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JUL 12 1974

STATE OF ARIZONA
County of Maricopa

I hereby certify that the
within instrument was filed and
recorded at request of

UNIFORM TITLE COMPANY OF ARIZONA

DKT 10949

305592

DECLARATION SUBMITTING PROPERTY TO HORIZONTAL
PROPERTY REGIME TOGETHER WITH COVENANTS,
CONDITIONS AND RESTRICTIONS FOR SAND CASTLE

In Docket 10949
On page 109-148
Witness my hand and official
seal the day and year aforesaid.
TOM FREESTONE
County Recorder:
By [Signature]
Deputy Recorder

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, a Declaration of Covenants, Conditions and Restric-
tions for THE LAKES (hereinafter referred to as "Master Declaration")
has heretofore been recorded in Docket 10949 commencing at Page 53,
records of Maricopa County, Arizona; and

WHEREAS, a Tract Declaration has heretofore been recorded
in Docket 10949 commencing at Page 102, records of Maricopa County,
Arizona (hereinafter referred to as "Tract Declaration"); and

WHEREAS, the Master Declaration and the Tract Declaration
affect and restrict the following described property:

Tract "O," THE LAKES, according to the plat thereof
recorded in Book 131 of Maps, Page 36, records
of Maricopa County, Arizona, and Affidavit of
Correction recorded in Docket 8930, Page 213; and

WHEREAS, Staman, Thomas and Company, an Arizona corporation,
intends to develop the aforesaid property as a condominium development;
and

WHEREAS, Staman, Thomas and Company has caused to be recorded
a condominium plat (hereinafter referred to as "Plat") in Book 176
of Maps at Page 45, official records of Maricopa County, Arizona for
the purpose of describing the buildings, apartments, and other com-
ponents of the condominium to be established and created upon the
aforescribed property; and

WHEREAS, this Declaration of Horizontal Property Regime
(hereinafter referred to as "Declaration") is made for the purpose of
submitting the aforescribed property to a condominium form of own-
ership and the terms and conditions herein contained are in addition
but subject to the applicable provisions of the Master Declaration and
the Tract Declaration, and not in substitution therefor, and in the
event of any conflict or inconsistency between this Declaration and
the Master Declaration or the Tract Declaration, the Master Declara-
tion and the Tract Declaration shall control, it being the intent that
this Declaration shall not be construed in any manner so as to be incon-
sistent or in conflict with the Master Declaration and the Tract Decla-
ration;

NOW, THEREFORE, Staman, Thomas and Company, an Arizona cor-
poration (hereinafter referred to as "Declarant"), being the owner
of the following described property situated in Maricopa County, Ari-
zona:

Tract "O," THE LAKES, according to Book 131 of
Maps, Page 36, records of Maricopa County, Arizona,
and Affidavit of Correction recorded in Docket 8930,
Page 213,

SUBJECT to easements, reservations, restrictions, conditions,
rights of way, canals, laterals, ditches, washes and all
matters of record,

does hereby submit the above described land, including the improvements
constructed and to be constructed thereon, and all easements, rights

EXHIBIT "B"

and appurtenances belonging thereto, all of which may hereinafter be referred to as the "Property," or "Condominium Property," to a Horizontal Property Regime pursuant to Chapter 4.1, Article 1, Sections 33-551 to 33-561, inclusive, Arizona Revised Statutes (said Property being platted as a Horizontal Property Regime according to the plat recorded in the office of the County Recorder of Maricopa County, Arizona in Book 176 of Maps at page 45 thereof), and Declarant does further hereby declare that all of such Property shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved, subject to the following covenants, conditions and restrictions, all of which are declared to be in furtherance of a plan for the improvement, development and sale of said Property and are established for the purpose of enhancing and perfecting the value and desirability of said Property and every part thereof. All of such covenants, restrictions and conditions shall run with said Property and shall be binding upon all parties having or acquiring any right, title or interest in said Property or any part thereof and shall be for the benefit of each owner of any portion of the Property and for the benefit of any person having any interest whatsoever in the Property or the improvements thereon, or any interest therein, and shall inure to the benefit of and be binding upon each successor in interest.

1. Name - The name of this Horizontal Property Regime shall be SAND CASTLE.

2. Definitions - The terms defined in this paragraph of this Declaration have the meanings herein specified, except as may be expressly otherwise provided herein.

A. "Act" means Section 33-551 through Section 33-561, Arizona Revised Statutes.

B. "Apartment" shall mean that space shown and described as an "Apartment" on the Plat (excluding any patio, balcony or attic space appurtenant thereto) and designated by one of the numbers 101 through 112, inclusive, 115 through 123, inclusive, and 201 through 223, inclusive. Each Apartment is located in one of the five (5) Buildings shown as Buildings "1" through "5," inclusive, on the Plat. Each Apartment is composed of and shall include the space enclosed and bounded by the interior surfaces of the finished floor, ceiling and perimeter walls thereof, all as shown on said Plat.

C. "Apartment Unit" shall mean and refer to an Apartment together with those other components appurtenant to an Apartment, all of which components bear the same number as the Apartment to which they are appurtenant and which said components are more fully described and defined on the Plat and in paragraph 3 below; provided, however, no structural parts of the Building in which each Apartment Unit is located, and no pipes, wires, conduits, ducts, flues, shafts or public utility, water or sewer lines situated within such Apartment Unit and forming part of any system serving one or more other Apartment Units or the Common Elements shall be deemed to be part of an Apartment Unit.

D. "Association" shall mean Sand Castle Improvement Association, Inc., which will be a nonprofit corporation whose membership will be comprised of the Owners of all of the Units.

E. "Board of Directors" or "Board" shall have the meaning provided by subparagraph 9B hereof.

F. "Builder" shall refer to Staman, Thomas and Company and/or its successors and assigns.

G. "Building" shall mean any one of the five (5) principal structures as designated and shown on the Plat erected or to be erected upon the land described on Page 1 of this Declaration. Building 1 contains Apartment Units 101 through 104, inclusive, and Apartment Units 201 through 204, inclusive. Building 2 contains Apartment Units 105 through 110, inclusive, and Apartment Units 205 through 210, inclusive. Building 3 contains Apartment Units 111 through 112, inclusive, Apartment Units 115 through 117, inclusive, and Apartment Units 211 through 217, inclusive. Building 4 contains Apartment Units 118 through 119, inclusive, and Apartment Units 218 through 219, inclusive. Building 5 contains Apartment Units 120 through 123, inclusive, and Apartment Units 220 through 223, inclusive. The Buildings and the cubic content space thereof are more particularly described in subparagraph 3B below and on the Plat.

