of such monthly installments shall be required. Payments received after the tenth (10th) day of the month in which they were due shall be assessed a late fee in a sum equal to five (5.0%) percent of the payment or twenty-five and no/100ths dollars (\$25.00), whichever is greater, unless otherwise determined by the Management Committee. Default interest at the rate of eighteen (18%) percent per annum (unless otherwise determined by the Management Committee) shall accrue on delinquent accounts from the date it becomes due and payable if not paid within thirty (30) days after such date.

e. Equitable Changes. If the aggregate of all monthly payments on all of the Units is too large or too small as a result of unanticipated income or expenses, the Committee may from time to time effect an equitable change in the amount of said payments, but, without the prior approval of a majority of the percentage of ownership interest in the Common Area, not greater

than fifteen (15%) percent of the Assessment in any calendar year. Owners shall be given at least thirty (30) days written notice of any changes.

f. Reserve Accounts. The Committee shall establish and maintain a reserve account to pay for unexpected operating expenses and capital improvements. The reserve account shall be funded out of regular Assessments.

g. Capital Improvement Table. The Committee shall establish and update at least annually a Capital Improvement Table which shall list each major capital improvement in the Project (e.g. roofs, swimming pool, tennis courts, parking lot, entryway, sidewalks, etc.), each item's expected useful life, the present cost of replacement, the estimated cost to replace the item at the end of its useful life, the percentage, portion and amount of the assessment currently set aside in the reserve account to replace the item at the end of its useful life, and the amount of money currently set aside in the reserve account for the replacement of the item.

h. Acceleration. Assessments shall be paid in the manner and on dates fixed by the Committee who may, at its option and in its sole discretion, elect to accelerate the entire annual Assessment for delinquent Owners. If, however, the Assessment is accelerated and an Owner subsequently files bankruptcy or the Committee otherwise decides acceleration is not in its best interest, the committee, at its option and in its sole discretion, may elect to deaccelerate the obligation.

i. Other Assessments. In addition to the annual assessments authorized hereunder, the Management Committee may levy in any calendar year:

(1) Special Assessment. A Special Assessment, payable over such a period as the Management Committee may determine, for the purpose of defraying in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement or the Project or any part thereof, or for any other unanticipated expense incurred or to be incurred as provided in this Declaration. . Any amounts assessed pursuant hereto shall be assessed to Owners [equally?] in proportion to their respective undivided interest in the Common Areas.

(2). Specific Assessments. A Specific Assessment if the Owner has the choice to accept or reject the benefit, provided:

(a) Benefit Only to Specific Unit. If the expense benefits less than all of the Units, then those Units benefitted may be specifically assessed, and the specific assessment shall be equitably apportioned among those Units according to the benefit received.

(b) Unequal or Disproportionate Benefit. If the expense benefits all Units, but does not provide an equal benefit to all Units, then all Units shall be specifically assessed, but the specific assessment shall be equitably apportioned among all Units according to the benefit received.

(3) Individual Assessments. A fine or Individual Assessments may be levied by the Committee against a Unit and its Owner as a charge or to reimburse the Association for:

- (a) additional charges;
- (b) costs incurred in enforcing the Project Documents;
- (c) costs associated with the maintenance, repair or replacement of Common Area for which the Unit Owner is responsible;
- (d) any other charge, fee, fine, due, expense, or cost designated as an Individual Assessment in the Project Documents; and
- (e) attorneys' fees, interest, and other charges relating thereto as provided in this Declaration and the other Project Documents.

Failure of the Committee to exercise its authority under this Section shall not be grounds for any action against the Association or the Committee and shall not constitute a waiver of the Committee's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Committee has not previously exercised its authority under this Section. This paragraph shall not be construed as an independent source of authority for the Management Committee to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other paragraphs hereof which shall make specific reference to this paragraph. Notice in writing of the amount of any assessment and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given.

j. Liens. If any Owner fails or refuses to make any payment of the Common Expenses or an Assessment when due, that amount constitutes a lien on the interest of the owner in the property, and:

(1) Priority. Such lien shall be superior to all other liens and encumbrances on such Unit, except only for: (a) valid tax and special assessment liens on the Unit in favor of any governmental assessing authority and (b) encumbrances on the interest or the Unit Owner recorded prior to the date notice of the lien provided for herein is recorded which by law would be a lien prior to subsequently recorded encumbrances. All other lienors acquiring liens on any Unit after this Declaration shall have been recorded in said records shall be deemed to consent that such liens shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

(2) Notice of Lien. To evidence a lien for sums assessed pursuant to this section, the Management Committee or its designee may prepare a written notice of lien setting forth the amount of the debt and Additional Charges due, the name and address of the Owner of

the Unit and a description of the Unit. Such a notice shall be signed by a representative or agent of the Management Committee and shall be recorded in the Office of the County Recorder of Salt Lake County, Utah. No notice of lien shall be recorded until there is an unpaid debt.

(3) Foreclosure. Such lien may be enforced by judicial or non-judicial foreclosure by the Management Committee in the same manner in which mortgages and trust deeds on real property may be foreclosed in Utah. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the notice of lien and all reasonable attorneys' fees. All such costs, expenses and fees shall be secured by the lien being foreclosed. The lien shall also secure, and the Owner shall also be required to pay to the Management Committee any assessments against the Unit which shall become due during the period of foreclosure. The Management Committee shall have the right and power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorneys' fees, and a reasonable rental for the Unit during the pendency of the foreclosure action. The Association in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Committee may bid for the Unit at foreclosure or other sale and hold, lease, mortgage, or convey the same. If the Committee elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to the Unit hereby irrevocably appoints the attorney of the Association, provided he is a member of the Utah State Bar, as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended. In addition, Owner hereby transfers in trust to said Trustee all of his right, title and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein.

(4) Release of Lien. A release of notice of lien shall be executed by the Management Committee and recorded in the office of the County Recorder of Salt Lake County, Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

(5) Mortgagee or Lienholder Rights. Any encumbrancer holding a lien on a Unit may but shall not be required to pay any amounts secured by the lien created by this Section, and upon such payment such encumbrancer shall be subrogated to all rights of the Association with respect to such lien, including priority.

k. Assignment of Rents. Each Owner by accepting a deed or other document of conveyance to a Unit hereby irrevocably appoints the Association as his attorney in fact to collect rent from any person renting his Unit, if the Unit is rented and Owner is delinquent in his Assessments. Rent due shall be paid directly to the Association, upon written demand, until such time as the Owner's Assessments are current; and the Owner shall credit the Renter, against rent due, for the amount of money paid to the Association.

l. Personal Obligation. The amount of any assessment against any Unit shall be the personal obligation of the Owner thereof to the Association. A purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Unit up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

m. Duty to Pay Independent. No reduction or abatement of an Owner's share of the Common Expenses or any Assessment shall be claimed or allowed by reason of any alleged failure of the Association or Committee to take some action or perform some function required to be taken or performed by the Association or committee under this Declaration or the By Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Owner.

n. Remedies. Suit to recover a money judgment for such personal obligation shall be maintainable by the Management Committee without foreclosing or waiving the lien securing the same.

o. No Waiver. No Owner may waive or otherwise exempt himself from liability for the Assessments provided for herein, including but not limited to the non-use of Common Areas and Facilities or the abandonment of his Unit.