H. "Common Expenses" shall have the meaning provided for by subparagraph 8F hereof.

I. "Declaration" means this instrument by which the Property is submitted to a Horizontal Property Regime, as such Declaration may from time to time be amended.

J. "Developer" shall refer to Staman, Thomas and Company and/or its successors and assigns.

K. "General Common Elements" or "Common Elements" shall have the meaning provided by subparagraph 3D hereof.

L. "Majority of Owners" shall mean the Owners of more than fifty percent (50%) of the undivided ownership of the Common Elements. Any specified percentage of the Owners means that percentage of undivided ownership of the Common Elements.

M. "Owner" or "Co-Owner" or "Owners" or "Co-Owners" shall mean the person or persons whose estates or interests individually or collectively aggregate fee simple ownership of a Unit, and the person or persons who are purchasers under a valid and outstanding recorded agreement of sale with respect to a Unit, but shall not include a person whose interest is limited to security for a loan unless the context otherwise requires.

N. "Person" means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

O. "Plat" means the plat of survey of the Property and of all Units submitted to this Horizontal Property Regime, which said Plat is recorded in Book 176 of Maps, at Page 45 on the official records of the County Recorder of Maricopa County, Arizona, and an exact reduced copy of which is attached hereto as Exhibit "A," such Exhibit "A" being hereby made a part hereof with the same force and effect as if it were incorporated herein at length.

P. "Unit" shall mean an Apartment Unit together with an undivided one-forty-fourth (1/44) interest in and to the General Common Elements, which General Common Elements are more particularly described in paragraph 3 below.

3. Horizontal Property Regime - This entire Horizontal Property Regime shall be composed of forty-four (44) Units numbered as shown on the Plat. Each Unit contains certain components together with an undivided one-forty-fourth (1/44) interest in and to the Common

Elements, which Common Elements are defined below. Units numbered 102 through 111, inclusive, and 116 through 123, inclusive, consist of an Apartment, a patio, and an undivided one-forty-fourth (1/44) interest in and to the Common Elements. Units numbered 101, 112, and 115 consist of an Apartment, two patios and an undivided one-forty-fourth (1/44) interest in and to the Common Elements. Units numbered 213, 214, 216 and 217 consist of an Apartment, a balcony, and an undivided one-forty-fourth (1/44) interest in and to the Common Elements. Units numbered 211, 212 and 215 consist of an Apartment, two balconies, and an undivided one-forty-fourth (1/44) interest in and to the Common Elements. Units numbered 202 through 210, inclusive, and 218 through 223, inclusive, consist of an Apartment, a balcony, two attic spaces, and an undivided one-forty-fourth (1/44) interest in and to the Common Elements. Unit number 201 consists of an Apartment, two balconies, two attic spaces, and an undivided one-forty-fourth (1/44) interest in and to the Common Elements. Each Apartment, patio, balcony, and attic space is defined and described on the Plat.

The following provisions are made in compliance with Section 33-553, Arizona Revised Statutes:

A. Description of Land - The land is described on page 1 of this Declaration.

B. Description of Cubic Content Space of Buildings - The cubic content space of the Buildings with reference to their location on the land is described on the Plat. The boundaries of each Building shall be the exterior of the outside walls of said Building, except that where there are patios and balconies extending beyond the exterior of the outside walls, the boundaries of each Building shall be the plane of the outer edge of the exterior walls surrounding said patios and balconies or the plane of the boundary lines shown on the Plat for said patios and balconies, which extend outward farthest from the exterior wall of said Building, all as shown on the Plat. The upper boundaries of each Building shall be the plane of the top elevation of said Building, except that where there are patios and balconies, the upper boundaries with respect to the patio portions and the balcony portions of the Building shall be the plane of the top elevation of said patios and balconies, respectively, all as shown on the Plat. The lower boundaries of each Building shall be the plane of the floor sub-base elevation of said Building, except that where there are patios the lower boundaries with respect to the patio portions of the Building shall be the base elevation (finished grade) of said patios, all as shown on the Plat.

C. Description of Cubic Content Space of Each Apartment Unit - The cubic content space of each Apartment and of the patio(s), balcony(s), and attic space(s) appurtenant to each such Apartment is as described on the Plat.

D. Description of Common Elements - The description of the Common Elements is the description provided for in subparagraph 3B above, together with the description of the land provided for on page 1 hereof, less the description provided for in subparagraph 3C above.

E. Interest Which Each Apartment Unit Bears to the Entire Regime - Each Apartment Unit bears a one-forty-fourth (1/44) interest to the entire Horizontal Property Regime.

F. Exclusive Use - Each Apartment Unit shall have the exclusive use of an area within the Common Elements of a size and location adequate to install, operate and maintain refrigeration and heating units and utility meters, said areas to be as originally designed,

designated and installed by Developer or as subsequently approved by the Board. Parking spaces shall be assigned by Declarant to Owners upon the initial sale by Declarant of each Unit and the right to use that parking space(s) assigned to a Unit Owner shall be exclusive with the Owner of said Unit. The Board may, by regulation, prescribe rules governing use of parking spaces and the manner by which an Owner may delegate use of the parking space(s) assigned to his Unit to another Owner. Additional parking, if any, must be negotiated by an Owner with the Board.

4. Consent to Restrictions, Covenants and Conditions - Each and every Owner of a Unit described herein, by the acceptance of a deed therefor, whether from Declarant or from any subsequent Owners of said Units, or by the signing of contracts or agreements to purchase the same, and all others who at any time shall obtain any interest in the Property or a part thereof, shall thereby consent, agree and affirm all of the restrictions, covenants and conditions hereof and shall thereby agree to be bound by, keep and perform the same in strict compliance with this instrument and the Articles of Incorporation and By-Laws of the Association, and such rules and regulations as may be adopted by the Association or by the Board from time to time. Failure to comply with any of the same shall be grounds for an action to recover damages or for injunctive relief, or for the exercise of any other available remedies in accordance with law or as set forth in paragraph 19, or in any other provisions of this instrument.