p. Statement of Account. Upon Payment of a reasonable fee not to exceed ten and no/100ths dollars (\$10.00) and upon written request of any Owner or any Mortgagee, prospective Mortgagee or prospective purchaser of a Unit, the Management Committee shall issue a written statement setting forth the amount of the unpaid Assessments, if any, with respect to such Unit, the amount of the current yearly assessment and the portion thereof which has theretofore been paid; credit for advanced payments or prepaid items, including, but not limited to an Owner's share of prepaid Insurance premiums and such statement shall be conclusive upon the Management Committee in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within ten (10) days, all unpaid Assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligations of the purchaser shall be released automatically, if the statement is not furnished within the ten (10) day period provided herein and thereafter an additional written request is made by such purchaser and is not complied with within ten (10 ) days thereafter, and the purchaser subsequently acquires the Unit.

q. Superiority of Assessments. All Assessments against a Unit and Owner, and all liens created to secure the debt, are superior to any homestead exemptions to which an Owner may be entitled. By accepting a deed or other document of conveyance to a Unit, each Owner expressly agrees to waive or subordinate said exemptions.

r. Termination of Right to Use Amenities for Non-Payment. At the discretion of the Committee, the right to use any amenities in the Project, including but not limited to all common recreational facilities may be terminated if the Owner is in arrears on his obligation to pay his share of the Common Expenses or any other Assessments and has failed to cure or make satisfactory arrangements to cure the default after reasonable written notice of at least ten (10) days.

s. Suspension of Right to Vote for Non-Payment. At the discretion of the Committee, the right of an Owner to vote on issues concerning the Association may be suspended if the Owner is not in good standing (i.e., delinquent in the payment of his portion of the Common Expenses, any Assessments, etc.), and has failed to cure or make satisfactory arrangements to cure the default after reasonable written notice of at least ten (10) days.

20. Liability of Management Committee. The Association shall indemnify each and every officer and Member of the Management Committee against any and all expenses, including but not limited to attorney's fees reasonably incurred by or imposed upon any officer or Member of the Committee in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Committee) to which he may be a party by reason of being or having been an officer or Member of the Committee. The officers and Members of the Committee shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and Members of the Committee shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or members of the Committee may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and member of the Committee free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall be exclusive of any other rights to which any officer or member of the Committee, or former officer or member of the Committee, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officer's and director's insurance coverage to fund this obligation, if such insurance is reasonably available.

21. Kinds of Units. There are two (2) kinds of Units in the Project capable of independent ownership, conveyance, transfer and use described more particularly below; provided, however, a Parking Unit may only be vested in or conveyed to the Owner of a residential Unit:

a. Residential Units. Each of the forty-eight (48) Apartment Units in the Project is intended to be used for single family residential housing and is restricted to such use.

b. Parking Units. Each of the forty-nine (49) open or covered Parking Units are intended to be used only as motor vehicle parking spaces and are restricted to such use.

Each Residential and Parking Unit Owner shall be entitled to the exclusive ownership and

possession of his Unit, to an undivided percentage of Ownership interest in the Common Areas, and to membership in the Association as set forth herein and subject to the following:

22. Nature and Restrictions on Ownership and Use in General. Each Owner shall have and enjoy the privileges of fee simple ownership of his Unit. There shall be no requirements concerning who may own a Unit, it being intended that they may and shall be owned by Persons as any other property right or interest. The Common Areas and Facilities shall only be used in a manner consistent with the residential nature of the Project.

a. Title to the Common Area. Each Owner shall be entitled to a percentage of undivided ownership interest in and to the Common Areas and Facilities, free and clear of all liens (other than current years taxes, if any).

b. Mandatory Association. Each Owner by receiving a deed or other document of conveyance to a Unit shall automatically become a Member of the Association and such membership may not under any circumstances be partitioned from the Unit and any attempt to do so shall be void.

c. Member's Easements and Rights of Way. Every Member of the Association shall as an Owner have the right and non-exclusive easement to use and enjoy the Common Area and Facilities, which right and easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following restrictions:

- (1) The right of the Association to limit the number of guests and invitees;
- (2) The right of the Association to adopt administrative rules and regulations from time to time governing the Project;
- (3) The right of the Association to suspend the voting privileges;
- (4) After notice and hearing, the right of the Association to suspend the privilege to use the common facilities and recreational amenities by an Owner or Resident for: (a) any period during which his portion of the Common Expenses or the payment of any fine or other Assessment remains delinquent, and (b) a reasonable period, not to exceed thirty (30) days for any infraction of the Project Documents;
- (5) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for the purpose of providing utilities and similar or related purposes. During the Developer's period of development of the Project, any such dedication or transfer shall be effective only if approved in writing by the Declarant; and
- (6) The right of the Association to assign or lease overflow or excess parking spaces to Residents, to charge a reasonable admission or other fee for the use of any

recreational facility situated upon the Common Area, or to charge a move-in/move-out fee.

23. Restrictions and Limitations of Use. The use of the Units, of whatever kind, is subject to the following guidelines, limitations and restrictions:

(a) Parties Bound. All provisions of the Declaration, By-Laws, Rules and Regulations shall be binding upon all Owners and Residents, their families, guests and invitees.

(b) Obstructions Prohibited. There shall be no obstruction of the Common Areas or Facilities by the Owners or Residents, or their guests and invitees, without the prior written consent of the Management Committee.

(c) Nuisance. It shall be the responsibility of each Owner and Resident to prevent the creation or maintenance of a nuisance in, on or about the Project. It shall also be the responsibility of each Owner and Resident to abate promptly any nuisance which may have been created. For purposes of this subsection, the term "nuisance" means at least:

a) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about his Unit or the Common Areas and Facilities;

b) The storage of any item, property or thing that causes any Unit or the Common Area or Facilities to appear to be in an unclean or untidy condition or that will be noxious to the senses;

c) The storage of any substance, thing or material upon any Unit or in the Common Areas and Facilities that emits any foul, unpleasant or noxious odors, or that causes any noise or other condition that disturbs or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;

d) The creation or maintenance of any noxious or offensive condition or activity in or about any Unit or the Common Areas and Facilities;

e) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invitees, particularly if the police or sheriff must be called to restore order;

f) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community by other residents, their guests or invitees;

g) Too much noise in, on or about any Unit or the Common Area and Facilities, especially after 10:00 p.m. and before 8:00 a.m.; and



h) Too much traffic in, on or about any Unit or the Common Area and Facilities, especially after 10:00 p.m. and before 8:00 a.m.

(d) Unsanitary Work, Hobbies or Unkempt Condition. The pursuit of hobbies or other activities, including but not limited to the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Project.

(e) Removing Garbage, Dust & Debris. All rubbish, trash, refuse, waste, dust, debris and garbage shall be regularly removed from the Unit and shall not be allowed to accumulate thereon.

(f) Subdivision of a Unit. No Unit shall be subdivided or partitioned.

(g) Firearms, Incendiary Devices and Graffiti. The use of firearms and incendiary devices, or the painting or graffiti, within the Project is prohibited. The term firearms includes but is not limited to all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size.

(h) Temporary Structures. No Owner or occupant shall place upon any part of the Project any temporary structures including but not limited to tents, trailers, or sheds, without the prior written consent of the Committee.

(i) Energy Conservation Equipment. No solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed on the Project without the prior written consent of the Committee.