5. Use and Occupancy Restrictions - The use and occupancy of the Condominium Property shall be in conformity with all applicable zoning ordinances, rules and regulations, and further shall be in accordance with the following provisions so long as the Condominium exists:

A. Occupancy - Subject to the terms of this Declaration and such other instruments as may be executed pursuant hereto, each of the Apartment Units, subject to the rules, regulations and ordinances of all pertinent governmental agencies, shall be occupied only by a single family, its servants and guests, as a residence and for no other purpose. No Apartment Unit may be divided, subdivided or combined into a smaller or larger unit than as shown on the Plat without first amending this Declaration and the Plat as set forth in subparagraph 20I below.

B. Common Elements - Except for the rights of exclusive use set forth in subparagraph 3F, or elsewhere in this Declaration, each Owner shall have the right to use the Common Elements in common with all other Owners as more particularly set forth in paragraph 17.

C. Nuisances - No nuisances shall be allowed upon the Condominium Property, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Property by its residents. All parts of the Property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist. No Owner of a Unit shall permit or suffer anything to be done or kept upon his Apartment Unit or make any use of his Apartment Unit which will increase the rate of insurance upon the Condominium Property or any part thereof.

D. Lawful Use - No immoral, improper, offensive or unlawful use shall be made of the Condominium Property nor any part thereof; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the Condominium Property shall be the same (either the responsibility of the Apartment

Unit Owner or of the Association) as the responsibility for the maintenance and repair of the particular part of the property affected. Except for the right of ingress and egress, the Owners of Units are hereby prohibited and restricted from using any land or air space outside of their Apartment Unit except as may be allowed by this Declaration or by the Association.

E. Leasing - Subject to the provisions of this Declaration, only entire Apartment Units may be rented, provided, the occupancy is only by the lessee and his family, its servants and guests.

F. Pets - Only household pets may be kept in the Apartment Units; provided however, the Board, in accordance with subparagraph 5K below, may limit or restrict the number and kinds of pets which may be kept in an Apartment Unit and otherwise regulate pets.

G. Advertising Signs - No advertising signs and no billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the premises of any Apartment Unit, nor shall the Property or any part thereof be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Apartment Unit or any resident thereof. Subject to the terms of the Master Declaration, the Board may establish an area for the display of "For Rent" or "For Sale" signs but any such signs shall be approved in writing by the Board and shall not detract from the aesthetic nature of the Properties. Further, no business activities of any kind whatsoever shall be conducted in any Apartment Unit or on any portion of the Property: Provided further, however, the foregoing covenants shall not apply to the business activities, signs and billboards, or to any construction and maintenance buildings of Builder, Developer or their agents, subcontractors, employees or assigns during the construction and sale period.

H. Planting, Fences, Walls, etc. - No fences, hedges, walls or landscaping shall be erected or maintained upon the Condominium Property or any part thereof except such as are initially installed by Developer, or which may from time to time be approved by the Board.

I. Developer and Builder Exempt - Neither the Owners nor the Association, nor the use of the Condominium Property shall interfere with the completion of the contemplated improvements and the sale of the Units, and until all of the Units have been completed and sold, Developer and Builder may make such use of the unsold Units and Common Elements as may facilitate such completion and sale, including but not limited to maintenance of a sales office, the showing of Property and the display of signs.

J. Common Walls - Any wall which separates one Apartment Unit from another shall not be used by an Owner of the Apartment Unit for the purpose of attaching anything to said wall which is recreational or which produces noise or sound in any way whatsoever, nor shall an Owner be permitted to penetrate any said wall in excess of two (2) inches from the exterior of said wall.

K. Rules and Regulations - Reasonable rules and regulations concerning the use of the Condominium Property and all portions thereof and imposing reasonable restrictions upon the Owners and use of the Apartment Units may be made and amended from time to time by the Board; provided however, that all such rules and regulations and amendments thereto shall be approved by not less than the Majority of Owners before such shall become effective. Notwithstanding the foregoing, until forty (40) Units are sold by Developer, as evidenced by deeds delivered to purchasers, the Board (without any additional approval of the members of the Association) shall be authorized to

promulgate the rules and regulations referred to above. Copies of such regulations and amendments thereto shall be furnished by the Association to all Unit Owners and residents of the Condominium upon request.

6. Easements -

A. Utility Easements - There is hereby created a blanket easement upon, across, over and under the Property for reasonable ingress, egress, installation, replacing, repairing and maintaining of all utilities, including but not limited to water, sewers, gas, telephones and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on the Property and to affix and maintain electrical, gas and/or telephone lines, wires, conduits and circuits on, above, across and under the Common Elements, including the Buildings. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, gas lines, water lines, or other utilities may be installed or relocated on the Property except as initially programmed and approved by the Developer or the Builder of the Condominium or thereafter approved by said Developer, Builder or the Board. This easement shall in no way affect any other recorded easement on the Property.

B. Easements Resulting from Encroachment - Each Apartment Unit and the Common Elements shall be subject to an easement for encroachments, including but not limited to encroachments of walls, ceilings, ledges, floors, and roofs created by construction, settling and overhangs as designed or constructed by Builder or Developer. If any portion of the Common Elements shall actually encroach upon any Apartment Unit, or if any Apartment Unit shall actually encroach upon any portion of the Common Elements, or if any Apartment Unit shall actually encroach upon another Apartment Unit, as the Common Elements and Apartment Units are shown by the Plat, a valid easement for any of said encroachments and for the maintenance thereof, so long as they stand, shall and does exist. In the event that any Apartment Unit or structure is repaired, altered or reconstructed, the Owners of the Units agree that similar encroachments shall be permitted and that a valid easement for said encroachments and for the maintenance thereof shall exist. Owners and any other parties acquiring any interest in the Property shall acquiesce and agree to the existence of such easements by accepting a deed from any seller or by acquiring any interest whatsoever in the Property.