(j) Business Use. No commercial trade or business may be conducted in or from any Unit unless: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; (b) the business activity conforms to all zoning requirements for the Project; (c) the business activity does not involve persons coming onto the Project who do not reside in the Project or door-to-door solicitation of residents of the Project; and (d) the business activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Project, as may be determined in the sole discretion of the Committee. Notwithstanding the above, the leasing of a residence shall not be considered a trade or business within the meaning of this sub-Section.

(k) Aerials, Antennas, and Satellite Systems. No aerials, antennas, satellite dishes, or satellite systems (hereinafter referred to collectively as "Satellite Dish") shall be erected, maintained or used in, on or about any Unit, the Common Areas, outdoors and above ground, whether attached to a building, structure, the exterior of a Unit or otherwise, within the Project

without the prior written consent of the Management Committee which shall not be unreasonably withheld and shall be consistent and in compliance with all applicable local, state and federal laws and ordinances.

(l) Window Coverings. No-aluminum foil, newspapers, reflective film coatings, or any other similar materials may be used to cover the exterior windows of any residential structure on a Unit. Sun shades and tinted windows are allowed.

(m) Windows. All windows and window panes in the Project shall be harmonious, and comparable in size, design and quality so as not to detract from uniformity in appearance and quality of construction.

(n) Pets. Pets are not permitted.

(o) Insurance. Nothing shall be done or kept in, on or about any Unit or in the Common Areas and Facilities or Limited Common Areas which may result in the cancellation of the insurance on the Property or an increase in the rate of the insurance on the Property, over what the Management Committee, but for such activity, would pay.

(p) Laws. Nothing shall be done or kept in, on or about any Unit or Common Areas and Facilities, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

(q) Damage or Waste. No damage to, or waste of, the Common Areas and Facilities or Limited common Areas or shall be committed by any Owner or Resident, their guests or invitees; and each Owner and Resident shall indemnify, save and hold the Management Committee and the other Owners in the Project harmless against all loss resulting from any such damage or waste caused by that Owner or Resident, their guests or invitees; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee or any other Owner.

(r) Structural Alterations. Except in the case of an emergency repair, no structural alterations, including any plumbing, electrical or similar utility work, within or to the Common Areas and Facilities or Limited Common Areas shall be done or permitted by any Owner without the prior written consent of the Management Committee.

(s) Fireplaces. Unless otherwise approved by the Management Committee in writing, only natural gas and manufactured logs may be used in fireplaces.

24. Leases. Any agreement for the leasing, rental, or occupancy of a Unit (hereinafter in this Section referred to as a "lease") shall be in writing and a copy thereof shall be delivered to the Association before the term of the Lease commences. Every lease shall provide that the terms of such lease shall be subject in all respects to the provisions of the Project Documents and that any

failure by the tenant or occupant to comply with the terms of the foregoing documents shall be deemed to constitute a material default under the lease. If a lease does not contain the foregoing provision, then such language shall nevertheless be deemed to be a part of the lease and binding on the Owner and tenant or occupants by virtue of their inclusion in this Declaration. No Owner shall be permitted to lease his Unit for transient, hotel, seasonal, corporate or executive use purposes, which shall be deemed to be any rental with an initial term of less than six (6) months or occupancy by more than one single family during the six (6) month period or any extension thereof. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons or less than his entire Unit. Any Owner who shall lease his Unit shall be responsible for assuring compliance by the Resident with the Project Documents. Failure by an Owner to take legal action, including the institution of an eviction proceeding against a Resident who is in violation of the Project Documents within ten (10) days after receipt of written demand so to do from the Committee, shall entitle the Association to take any and all such action including the institution of eviction proceedings for and in behalf of such Owner against his Resident. Neither the Association nor any agent retained by the Association to manage the Project shall be liable to the Owner or Resident for any eviction instituted pursuant hereto and in good faith. Any costs and expenses incurred by the Association, including attorneys' fees, shall be deemed to be an Individual Assessment. The amount of said Individual Assessment is the debt of the Owner at the time the assessment is made and is collectible as such. If any Owner fails or refuses to pay said expenses when due, that amount constitutes a lien on the interest of the Owner in the Property.

25. Insurance. The Management Committee shall, if reasonably available, at all times purchase, maintain in force, and pay the premiums for insurance on the Common Areas and Facilities satisfying at least the following requirements:

a. Property Insurance. Blanket property insurance using the standard "Special" or "All-Risk" building form. Loss adjustment shall be based upon replacement cost. For purposes of this sub-section, the term "casualty insurance" shall not mean or refer to "earthquake" or other special risks not included in the standard condominium casualty policy. This additional coverage may be added by the Committee as it deems necessary in its best judgment and in its sole discretion.

b. Flood Insurance. If the property is or comes to be situated in an area having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program ("NFIP"), or any successor program, a policy of flood insurance shall be maintained covering the property in an amount deemed appropriate, but not less than the lesser of: (1) the maximum limit of coverage available under NFIP for Insurable Property within a designated flood hazard area; or (2) one hundred percent (100%) of current replacement cost of the Insurable Property. Such policy shall be in a form which meets the criteria set forth in the most current Guidelines on the subject issued by the Federal Insurance Administrator.

c. Liability Insurance. Liability insurance with adequate limits of liability for

bodily injury and property damage. If possible, the policy should be written on the comprehensive form and shall include not-owned and hired automobile liability protection.

d. Director's and Officer's Insurance. Adequate director's and officer's liability insurance (aka Errors and Omissions or E & O insurance).

e. Fidelity Bond. At its option, the Management Committee may elect to purchase and maintain a separate fidelity bond in a reasonable amount to be determined by the Committee to cover all non-compensated officers as well as all employees for theft of Association funds, provided:

(1) Agents. Where the Committee or the Association has delegated some or all of the responsibility for the handling of funds to a management agent, the bond shall also cover the management agent's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Committee or the Association.

(2) Amount of Coverage. The total amount of fidelity bond coverage shall be based upon the Committee's best business judgment, but shall not be less than the estimated maximum amount of funds, including reserve funds, in the custody of the Committee, the Association, or the management agent, as the case may be, at any given time during the term of each bond. Nevertheless, in no event may the amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Units, plus reserve funds.

(3) Quality of Coverage. Any bonds purchased shall meet the following additional requirements: (a) they shall name the Committee, the Owners Association, and the Property Manager as obligee; (b) if the insurance contract or bond excludes coverage for damages caused by persons serving without compensation, and may use that exclusion as a defense or reason not to pay a claim, the insurance company shall, if possible, be required to waive that exclusion or defense; (c) the premiums on all bonds required herein for the Committee and the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Committee or the Association as part of the Common Expenses; and (d) the bonds shall provide that they may not be canceled or substantially modified, including cancellation for nonpayment of premium, without at least ten days' prior written notice to the Committee and the Association, to any Insurance Trustee, and to each service of loans on behalf of any Mortgagee, the VA, FHA and FNMA.

f. Earthquake Insurance shall not be required unless requested by a least seventy five percent (75%) of the Members of the Association.

g. The Insured. The name of the insured under each policy required to be maintained hereby shall be set forth therein substantially as follows: "THE PANORAMA CONDOMINIUS HOMEOWNERS ASSOCIATION, INC, for the use and benefit of the individual Owners."

h. Designated Representative. The Association may designate an authorized representative of the Association, including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such Trustee, for the use and benefit of the individual Owners.

i. Beneficiary. In any policy covering the entire Project, each Owner and his Mortgagee, if any, shall be beneficiaries of the policy in an amount equal to the Owner's percentage of undivided ownership interest in the Common Areas and Facilities.