7. Maintenance, Repairs and Replacements; Alterations, Additions and Improvements - Responsibility for the maintenance of the Condominium Property and restrictions upon the alteration and improvement thereof shall be as follows:

A. Maintenance, Repairs and Replacements -

(1) In Connection with Apartment Units -

(a) By the Association: The Association shall maintain, repair and replace, at the Association's expense:

(i) All items within an Apartment Unit (except interior surfaces) which contribute to the support of the Buildings, which shall include but shall not be limited to the outside walls of the Apartment Unit, floor and ceiling slabs, load bearing columns, load bearing walls, and all fixtures (except air conditioning and heating equipment) on the exterior, boundary walls of Apartment Units.

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(ii) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portions of an Apartment Unit maintained by the Association, and all facilities contained within an Apartment Unit which service part or parts of the Condominium Property other than the Apartment Unit within which such facilities are contained.

(iii) Notwithstanding the foregoing, the Association shall have authority to require Apartment Unit Owners: (a) to maintain, repair and replace all damages to windows and sliding glass doors except in the case of damage for which insurance proceeds are paid under policies purchased by the Association; and (b) to undertake any other maintenance, repair and replacement work covered by rules and regulations which may be promulgated pursuant to subparagraph 5K above.

(b) By the Apartment Unit Owner: The responsibility of the Apartment Unit Owner shall be as follows:

(i) To maintain, repair and replace at his expense all portions of his Apartment Unit except the portions to be maintained, repaired and replaced by the Association. Such work shall be done without disturbing the rights of other Apartment Unit Owners.

(ii) The portions of an Apartment Unit to be maintained, repaired and replaced by the Apartment Unit Owner at his expense shall include but not be limited to the following items: air-conditioning and heating equipment; service equipment such as dishwasher, laundry, refrigerator, oven, stove, water heater, whether or not such items are built-in fixtures; interior fixtures such as electrical and plumbing fixtures; floor coverings except the floor slab; all interior surfaces including but not limited to inside paint and other inside wall finishes (see subparagraph 7C for additional provisions relating to decorating). Except for the original installation of Developer and Builder, the type and method of installation of air conditioning and heating units must first be approved by the Board.

(2) In Connection with the Common Elements - All maintenance, repairs and replacements of the Common Elements, including but not limited to parking spaces shall be furnished by the Association as part of the Common Expenses, subject to the provisions of this Declaration, the Articles of Incorporation, the By-Laws, and the rules and regulations of the Association.

(3) Additional Provisions -

(a) If, due to the act or neglect of an Owner or a member of his family or household pet or guest or other authorized occupant, or visitor or invitee of such Owner, damage shall be caused to the Common Elements or to an Apartment Unit owned by others, or maintenance, repairs or replacements shall be required which would otherwise be at the Common Expense, then such Owner shall pay for such damage and for such maintenance, repairs and replacements as may be determined by the Board, to the extent not covered by the Association's insurance.

(b) No Owner shall paint or otherwise decorate or change the appearance of any portion of the exterior of a Building without the prior written approval of the Board; provided, however, that the planters located adjacent to certain balconies, comprising portions of Apartment Units, shall be planted and maintained by Owners of said Apartment

Unit, subject to and in accordance with the rules and regulations promulgated by the Board.

(c) Each Owner shall promptly report to the Association any defect or need for repairs, the responsibility for remedying of which is that of the Association.

(d) An authorized representative of the Board, or of the manager or managing agent of the Property, and all contractors and repairmen employed or engaged by the Board or such manager or managing agent, shall be entitled to reasonable access to each of the Apartment Units as may be required in connection with maintenance, repairs or replacements of or to the Common Elements or any equipment, facilities or fixtures affecting or serving other Apartment Units and the Common Elements.

(e) Unless otherwise specifically agreed to in writing by the City of Tempe, all trees, shrubs, grass and other landscaping planted in public rights of way abutting the Condominium Property shall be maintained, repaired and replaced by the Association, or by The Lakes Community Association described in the Master Restrictions.

(f) If there is any dispute as to whether or not any maintenance, repairs or replacements are the responsibility of the Apartment Unit Owners or the responsibility of the Association, a determination by the Board of Directors of the Association shall be binding and final upon all parties.

B. Alterations, Additions and Improvements - Except for construction work undertaken by Developer or Builder with respect to any Apartment Unit or the Common Elements during the period of construction and sale of the Apartment Units, there shall be no structural alterations, additions or improvements to the Common Elements without the prior approval of the Majority of the Owners given at a regular or special meeting of Members of the Association and the prior approval of the holders of all mortgages and the trustees and beneficiaries under all deeds of trust then encumbering Units. Unless otherwise determined at any such meeting, the cost of such alterations, additions or improvements to the Common Elements shall be paid by means of a special assessment against the Owners in the proportion of their respective undivided fractional interests in and to the Common Elements. Any Owner may make nonstructural additions, alterations and improvements within his Apartment Unit without the prior written approval of the Board, but such Owner shall be responsible for any damage to other Apartment Units, the Common Elements or the Condominium Property, which results from any such alterations, additions or improvements. Owners are hereby prohibited from making any structural additions, alterations or improvements within an Apartment Unit, unless an architect or engineer, licensed in Arizona, certifies that such addition, alteration or improvement will not impair the structural integrity of the Building within which such addition, alteration or improvement is to be made, and further, such addition, alteration or improvement must also be approved by the Board. The Owner shall be responsible for any damage to other Apartment Units, the Common Elements or the Condominium Property which results from any such additions, alterations or improvements. Notwithstanding the foregoing, no addition, alteration or improvement within an Apartment Unit, whether structural or not, shall be made without the prior written approval of the Board, if said addition, alteration or improvement is visible from other portions of the Condominium Property or from the surrounding neighborhood, and prior to granting such approval, the Board must affirmatively find that the proposed addition, alteration or improvement is aesthetically pleasing and in harmony with the surrounding improvements and Buildings located upon the Condominium Property. Without limiting the foregoing, any alterations, additions or improvements shall also comply with the requirements of the Master Declaration.