j. Certificate of Insurance. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

k. Mortgage Provisions. Each policy shall contain a standard mortgage clause or its equivalent and shall provide that the policy may not be canceled or substantially modified without at least ten (10) days prior written notice to the Association and to each Mortgagee.

l. Waiver of Subrogation. Each policy shall contain a waiver of the right of a subrogation against Owners individually;

m. Individual Neglect. Each policy shall contain a provision that the insurance is not prejudiced by any act or neglect of any individual Owner; and

n. Deductible. The deductible on a claim made against the Association's liability insurance policy shall be paid by the party who would be liable for the loss, damage, claim or repair in the absence of insurance, and in the event of multiple responsible parties, the loss shall be allocated in relation to the amount each party's responsibility bears to the total. Provided, however, if the loss is caused by an act of god or nature, or by an element beyond the control of the Association, then the Owner shall be responsible for and shall pay the deductible.

o. Individual Insurance. Each Owner shall purchase and maintain adequate liability, property and contents insurance coverage. No Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association, on behalf of all the Owners and their mortgagees, may realize under any insurance policy which the Association may have in force on the Property at any particular time.

p. Primary Coverage. Anything to the contrary notwithstanding, the insurance coverage of an Owner shall, in the event the Association also has insurance covering the loss, be primary and the insurance of the Association shall be secondary.

q. Prompt Repair. Each Owner further covenants and agrees that in the event of any partial loss, damage or destruction of his Unit, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction.

r. Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed to repair promptly and reasonably the damages. Any excess proceeds shall be paid and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Payment to any Owner whose Unit is the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

s. Special Endorsements. Each policy shall also contain or provide those endorsements commonly purchased by other Condominium Homeowners Associations in Salt Lake County, Utah.

t. Quality of Insurance Carrier. Each insurance policy required hereby shall be written by an insurance carrier licensed to transact business in the State of Utah and who has the highest rating by Best's Key Rating Guide.

u. Restrictions on Policies. No such insurance policy shall be maintained where:

1) Individual Assessments Prohibited. Under the term of the carrier's charter, By-Laws, or policy, contributions may be required from, or assessments may be made against, an Owner, a borrower, a Mortgagee, the Management Committee, the Association, FNMA, or the designee of FNMA.

2) Payments Contingent. By the terms of the Declaration, By-Laws, or policy, payments are contingent upon action by the carrier's board of directors, policyholder, or member; or

3) Mortgagee Limitation Provisions. The policy includes any limited clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Committee, the Association, an Owner, FNMA, or the borrowers) from collecting insurance proceeds.

v. Intent. The foregoing provisions shall not be construed to limit the power or authority of the Association, Management Committee or Owners to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder on behalf of, the Committee or the Association.

26. Casualty Damage or Destruction. The following provisions apply in the event of the partial or total destruction of the Project:

a. Attorney in Fact. All of the Owners irrevocably constitute and appoint the Management Committee their true and lawful agent in their name, place and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed or any other document of conveyance to a Unit shall constitute appointment of the attorney in fact herein provided.

b. Authority. As attorney in fact, the Management Committee shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of a Unit Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements, as used in the succeeding subparagraphs mean restoring the Project to substantially the same, condition in which it existed prior to damage, with each Unit and the Common Areas having substantially the same vertical and horizontal boundaries as before.

c. Election of Mortgagees. In the event any Mortgagees should not agree not to rebuild the Project, then the Management Committee shall have the option to purchase such mortgage by payment in full of the amount secured thereby if Owners representing at least eighty percent (80%) of the undivided interest in the Common Areas of the Project are in agreement not to rebuild. The Management Committee shall obtain the funds for such purpose by Special Assessment, in the manner set forth above.

d. Estimates and Bids. As soon as practicable after an event causing damage to, or destruction of, any part of the Project, the Management Committee shall obtain two estimates that it deems reliable and complete of the costs of repair or reconstruction of that part of the Project damaged or destroyed.

e. Prompt Repair. As soon as practicable after receiving these estimates, the Management Committee shall diligently pursue to completion the repair or reconstruction of the part of the Project damaged or destroyed if the Project is damaged or destroyed to the extent of seventy-five percent (75%) or less then the value thereof. The Management Committee may take all necessary or appropriate action to effect repair or reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith. Such repair or reconstruction shall be substantially in accordance with the original plans and specifications with any other plan and specifications of the Project or may be in accords and specifications the Owners may approve, provided that in such latter event the number of cubic feet and the number of square feet of any Unit may not vary by more then five percent (5%) from the number of cubic feet and the number of square feet for such Unit as originally constructed pursuant to such original plans and specifications, and the location of the building shall be substantially the same as prior to damage or destruction. The same easements for encroachments as declared above shall and do hereby apply under the provisions of this Section. In the event the Project is destroyed or damaged to the extent of more than seventy-five percent (75%) of the value thereof, the Unit Owners shall, at a meeting within one hundred (100) days after such damage or destruction duly called by the Management Committee for the purpose, determine whether or not said promises should be rebuilt, repaired or disposed of. Unless Owners representing not less then eighty percent (80%) percent of the undivided interests in the Common Areas agree to the withdrawal of the Project from the provisions of the Act and to its subsequent disposal, the premises shall be repaired, rebuilt or restored to substantially the same condition they were in immediately prior to such destruction or damage.

f. Insurance Proceeds. The proceeds of any insurance collected shall be available to the Management Committee for the purpose of repair or reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Management Committee may levy in advance a special assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such assessment shall be allocated and collected as provided in that paragraph. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

g. Disbursements of Insurance Funds. The insurance proceeds held by the Management Committee and the amounts received from the assessments provided above constitute a fund for the payment of cost of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost of repair or reconstruction shall be made from insurance proceeds if there is a balance after payment of all costs of such repair or reconstruction, such balance shall be distributed to the Unit owners in proportion to the contributions each Owner made pursuant to the assessments the Management Committee made under subparagraph (f) above.

h. Removal from Act. If eighty percent (80%) or more of the Owners of the undivided ownership interest in the Project and all holders of first Mortgages on Units agree not to rebuild, as provided herein, the Project may be removed from the provisions of the Act as prescribed therein.

27. Termination of Legal Status of Project. The termination of the legal status of the Project for reasons other than substantial destruction or condemnation of the Property must be agreed to by all of the Unit Owners and by Eligible Mortgagees holding at least sixty-seven (67%) percent of the votes of the mortgaged Units. Approval shall be implied, however, when an Eligible Mortgagee fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

28. Duty of Owner to Pay Taxes on Unit Owned. It is understood that under the Act each Unit (and its percentage of undivided ownership interest in the Common Areas) in the Project is subject to separate assessment and taxation of each taxing authority and the special district(s) for all types of taxes and assessment authorized by law, and that as a result thereof no taxes will be assessed or levied against the Project as such. Accordingly, each Unit Owner will pay and discharge any and all taxes and assessments which may be assessed against him on his Unit.

29. Amendment of this Declaration Must Be In Writing and Recorded. All amendments to the Declaration approved by the Unit Owners must be in writing and shall be effective upon recordation in the Office of the County Recorder of Salt Lake County, Utah.



30. Consent in Lieu of Vote. In any case in which this Declaration requires the vote of an Owner for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such act or transaction from Owners who collectively hold the required percentages, subject to the following conditions:

a. Ninety-Day Limit. All necessary written consents must be obtained prior to the expiration of ninety (90) days from the date the first written consent is obtained; and

b. Change In Ownership. Any change in ownership of a Unit which occurs after a written consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose and the written consent of the new Owner must be obtained.