C. Decorating - Each Owner, at his own expense, shall furnish and be responsible for all of the decorating within his own Apartment Unit from time to time, including painting, wallpapering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furniture and interior decorating; provided however, no reflective materials shall be placed in the windows or other surfaces which can be seen from the outside of the Buildings, without the approval of the Board. Subject to the provisions of this Declaration, each Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings within his Apartment Unit, and such Owner shall maintain such surfaces in good condition at his sole expense as may be required from time to time, which said maintenance and use shall be subject to the rules and regulations of the Association and each such Owner shall have the right to decorate such surfaces from time to time as he may see fit and at his sole expense. Decorating of the Common Elements (other than interior surfaces within the Apartment Unit as above provided), and any redecorating of Apartment Units to the extent made necessary by any damage to existing decorating of such Apartment Units caused by maintenance, repair or replacement work on the Common Elements by the Association, shall be furnished by the Association as part of the Common Expenses. The interior and exterior surfaces of all windows and glass doors (if any) forming part of a perimeter wall of an Apartment Unit shall be cleaned or washed at the expense of each Apartment Unit Owner unless the Board determines otherwise.

8. Assessments - The making and collection of assessments against Unit Owners for Common Expenses (as hereinafter defined) shall be pursuant to the following provisions, and each Unit Owner, for himself, his heirs, successors and assigns, covenants and agrees that he shall pay and his Unit shall be subject to assessments as follows:

A. Amount of Assessment -

(1) Each Unit's proportionate share of all Common Expenses (as hereinafter defined).

(2) Each Unit's proportionate share of all such sums as the Board shall determine to be fair and prudent for the establishment and maintenance of a reserve for repairs, maintenance taxes and insurance.

(3) Each Unit's proportionate share of such additional sums as the Board shall determine to be necessary to meet the primary purposes of the Association.

B. Unit Owner's Share - Except as set forth in subparagraph 8G(1) below, each Unit Owner's proportionate share of the total amount determined under subparagraph 8A above shall be equal to said Owner's undivided ownership of the Common Elements, together with any additional amount owed by the Unit Owner pursuant to subparagraph 8C below.

C. Reimbursement of Costs - Notwithstanding each Unit Owner's obligation for its proportionate share of the assessments as stated herein, in addition thereto each Unit Owner shall pay and reimburse the Association for any and all costs and expenses in connection with the following:

(1) Maintenance, repairs and replacements which are the obligation of the Apartment Unit Owner as set forth in paragraph 7 above, or in the discretion of the Board of Directors as may be necessary to protect the General Common Elements;

provided, however, that the Owner or Owners of said Apartment Unit have failed, after written notice from the Board, to perform such maintenance, repairs or replacements within such reasonable time limits as may be set by the Board. In such event, the Board shall levy an assessment against such Apartment Unit in the amount expended for such maintenance, repair and/or replacement.

(2) All costs incurred in the enforcement of the provisions of this Declaration against any Unit Owner, including but not limited to attorney's fees and court costs.

D. Determination by Board - The amount to be prorated among the Unit Owners pursuant to subparagraph 8A shall be established annually by the Board, and the proportionate share to be paid pursuant to subparagraph 8B above shall be paid monthly or in such other installments as may be determined by the Board. Said amount shall be based upon an estimated annual budget which the Board shall cause to be prepared for each fiscal year of the Association. The budget shall take into account the estimated Common Expenses, any amounts for reserves and any other sums which the Board may deem to be prudent for the protection of the Condominium Property. Copies of the proposed budget shall be transmitted to each Owner on or before January 1st of the year for which the budget is made, or as soon thereafter as the Board is able to adopt such budget. If at any time during the year it appears that the amounts determined by the Board are not sufficient (or are in excess of the amounts required), the Board may amend the budget and increase (or decrease) the annual assessments and also the amount prorated to each Owner, and also the monthly amount to be paid by each Owner. If the budget is amended, a copy of the amended budget shall be furnished to each Owner. After approval by the Board of the budget, the assessments and each installment thereof shall be determined for each Unit and shall be assessed and paid as set forth herein, and as more specifically set forth in subparagraph 8G hereof; provided however, that any institutional real property mortgagee or beneficiary under a deed of trust shall have no obligation to pay any assessments or installments that accrued prior to the time it became entitled to actual possession of or took title to the Unit, whichever is first in time. ~~In the event the Board is required to make any expenditure which was not anticipated as of the first of any calendar year, or for which there are not sufficient funds available, the Board is authorized to levy special assessments. Any such special assessment shall be charged to the Units in the same proportion as regular assessments. The Owners shall pay all assessments to the Board, or such depository as may be designated by the Board, within fifteen (15) days after the levy thereof or in such other manner as the Board may direct.~~

E. Accounting - The Board of Directors shall at all times keep true and correct records of account in accordance with generally accepted accounting principles, and shall furnish for the inspection ~~of all voting Owners at reasonable times such books which shall specify in detail all expenses incurred and funds accumulated from assessments or otherwise.~~

F. Common Expenses Include - The Board is hereby authorized to obtain and secure the following items and services which shall be deemed Common Expenses:

(1) Expenses of administration, including but not limited to legal, accounting and management fees contracted for, at the discretion of the Board, if it deems such necessary for administration of the Condominium Property and maintenance of the General Common Elements.

(2) Water and all other utility service for the Common Elements, together with water for each Apartment Unit.

(3) Insurance, including but not limited to workmen's compensation (if required by law), public liability insurance for all General Common Elements, and fire and other hazard insurance against loss to any of the Common Elements; taxes and assessments, if any.

(4) Maintenance, operation, repair, replacement and betterment of the Common Elements, including but not limited to painting, landscaping, repairs, replacements, alterations, additions, reconstruction, services, supplies, labor, materials, equipment and other related items.

(5) Any valid charge against the Condominium as a whole as determined by the Board of Directors, including but not limited to all costs of enforcing compliance with this Declaration, together with such costs as are deemed necessary to meet the primary purposes of the Association.

G. Payment of Assessments and Lien Rights -

(1) Anything to the contrary notwithstanding contained herein, until all Apartment Units are constructed, each Unit's proportionate share and each Unit Owner's obligation for payment of its share of the Common Expenses (except for taxes and improvement lien assessments which shall be paid as levied or assessed by the County Assessor of Maricopa County, Arizona) shall be in the approximate proportion that one (1) bears to the total number of all Apartment Units then constructed and fully completed. Such determination shall be made by the Board of Directors whose decision shall be final and binding upon all Owners.

(2) From and after the time of the conveyance of the first Unit, and from time to time thereafter, at least annually and prior to January 1st of each year, the Board or its designated representative shall notify the Owners of Units of the total amount of the assessments for the calendar year for all Units, the amount to be prorated and assessed to each Unit for the calendar year, and the monthly amount which each Unit Owner shall pay, which amount shall be due and payable monthly and in advance on the first (1st) day of each calendar month, and shall be paid prior to the fifteenth (15th) day of each month, until the monthly amount due is changed by appropriate action of the Board, at which time the amount as changed shall be due and payable as aforesaid. The said monthly amount shall be paid to the Board or to any agent appointed by the Board to collect said payments, which agent may be a holder of a mortgage on a Unit. Each Unit Owner, for himself, his heirs, successors, grantees and assigns, covenants that with respect to charges so determined during the period that he is an Owner, he will remit these charges directly to the party or parties as directed by the Board.

(3) Assessments and installments of such assessments paid on or before fifteen (15) days after the date when due and payable shall not bear interest, but all sums not paid on or before fifteen (15) days after the date when due and payable shall bear interest at the highest legal rate from the due date until paid. All payments on account shall be first applied to interest and then to the assessment payment first due.

(4) No Owner may exempt himself from paying such assessments or charges by being a non-user of the General Common

Elements or by abandoning the Apartment Unit of which he is the record Owner, or by otherwise avoiding such obligations.

(5) Each assessment or any other charge made on a Unit pursuant to this Declaration shall constitute a lien on such Unit to secure the payment of such amounts, which lien and the right to foreclose the same shall be in addition to and not in substitution of all the rights and remedies which the Association or the Board may have in accordance with the provisions of this Declaration or otherwise.

(6) Each Owner by his acceptance of a deed to a Unit hereby expressly vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of all such assessments or charges as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in the like manner as a mortgage of real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. In addition, the Association may make payments on any prior liens including any mortgage or taxes on the Unit, and such payments shall be added to the lien in favor of the Association. The lien provided for in this paragraph shall be in favor of the Association and shall be for the benefit of all other Unit Owners. The Association, acting on behalf of the Owners, shall have the power to bid in such a foreclosure sale and to acquire and hold, lease, mortgage and convey the property so purchased. Either the Association, or the Board on behalf of the Association, may institute suit to recover a money judgment for unpaid obligations of the Owner without being required to foreclose on the Unit involved and without waiving the lien which secures such obligations. In any such foreclosure proceeding, the Owner shall be required to pay a reasonable rental for the Unit, commencing as of the date foreclosure proceedings are filed, and the plaintiff in such proceedings shall be entitled, subject only to the prior right of any holder of a recorded bona fide first mortgage or of any trustee or beneficiary under a bona fide first deed of trust on such Unit, to such rent, and to the appointment of a receiver to collect same.

(7) Anything to the contrary notwithstanding contained in this Declaration or otherwise, the following provisions shall apply to and benefit the holder of any bona fide first mortgage and the beneficiary (and trustee) under any bona fide first deed of trust made in good faith and for fair value on any Unit, whether now existing or made and recorded at any time hereafter:

(a) During the pendency of any foreclosure proceedings to foreclose the first deed of trust or any first mortgage (including any period of redemption) or from the time a trustee under a first deed of trust has given notice of sale pursuant to power of sale conferred under a deed of trust and pursuant to law, the first mortgagee or the beneficiary (or trustee) under a deed of trust, or a receiver appointed in any such action, may but need not exercise any or all of the rights and privileges of the Owner in default of a Unit, including but not limited to the right to vote as a member of the Association in the place and stead of the defaulting Owner.

(b) The first mortgagee, or any other party acquiring title to a mortgaged Unit through foreclosure of the first mortgage or through any equivalent proceedings,

such as, but not limited to, the taking of a deed in lieu of foreclosure, or the beneficiary taking title under a first deed of trust or any other party acquiring title to a Unit held under such deed of trust, and the successors in interest to said purchasers shall acquire title to a Unit so encumbered free and clear of any lien authorized by or arising out of any of the provisions of this Declaration which secures the payment of any assessment for charges accrued prior to the final conclusion of any such foreclosure or equivalent proceedings. Any such unpaid assessment against the Unit foreclosed shall be deemed to be a Common Expense charged proratably against all of the Units. Notwithstanding the foregoing, however, in the event the Unit Owner against whom the original assessment was made is the purchaser or redemptionor, the lien shall continue in effect and the said lien may be enforced by the Association, or by the Board for the Association, for the respective Unit's assessment that was due prior to the final conclusion of any such foreclosure or equivalent proceedings. Further, any such unpaid assessment shall nevertheless continue to exist as the personal obligation of the defaulting Owner of the respective Unit to the Association, and the Board may use reasonable efforts to collect the same from said Owner even after he is no longer a member of the Association.

(c) There shall be a lien upon the interest of the first mortgagee, or the beneficiary under a deed of trust, or other party which acquires title to a mortgaged Unit by foreclosure or by equivalent proceedings, for all assessments authorized by this Declaration which accrue from and after the date title has been acquired after the conclusion of such proceedings.

(d) The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust now or hereafter placed upon any Unit; provided that such mortgage or deed of trust is in favor of a bank, savings and loan association, insurance company, mortgage banker or other institutional lender; and provided further that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure or any other proceeding in lieu of foreclosure.

H. Master Restrictions, Assessments - Assessments made by The Lakes Community Association pursuant to the Master Restrictions shall be paid directly to said association by Unit Owners in accordance with the terms of the Master Restrictions; provided, however, the Association (meaning the Sand Castle Improvement Association, Inc.) shall have the right to pay any or all such assessments, and in the event the Association does pay such assessments on behalf of the Unit Owners, the amount so paid by the Association for and on behalf of a Unit Owner shall be the personal obligation of said Owners and shall be and become a part of the assessment against such Unit and shall be secured by the lien provided for herein, and all other terms and provisions as set forth in this Declaration in connection with assessments made by the Association shall be applicable thereto.

9. Association - The operation of the Condominium shall be by the Sand Castle Improvement Association, Inc., a corporation not for

profit under the laws of Arizona, which shall fulfill its functions pursuant to the provisions of this Declaration, the Articles of Incorporation of the Association, and its By-Laws.