31. Mortgagee Protection. The lien or claim against a Unit for unpaid Common Expenses or any Assessment shall be subordinate to any Mortgage recorded on or before the date such payment or Assessment becomes due, subject to the following:

a. Effects of Voluntary and Involuntary Sale. The lien or claim against a Unit for such unpaid Common Expenses or Assessments shall not be affected by any sale or transfer of such Unit, except that a sale or transfer pursuant to a foreclosure of the Mortgage affecting such Unit or the exercise of a power of sale available thereunder shall extinguish any debt payable prior to such sale or transfer. Nevertheless, a lien securing any such unpaid Common Expenses or Assessments which is extinguished in accordance with the foreclosure or power of sale laws in Utah shall not relieve the purchaser or transferee of such Unit from personal liability for, nor shall it relieve such Unit from a lien securing payment of any Common Expenses or Assessments which become due thereafter.

b. Books and Records Available for Inspection. The Committee or the Association shall make available to the Owners, Mortgagees, lenders, holders, insurers, or guarantors of any Mortgage current copies of the Project Documents as well as the books, records, and financial statements of the Committee and the Association, at cost. The term "Available", as used in the Paragraph, shall mean reasonably available for inspection upon request during normal business hours or under other reasonable circumstances. The Association shall have the right to recover its out of pocket costs, photocopying and service charges incurred in making the inspection and photocopying available.

c. Right to Financial Statement. The holder, insurer or guarantor of any Mortgage shall be entitled, upon written request, to a copy of the financial statement for the

Association and/or Management Committee for the immediately preceding fiscal year. Any financial statement requested pursuant hereto shall be furnished to the requesting party within a reasonable time following such request.

d. Management Contracts. Any agreement for professional management of the Project, and any contract for goods or services, or any lease which is entered into by the Management Committee or the Association shall provide or be deemed to provide hereby that either party may terminate the contract with or without cause upon at least thirty (30) days prior written notice to the other party thereto. No contract shall have an initial term greater than one (1) year.

e. Eligible Mortgagee Designation. Upon written request to the Committee or the Association by the holder, insurer, or guarantor of a Mortgage (which request identifies the name and address of such holder, insurer or guarantor and the Unit Number or address of the property encumbered by the Mortgage held or insured by such holder, insurer, or guarantor), such holder insurer, or guarantor shall be deemed thereafter to be an "Eligible Mortgagee" or "Eligible Insurer" or "Eligible Guarantor," as the case may be, shall be included on the appropriate lists maintained by the Association, and shall be entitled to timely written notice of any of the following:

(1) Condemnation Loss or Award. Any condemnation loss or any casualty loss which affects a material portion of the Project or any Unit on which there is a Mortgage held, insured, or guaranteed by such Eligible Insurer or Guarantor.

(2) Delinquency. Any delinquency in the payment of Common Area Assessments owed by an Owner of a Unit subject to a Mortgage held, insured or guaranteed by such Eligible Insurer or Guarantor, which delinquency remains uncured for a period of sixty (60) days.

(3) Lapse of Insurance. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Committee or the Association.

(4) Consent Required. Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees.

g. No Right of First Refusal. The right of an Owner to sell, transfer, or otherwise convey his Unit shall not be subject to any right of first refusal or similar restriction.

32. Security. The Association is not the guarantor or insurer of the safety of Residents of the Project. The Management Committee may, but shall not be obligated to, maintain or support certain activities within the Project designed to make the Project safer than it otherwise might be. Neither the Association nor the Management Committee shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All Owners and Residents as well as their guests and invitees acknowledge that neither the Association nor the Committee represent or warrant that any security measures undertaken will insure their safety. All Owners and residents as well as their guests and invitees,

acknowledge and understand that the Association and Committee are not insurers of their safety and they hereby expressly assume all risks for loss or damage to their person or property and further acknowledge that the Association and Committee have made no representations or warranties, nor have they relied upon any representations or warranties, expressed or implied, including any warranty or merchantability or fitness for any particular purpose, relative to any security measures undertaken or to be undertaken within the Project.

33. Service of Process. The name of President of the Association is the person to receive service of process in the cases contemplated by the Act and the office of the Registered Agent of the Association is 8 Hillside Avenue, Salt Lake City, Utah 84108.

34. Amendment. The affirmative vote of at least sixty seven percent (67%) of the undivided ownership interest in the Common Areas and Facilities shall be required and shall be sufficient to change the legal status of the Project or to amend the Declaration or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Management Committee. In such instrument the Committee shall certify that the vote required by this Section for amendment has occurred, and, if approval of a specified percentage of Eligible Mortgagees is required for such amendment, that such approval has been obtained. The foregoing right of amendment shall, however, be subject to the following:

a. Consent of Eligible Mortgagee. Any amendments of a material nature must be agreed to by Eligible Mortgagees holding at least fifty one (51%) percent of the undivided ownership interest in the Common Areas and Facilities. A change to any of the provisions governing the following shall be considered as material:

- (1) voting rights;
- (2) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or priority of assessment liens;
- (3) reductions in reserves for maintenance, repair, and replacement of common elements;
- (4) responsibility for maintenance and repairs;
- (5) reallocation of interests in the general or limited common elements, or right to their use;
- (6) redefinition of any unit boundaries;
- (7) convertibility of units into common elements or vice versa;

(8) expansion or contraction of the project, or the addition, annexation, or withdrawal of property to or from the project;

(9) hazard or fidelity insurance requirements;

(10) imposition of any restrictions on the leasing of Units in a manner other than that specified herein;

(11) imposition of any restrictions on a unit owner's right to sell or transfer his unit;

(12) restoration or repair of the project (after damage or partial condemnation) in a manner other than that specified herein; or

(13) any provisions which expressly benefit mortgage holders, insurers, or guarantors.

b. Clerical Errors. Any addition or amendment shall not be considered material for purposes of this section if it is for the clarification only or to correct a clerical error.

c. Notice. Notice of any proposed amendment to any Eligible Mortgagee to whom a written request to approve an addition or amendment to this Declaration or the Survey Map is required shall be mailed postage prepaid to the address for such Mortgagee shown on the list maintained by the Association. Any Eligible Mortgagee who does not deliver to the Committee or the Association a negative response to the notice of the proposed amendment within thirty (30) days from the date of such mailing shall be deemed to have approved the proposal.

d. Exceptions. The foregoing consent requirements shall not be applicable to amendments to this Declaration and the Survey Map or the termination of the legal status of the Project as a condominium if such amendments or such termination are made or accomplished in accordance with the provisions of this Declaration regarding Condemnation or Substantial Obsolescence.