A. Definition, Powers, Membership - The Association shall constitute the "council of co-owners" as that term is defined in Section 33-551, Arizona Revised Statutes, and shall serve as a governing body for all of the Owners for the maintenance, repair, replacement, administration and operation of the Property, the assessment of expenses, payment of losses, disposition of hazard insurance proceeds, and other matters as provided in the Condominium Act and in this Declaration and in the Articles of Incorporation, and By-Laws of the Association (herein called the By-Laws). Further, the Association and its Board of Directors shall have all powers, rights, duties and obligations as set forth in the Condominium Act, the Declaration, the Articles of Incorporation and the By-Laws. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the provisions of the Declaration, the Articles of Incorporation, and the By-Laws. Each Unit Owner shall be a member of the Association so long as he shall be an Owner and such membership shall automatically terminate when he ceases to be an Owner and upon the transfer of his ownership interest the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. The aggregate number of votes for all members of the Association shall be forty-four (44), and the members of the Association shall be entitled to cast one (1) vote for each Unit owned (except that in the election of directors, cumulative voting shall apply in accordance with Section 10 of Article XIV of the Arizona Constitution). If a Unit is owned by more than one Owner, the voting Owner shall be established as set forth in the By-Laws of the Association. Notwithstanding the foregoing, until such time as all of the Units have been sold as evidenced by recorded deeds or recorded Agreements of Sale, Developer shall be the only voting member of the Association, as set forth in the Articles of Incorporation for the Association.

B. Board of Directors of Association - The affairs of the Association shall be conducted by a Board of Directors, who shall be selected in the manner herein stated and as stated in the Articles of Incorporation and By-Laws. Up to December 31, 1979, or on the date that all of the Units have been conveyed by Declarant to purchasers thereof as evidenced by recorded deeds, whichever date is first in time, all members of the Board may be designated by Developer unless Developer relinquishes said right prior to such date. Nevertheless, the first meeting of the members of the Association shall be held not later than December 31, 1979, or thirty (30) days after all of the Units have been conveyed by Declarant to purchasers thereof as evidenced by recorded deeds, whichever date is first to occur. Until the first meeting of the members of the Association, Developer shall have all rights, remedies and privileges accorded hereunder to the Association and its Board as set forth in subparagraph 20A below. Notwithstanding the foregoing, Developer may, prior to the time set forth above, elect to relinquish and/or delegate all or part of such rights and authority to the Association, which Developer shall have the right to do by written notice delivered to the Board at any time. Except for members designated by Developer, each director shall be an Owner or the spouse of an Owner (or if an Owner is a corporation, partnership or trust, a director may be an officer, director, partner or beneficiary of such Owner). If a director shall cease to meet such qualifications during his term, he will thereupon cease to be a director and his place on the Board shall be deemed vacant.

C. Indemnification - Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a part, or in which he may become involved, by reason of his being or having been a director or officer of the Association, in accordance with the provisions of the Articles of Incorporation and By-Laws of the Association.

D. Limitation upon Liability of Association - Notwithstanding any duty of the Association to maintain and repair parts of the Condominium Property, neither the Association, nor any member thereof, nor any member of the Board, or any agent or any officer of the Association shall be liable for injuries or damages to persons or property resulting in any manner from the breach of such duties (except as may be covered by insurance).

E. Property in Trust - All funds and the titles of all properties acquired by the Association and the proceeds thereof shall be held in trust for the members of the Association in accordance with the provisions hereof, the Articles of Incorporation, and the By-Laws.

F. Board's Determination Binding - In the event of any dispute or disagreement between any Owners relating to the Property, or any question of interpretation or application of the provisions of this Declaration or the Articles of Incorporation or the By-Laws, the determination thereof by the Board shall be final and binding on each and all of such Owners. If a decision cannot be reached by the Board in connection with any matter submitted to or considered by the Board, said matter shall be determined by the members of the Association or by arbitration as more fully set forth in subparagraph 9G below.

G. Action by Owners - To the extent required by the Act, or by this Declaration, all action required to be taken by the Owners, acting as a council of co-owners for the Property, shall be taken by the members of the Association acting as such council of co-owners. Any dispute as to any action or decision required to be taken or made by the Owners which cannot be made or resolved by a vote of the Owners shall be submitted and settled in accordance with the rules and regulations then obtaining of the American Arbitration Association in Maricopa County, Arizona, and any decision made or rendered thereby shall be final and binding upon all of the Owners and the council of co-owners.

10. Sale or Lease of a Unit - In order to maintain a community of occupants who are financially responsible and thus protect the value of the Units, the transfer of Units by any Owner other than Declarant or Developer shall be subject to the following provisions as long as the Condominium exists and the Buildings containing the Apartment Units remain in useful condition upon the land, which provisions each Owner covenants to observe:

A. In the event any Unit Owner (hereinafter referred to as Selling Owner) other than Declarant and Developer shall desire to sell, rent or lease his Unit, the Association has the right and option to cause said Unit to be sold, rented or leased as set forth herein on the same terms and conditions as offered by Selling Owner to any third person or on the same terms and conditions as any bona fide offer received from any third person. Any attempt to sell, rent or lease said Unit without prior offer as set forth herein shall be null and void and shall confer no title or interest whatsoever upon the intended purchaser, tenant or lessee.

B. Should any Selling Owner wish to sell, lease or rent his interest in a Unit, or any part thereof, he shall, before making or accepting any offer to sell, purchase, lease or rent said interest, deliver to the Association written notice of his intent to sell, lease or rent, which notice shall contain the terms of the offer he has received or which he wishes to accept or the terms of the offer which he is prepared to make, and the name and address of the prospective purchaser or tenant. The Association shall, within fifteen (15) days after receiving such notice, either consent in writing to the transaction specified in said notice, or, by written notice to be delivered to Selling Owner's Apartment Unit, designate one or more persons, then Owners, or any other person, persons or entity whose credit the Association finds to be satisfactory, who are willing to purchase, lease or rent such interest upon the same terms as those specified in Selling Owner's notice. In such case Selling Owner shall either accept the purchaser or purchasers or tenant or tenants designated by the Association, or withdraw or reject the offer specified in his notice to the Association. Failure of the Association to designate such person or persons or entity within said fifteen (15) day period shall be deemed consent by the Association to the transaction specified in Selling Owner's notice, and Selling Owner shall be free to make or accept the offer specified in his notice and to sell, lease or rent said interest pursuant thereto to the prospective purchaser or tenant named therein within ninety (90) days after his notice was given. If the Association fails to designate any other purchaser or tenant, as the case may be, within the said fifteen (15) day period, any member of the Board shall, upon request of Selling Owner, execute an affidavit stating that Selling Owner has complied with the provisions hereof. Such affidavit shall contain the information that a particular Unit has been offered for sale or lease, identifying the same, and that the proper notice to sell has been served by the Owner, and that the fifteen (15) day period has passed and that the Association has failed to designate any other person or persons or entity to purchase or lease the Unit of the Owner within the time allowed herein. Such affidavit shall be deemed conclusive evidence of the truth of the facts therein recited. A Selling Owner shall have no right to sell, lease or rent his interest in a Unit or any part thereof except as expressly provided herein. The subleasing or subrenting of said interest shall be subject to the same limitations as are applicable to the leasing or renting thereof. The obligation of Selling Owner under these covenants shall continue, notwithstanding the fact that he may have leased or rented said interest as provided herein.