34. Notice and Hearing. In the event of a claimed violation of the Project Documents governing the Project, an Owner or Resident shall be entitled to the following before any fine, suspension or decision of the Management Committee becomes final:

a. Notice. Written notice specifying the nature of the alleged violation (providing any other appropriate information) and stating the time, date, and place at which the Owner or Resident will have an opportunity to be heard by the Committee. Written notice shall be given at least fifteen (15) days prior to and no longer than thirty (30) days before the date set for the hearing. The notice may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after it has been deposited with

the U.S. Postal Service, regular mail, postage prepaid, addressed to the Owner or Resident at the address given by the member to the Committee for the purpose of service of notice, or to the address of the Owner's or Resident's Unit if no other address has been provided. The address of an Owner or Resident for purposes of notice may be changed from time to time by delivery of written notice to the Committee.

b. Costs & Assessments. If the violation, or the failure to correct or remedy a violation, results or may result in the expenditure of funds, the notice shall also state that the Management Committee may vote to assess the adverse party, levy a fine, or impose other sanctions if the Committee finds that a violation has occurred.

c. Final Determination. After the hearing has taken place, the Committee shall determine whether a violation has occurred and, if so, the Committee may: (1) levy an Assessment or impose conditions which shall become effective not less than five (5) days after the date of the hearing; or (2) take such other action as it may deem appropriate.

The determination of the Committee shall be final. Nothing herein shall be construed to prevent the Committee from making any emergency repairs or taking any other emergency action it deems necessary and subsequently providing notice to an Owner or Resident and the opportunity to be heard.

35. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Association, all other signatories hereto, all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Each Owner or occupant of a Unit shall comply with, and all interests in all Units shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Unit in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

36. Enforcement and Right to Recover Attorney's Assessments. Should the Association or Committee be required to take action to enforce or construe the Project Documents, or to pursue any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise, they may recover all of their Additional Charges, including a reasonable attorney's fee, which may arise or accrue.

37. Mechanics Liens. Mechanics liens shall be filed in the office of the County Recorder of Salt Lake County as follows:

a. Goods or Services Provided to the Association. Mechanics liens for labor, materials or supplies purchased by the Association shall be filed against ALL UNITS in the

Project and their appurtenant interest in the Common Area, and shall be indexed in the public records under the name of the Association and Community. If the Association has encumbered the Common Areas and thereafter defaults on its obligations, the lienholder must exercise its rights against the Common Areas before it may proceed against any particular Unit. Any Owner wishing to release that lien as to his Unit may pay the pro rata share of the total amount of the lien and that shall be sufficient to release the lien against his Unit.

b. Goods or Services Provided to a Unit. Mechanics liens filed for labor, materials or supplies benefitting a particular Unit shall be filed against that Unit and its appurtenant interest in the Common Area.

c. Constructive Consent. Any person or entity who elects to perform labor or provide materials at this Project agrees to be bound by and subject to the terms of this Section.

38. Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

39. Severability. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

40. Topical Headings. The headings appearing at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define or otherwise affect the content, meaning or intent of this Declaration or any paragraph or provision hereof.

41. Second Hand Smoke. Smoking or the use of tobacco products is not prohibited in the Building or the Units; provided, however, the Association expressly reserves the right to prohibit smoking or the use of tobacco products in the Project or any part thereof, although the Unit Owners and Residents shall be given at least thirty (30) days prior written notice of any change in policy. In addition:

a. Nuisance Defined. Utah Code Annotated, Section 76-3-203.1 (1997) defines a "nuisance" so as to include tobacco smoke that drifts into any Unit a person rents, leases or owns from another Unit more than once in each of two (2) or more consecutive seven (7) day periods which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. The Association adopts this definition until such time as it is amended or repealed by the Utah legislature at which time this definition shall be similarly and automatically amended or repealed.

b. Release and Waiver & Indemnity. By accepting a deed or other document of conveyance to a Unit, each Owner hereby expressly waives, releases and forever discharges the Association, Management Committee and Members of the Management Committee from any and all claims, suits, actions, debts, damages, costs, charges and expenses, including court costs and attorney's fees, arising out of or related to any claim or demand that the Association or Management Committee abate or attempt to abate any alleged nuisance caused by smoking tobacco products.

c. Indemnity. By accepting a deed or other document of conveyance to a Unit, each Owner hereby expressly agrees to and shall indemnify, save and hold the Association harmless from any and all liability, loss or damage arising out of or caused by any claims, suits, actions, debts, damages, costs, charges and expenses, including court costs and attorney's fees, arising out of or related to any claim or demand that the Association or Management Committee abate or attempt to abate any alleged nuisance caused by smoking tobacco products.

d. Reservation of Right of Action. Anything to the contrary notwithstanding, the right of action of a Unit Owner or resident created by Utah Code Annotated, Section 78-38-1 (1997) against another Unit Owner or Resident who creates a nuisance by generating tobacco smoke is expressly recognized and reserved, conditioned upon the existence of the statutory remedy or its equivalent.

e. Structural Alterations. Upon receipt of a written application in satisfactory form, the Association shall approve any reasonable structural alterations to the Common Areas and Facilities necessary to abate such a nuisance provided the structural alterations: (a) do not impair or threaten to impair the structural integrity of the Building, any Unit or any physical improvements to the Property, (b) do not materially alter the nature of the Project, (c) do not damage or threaten to damage the Building, another Unit or any physical improvements to the Property, (d) are paid for by the Unit Owner or Resident, and (e) the Owner signs a written perpetual maintenance agreement in a form satisfactory to the Management Committee.

f. Delivery of Copy of Project Documents to Purchaser or Resident. By accepting a deed or other document of conveyance to a Unit, each Unit Owner promises and agrees, when he sells, rents or leases his Unit, to deliver a copy of the Project Documents to the buyer, renter, tenant, lessee or resident, and further promises to ask said person to sign a "Second Hand Smoke Waiver" in the form of Exhibit "D" attached hereto and incorporated herein by this reference.

42. Effective Date. This Declaration shall take effect upon recording in the office of the County Recorder of Salt Lake County, Utah.

Dated this 12th day of January, 1999.

PANORAMA CONDOMINIUMS HOMEOWNERS ASSOCIATION, INC.

By: Dennis N. Peterson  
Title: Dennis N. Peterson, President

By: Nelje van der Welken  
Title: Nelje Vanderwekken, Secretary

STATE OF UTAH                    )  
  ss.  
COUNTY OF SALT LAKE        )

On the 12 day of January, 1999, personally appeared before me Dennis N. Peterson and Nelje Vanderwekken, who being by me duly sworn did say, each for himself or herself, that she, the said Dennis N. Peterson is the President, and the said Nelje Vanderwekken is the Secretary of the PANORAMA HOMEOWNERS ASSOCIATION., a Utah Corporation, and that the foregoing instrument was signed on behalf of said Corporation by authority of a resolution of its Board of Directors, and said Dennis N. Peterson and Nelje Vanderwekken duly acknowledged to me that said Corporation executed the same.

[Signature]  
NOTARY PUBLIC  
Residing at:  
My Commission Expires:

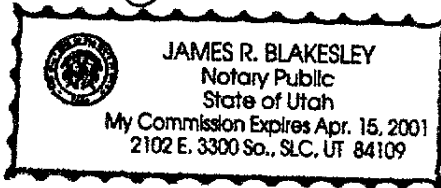




EXHIBIT "A"  
PANORAMA CONDOMINIUMS RESIDENTIAL UNITS:

<u>UNIT NO.</u>	<u>PERCENTAGE OF OWNERSHIP</u>
101	1.52
102	1.39
103	1.39
104	1.45
105	1.72
201	1.66
202	1.45
203	1.45
204	1.51
205	1.66
206	1.32
207	1.32
208	2.28
301	1.73
302	1.52
303	1.52
304	1.66
305	1.80
306	1.39

<u>UNIT NO.</u>	<u>PERCENTAGE OF OWNERSHIP</u>
307	1.39
308	2.39
401	1.87
402	1.59
403	1.59
404	1.73
405	1.94
406	1.52
407	1.52
408	2.43
501	1.94
502	1.66
503	1.66
504	1.80
505	2.01
506	1.59
507	1.59
508	2.49
601	3.06
602	3.13
603	2.28

<u>UNIT NO.</u>	<u>PERCENTAGE OF OWNERSHIP</u>
604	1.73
605	3.34
701	3.13
702	3.13
703	2.28
704	1.73
705	3.34
Penthouse	5.05
SUBTOTAL:	94.65%

PARKING STALL UNITS

<u>UNIT NO.</u>	<u>PERCENTAGE OF OWNERSHIP</u>
1	.13
2	.13
3	.13
4	.13
5	.13
6	.13
7	.13
8	.13
9	.13
10	.13
11	.13
12	.13
13	.13
14	.10
15	.13
16	.13
17	.13
18	.13
19	.13

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<u>UNIT NO.</u>	<u>PERCENTAGE OF OWNERSHIP</u>
20	.10
21	.10
22	.13
23	.13
24	.13
25	.13
26	.13
27	.13
28	.13
29	.13
30	.13
31	.13
32	.13
33	.13
34	.13
35	.13
36	.13
37	.13
38	.06
39	.06
40	.06

<u>UNIT NO.</u>	<u>PERCENTAGE OF OWNERSHIP</u>
41	.06
42	.06
43	.06
44	.06
45	.06
46	.06
47	.04
48	.04
49	.04
SUBTOTAL:	5.35%
TOTAL:	100.00%

EXHIBIT "B"

AMENDED AND RESTATED BY-LAWS  
OF THE  
PANORAMA CONDOMINIUMS

I  
IDENTITY

These are the By-Laws of the PANORAMA CONDOMINIUM PROJECT.

II  
APPLICATION

All Unit Owners, tenants, or any other person(s) who might use the facilities of the Panorama Condominium in any manner are subject to the Project Documents, including but not limited to the regulations set forth in these By-Laws. The mere use, acquisition or rental of any of the Units or Common Areas and Facilities will signify that these By-Laws are accepted, ratified, and will be complied with by such persons.

III  
ADMINISTRATION

1. Place of Meetings. Meetings of the Unit Owners shall be held in such place within the State of Utah as the Management Committee may specify in the notice, except as herein otherwise specified.

2. Annual Meetings. The annual meeting shall be held at such time and place as the Management Committee shall designate in writing. The notice shall state the day, date, time and place of the meeting. If the Management Committee defaults, then the annual meeting shall be held on the first Tuesday in December of each year; provided, however, that whenever such date falls on a legal holiday, the meeting shall be held on the next succeeding business day, and provided further, that the Management Committee may by resolution fix the date of the annual meeting on such date and at such place as the Management Committee may deem appropriate.

3. Special Meetings. Special meetings of the Unit Owners may be called at any time by written notice served by the Management Committee, or by Unit Owners having at least thirty five (35%) percent of the total votes delivered not less than seven (7) days prior to the date fixed for such meeting. Such meeting shall be held on the Project or such other place as the Management Committee may specify and the notice thereof shall state the place, date, time and matters to be considered.

4. Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered twenty four (24) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to each Unit Owner at the address given by such person to the Management committee or the Manager (or Management Company) for the purpose of service of such notice or to the Unit of such person if no address has been given. Such address may be changed from time to time by notice in writing to the Management Committee or Manager.

5. Quorum. At my meeting of the Unit Owners, the presence in person or by proxy in the aggregate of at least a Majority of the total votes shall constitute a quorum for any and all purposes, except where by express provisions a greater vote is required, in which event a quorum shall be the number required for such vote. In the absence of a quorum the Chairman of the meeting may adjourn the meeting from time to time, without notice other than by announcement at the meeting until holders of the amount of interest requisite to constitute a quorum shall attend. At any such adjourned meeting those Unit Owners present in person or by proxy shall constitute a quorum and any business may be transacted which might have been transacted at the meeting as originally scheduled.

6. Voting. When a quorum, as provided in the Act, is present at any meeting, the vote of Unit Owners representing a Majority of the total vote, present in person or represented by proxy, shall decide any question of business brought before such meeting, including the election of the Management Committee, unless the question is one upon which, by express provision of the statutes, or of these By-Laws, a different vote is required, in which case such express provision shall govern and control the decision of such question. Only Owners or legal representatives of institutional Owners may be proxies. All proxies shall be in writing and in the case of proxies for the annual meeting, they shall be delivered to the Secretary prior to any meeting. Multiple Owners must elect a representative to cast their vote. A vote cast, without objection, by an apparent representative of multiple owners shall be binding upon the parties. Entities may vote by means of an authorized agent.

7. Waivers of Notice. Any Unit Owner may at any time waive any notice required to be given under these By-Laws, by statute or otherwise. The presence of a Unit Owner in person at any meeting of the Unit Owners shall be deemed such waiver, unless the Owner appears for the sole purpose of objecting to the notice given.

#### IV MANAGEMENT COMMITTEE

1. Purpose and Powers. The business, property and affairs of the Association and Project shall be managed and governed by the Management Committee pursuant to the Project Documents. The Management Committee, as it deems advisable may enter into such management agreement or agreements with a third person, firm, partnership, limited liability company, sole proprietorship, corporation or other legal entity to act as the Manager of the Project; provided,



however, the term of the contract may not be for a period in excess of one (1) year and it shall contain a provision that the contract may be terminated for cause upon at least thirty (30) days prior notice, with no termination or severance fee, charge or penalty assessed.

2. **Regular Meetings.** A regular annual meeting of the Management Committee shall be held immediately after the adjournment of each annual Unit Owners' meeting or as soon thereafter as is reasonable. Regular meetings, other than the annual meeting, shall or may be held at regular intervals at such places and at such times as either the President or the Management Committee may from time to time designate.

3. **Special Meetings.** Special meeting of the Management Committee shall be held whenever called by the President, the Vice President, or by three (3) or more members. By unanimous consent of the Management Committee, special meetings may be held without prior notice at any time or place.

4. **Quorum.** A quorum for the transaction of business at any meeting of the Management Committee shall consist of a majority of the Members of the Management Committee then in office.

5. **Compensation.** Members of the Management Committee as such shall not receive any stated salary or compensation; provided that nothing herein contained shall be construed to preclude any member of the Management Committee from serving the Project in any other capacity and receiving compensation therefor.

6. **Waiver.** Before or at any meeting of the Management Committee, any member thereof, may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Management Committee at any meeting thereof shall be a waiver if notice by him of the time and place thereof.

7. **Adjournments.** The Management Committee may adjourn any meeting from day to day or for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty (30) days.

8. **Fidelity Bonds.** The Management Committee may require that all officers and employees of the Management Committee handling or responsible for funds shall be covered at all times by an adequate fidelity bond. The premium on such fidelity bonds shall be paid by the Association.

9. **Order of Business.** The order of business at all meetings of the Association shall be as follows:

- a) roll call;
- b) proof of notice of meeting;
- c) reading and approval of minutes of preceding meeting;

- d) reports of officers;
- e) report of special committees, if any;
- f) election of inspectors of election, if applicable;
- g) election of Committee Members, if applicable;
- h) unfinished business; and
- i) new business.

10. Conduct of Meeting. The President shall, or in his absence the Vice-President, preside over all meetings of the Association; and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted by the meeting as well as record of all transactions occurring thereat.

a) Open Meetings. A portion of each Committee meeting shall be open to all Members of the Association and Residents, but Persons other than Members of the Committee may not participate in any discussion or deliberation unless expressly so authorized by the affirmative request of a Majority of the Members of the Committee present. The Committee shall establish written procedures, policies and guidelines for conducting of its meetings, retiring to executive session, and prohibiting photographs and/or any electronic (video or audio) recordation of the meetings, or any part thereof.

b) Executive Session. The Committee may, with the affirmative approval of a Majority of the Members of the Committee present, adjourn a meeting and reconvene in an Executive Session to discuss and vote upon private, confidential, sensitive or personnel matters, litigation, and orders of business of a similar nature. The nature of any and all business to be considered in an Executive Session shall first be announced in open session.

c) Action Without A Formal Meeting. Any action to be taken at a meeting of the Committee may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all members of the Committee.

11. Vacancies. Vacancies in the Committee shall be filled in the manner set forth in the Declaration.

## V OFFICERS

1. Designation and Election. The principal officers of the Management Committee shall be a President, Vice President, Secretary, and Treasurer, all of whom shall be elected by and from the Management Committee. The Management Committee may appoint an assistant secretary and an assistant treasurer and such other officers as in its judgment may be necessary or desirable. Such election or appointment shall regularly take place at the first meeting of the Management Committee immediately following the annual meeting of the Unit Owners; provided, however that elections of officers may be held at any other meeting of the Management

Committee.

2. Other Officers. The Management Committee may appoint such other officers, in addition to the officers hereinabove expressly named, as it shall deem necessary, who shall have authority to perform such duties as may be prescribed from time to time by the Management Committee.

3 Removal of Officers and Agents. All officers and agents shall be subject to removal, with or without cause, at any time by the affirmative vote of the Majority of the then Members of the Management Committee. A Member of the Committee removed from office or as agent shall remain a Member at large of the Committee unless he resigns or is otherwise removed from the Committee in accordance with the terms and provisions of the Declaration.

4. President. The President shall be the chief executive of the Management Committee, and shall exercise general supervision over the Property and affairs of the Association. He shall sign on behalf of the Association all instruments and contracts of material importance to its business, shall be and perform all acts and things which the Management Committee may require of him. He shall preside at all meetings of the Association and the Management Committee. He shall have all of the general powers or duties which are normally vested in the office of the president of a corporation, including but not limited to, the power to appoint committees from among the Owners from time to time as he may, In his discretion, decide is appropriate to assist in the conduct of the affairs of the Association and Project.

5. Vice President. The Vice-President shall take the place of the Chairman and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Management Committee shall appoint some other member thereof to do so on an interim basis. The Vice-President shall also perform such other duties so shall from time to time be prescribed by the Management Committee.

6. Secretary. The Secretary shall keep the minutes of all meetings of Management Committee and of the Association, he shall have charge of the books and papers as the Management Committee say direct; and he shall in general, perform all the duties incident to the office of Secretary.

7. Treasurer. The Treasurer shall have the responsibility for the funds and securities of the Management Committee and shall be responsible for keeping full and accurate accounts of all receipts and of all disbursements in books belonging to the Management Committee. He shall be responsible for the deposit of all monies and all other valuable effects in the name, and to the credit of, the Management Committee in such depositories as may be from time to time designated by the Management Committee. Monies belonging to the Association may only be deposited by the Treasurer into federally insured institutions and accounts.

8. Compensation. No compensation shall be paid to the officers for their services

as officers. No remuneration shall be paid to an officer for services performed by him for the Management Committee in any other capacity, unless a resolution authorizing such remuneration shall have been unanimously adopted by the Management Committee before the services are undertaken.

## VI ACCOUNTING

1. **Books and Account.** The books and accounts of the Management Committee shall be kept under the direction of the Treasurer and in accordance with the reasonable standards of accounting procedures.

2. **Report.** At the close of each accounting year, the books and records of the Association shall be reviewed by a person or firm (not a Resident of or an Owner in the Project) approved by the Management Committee. Report of such review shall be prepared and submitted to the Owners at or before the annual meeting of the Association; provided, however, that a certified formal audit of the financial statement or statements of the Association by a certified public accountant shall be required if requested by at least seventy five (75%) percent of the undivided ownership interest in the Common Areas. Financial reports, such as are required to be furnished, shall be available at the principal office of the Management Committee or the Manager for inspection at reasonable times by any Unit Owners or Mortgagees.

## VII ADMINISTRATIVE RULES

The Management Committee shall have the power to adopt and establish, by resolution, such building, management and, operational rules and regulations as it may deem necessary for the maintenance, operation, management and control of the Project, and it may from time to time, by resolution, alter, amend, and repeal such rules and regulations. Unit Owners shall at all times obey such rules and regulations and use their best efforts to see that they are faithfully observed by their Lessees and the persons over whom they have, may or should exercise control or supervision, it being clearly understood that such rules and regulations are and shall be binding upon all Unit Owners of the Project. Provisions of the Act pertaining to rules and regulations are incorporated herein by reference and shall be deemed a part hereof. The Management Committee is empowered to assess or levy administrative charges, late fees, default interest, fines, sanctions and citations.

## VIII AMENDMENT OF BY-LAWS

These By-Laws may be amended at any duly constituted meeting of the Unit owners called for that purpose by the affirmative vote of at least a Majority of the total vote.

IX  
FISCAL YEAR

The fiscal year of the Association shall be the calendar year consisting of the twelve (12) month period commencing on January 1 of each year terminating on December 31 of the same year. The fiscal year herein established shall be subject to change by the Committee should it be deemed advisable or in the best interests of the Association.

X  
COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

1. Compliance. These By-Laws are set forth in compliance with the requirements of the Act.
2. Conflict. These By-Laws are subordinate and subject to all provisions of the Act and the Declaration. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration or the Act. In the event of any conflict between these By-Laws and the Act or Declaration, the provisions of the Act or Declaration shall control.
3. Severability. If any provisions of these By-Laws or any section, sentence, clause, phrase, or work, or the application thereof in any circumstance is held invalid, the validity of the remainder of these By-Laws shall not be affected thereby and to this end, the provisions hereof are declared to be severable.
4. Waiver. No restriction, condition, obligation, or provision of these By-Laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.
5. Headings and Captions. The captions contained in these By-Laws are for convenience only and are not part of these By-Laws and are not intended in any way to limit or enlarge the terms and provisions of these by-Laws.
6. Interpretation. Whenever in these By-Laws the context so requires, the singular number shall refer to the plural and the converse; and the use of any gender shall be deemed to include both masculine and feminine.



EXHIBIT "D"

SECOND HAND SMOKE DISCLOSURE & ACKNOWLEDGMENT

COMES NOW the undersigned and acknowledges that (a) s/he has been given a copy of the PANORAMA CONDOMINIUMS Amended and Restated Declaration of Condominium, By-Laws, Rules and Regulations, (b) s/he has been informed that the PANORAMA CONDOMINIUM PROJECT in SALT LAKE COUNTY, UTAH does NOT prohibit smoking or the use of tobacco products now although the Management Committee may elect to do so in the future, and (c) smoke from tobacco products may drift into the Unit s/he is renting, leasing, purchasing or occupying.

\_\_\_\_\_  
(Name - Print)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

WAIVER

The undersigned hereby waives any right to a cause of action for nuisance from smoke from tobacco products under U.C.A., Sections 78-38-1 et. seq. (1997).

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)