C. Board's Powers - The Board shall have the right and is hereby authorized to act for and on behalf of the Association with respect to giving notices and exercising other rights granted to the Association under this paragraph 10. The Board shall promulgate rules and regulations which may be required in the Board's discretion to give the Owners notice of contemplated transfers of Units hereunder.

D. Exempt Persons and Transfers - The provisions of this paragraph 10 shall not be applicable or enforceable by the Association or by any other person with respect to: (a) any sales, leases, conveyances or transfers made directly to or by Developer, Declarant or Builder; (b) the holder of a first realty mortgage or a trustee under a bona fide first deed of trust for valuable consideration or to any sale, transfer or conveyance of any Unit to any person pursuant to the provisions contained in such a realty mortgage or first deed of trust or to the sale, transfer, conveyance or lease of any Unit by such a first mortgagee or trustee or beneficiary who acquires a Unit through a foreclosure proceeding or a deed in lieu of foreclosure;

(c) any rental with or without a written lease (without options to renew it) for a term of six (6) months or less; (d) a transfer of title by testamentary disposition or intestate succession or by gift to a member of the Unit Owner's immediate family; (e) a transfer of ownership from one corporate Owner to a successor corporate entity of that corporate Owner by virtue of merger, reorganization or other such means; (f) a transfer by an Owner to another entity capable of holding ownership which entity is owned (fifty percent or more) by the former owner; and (g) a transfer by an Owner of his Unit to another Owner of a Unit in the Property;

Provided, however, that any such transferees above stated (a) through (g) shall be subject to the whole and every part of this Declaration.

11. Insurance, Reconstruction, Repairs - Insurance which shall be carried by the Association on the Condominium Property and on any portion of the property owned by Unit Owners shall be governed by the following provisions:

A. Authority to Purchase - The Board shall be authorized to purchase certain insurance upon Condominium Property, which is to be purchased by the Association for the benefit of the Association, the Unit Owners, and the mortgagees and trustees (and beneficiaries) under deeds of trust, as their interests may appear, and provisions shall be made for the issuance of certificates of endorsement to the mortgagee of any first mortgage or endorsements for the benefit of the trustee (and beneficiary) under any first deed of trust on any Unit; provided, however, that no such mortgagee, trustee or beneficiary shall have any right to determine or participate in the determination as to whether any damaged property shall be reconstructed or repaired, and shall not have any right to apply or have applied to the reduction of a mortgage or deed of trust debt any insurance proceeds, except distributions thereof made to a Unit Owner and mortgagee, trustee or beneficiary pursuant to the provisions of this Declaration. Such policies and endorsements thereon shall be deposited with the Association. The Board shall deliver a copy of the policies, or by and through their agent advise the Unit Owners of the coverage of said policies to determine which particular items are included within the coverage so that the Unit Owners may insure themselves as they see fit if certain items are not insured by the Association. Without limiting the generality of the foregoing, it shall be each Owner's responsibility to provide for himself as he sees fit owner's liability insurance, theft or other insurance covering personal property damage and loss, and also insurance for each Owner's personal liability. Further, it shall be the responsibility of each Owner to provide and obtain:

(1) Casualty insurance on the portion of his Apartment Unit which is not considered part of the Common Elements (including but not limited to carpeting, drapes, wall covering, fixtures, furniture, furnishings and other personal property).

(2) Insurance which is not carried by the Association and which the Unit Owner desires.

B. Coverage -

(1) Casualty. Those Buildings and ~~improvements~~ upon the land and the personal property and equipment constituting and included in the Common Elements ~~shall be insured~~ by the Association in an amount equal to the maximum insurable replacement

value as determined from time to time by the Board. Such coverage shall afford protection against:

(a) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and

(b) Such other risks as from time to time shall be customarily covered with respect to Buildings on the land, including but not limited to vandalism and malicious mischief.

(2) Public Liability. Insurance in a minimum amount of \$300,000.00 for each person injured and \$500,000.00 minimum coverage for each occurrence, and a minimum of \$50,000.00 insurance coverage for property damage arising out of or in connection with any such occurrence.

(3) Workmen's Compensation policy, if necessary to meet the requirements of law.

(4) Such other insurance as the Board shall determine from time to time to be desirable.

(5) The insurance policy or policies purchased by the Association shall, to the extent possible, as determined by the Board in its sole discretion, contain the following provisions:

(a) That the coverage afforded by said policy or policies shall not be brought into contribution or proration with any insurance which may be purchased by Unit Owners or their mortgagees or trustees (or beneficiaries) under a deed of trust.

(b) That the conduct of any one or more Owners shall not constitute grounds for avoiding liability on said policy.

(c) That any "no other insurance" clause shall exclude insurance purchased by Unit Owners or their mortgagees, or trustees or beneficiaries under deeds of trust.

(d) That there shall be no subrogation with respect to the Association, its employees, Unit Owners and their families, and employees, or it should name said persons as additional insureds.

(6) Notwithstanding the duty of the Association to obtain insurance coverage as stated herein, neither the Association nor any Board member shall be liable to any Owner or any other party if any risks or hazards are not covered by insurance or if the amount of insurance is not adequate, and it shall be the responsibility of each Apartment Unit Owner to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for such additional insurance coverage and protection as the said Apartment Unit Owner may desire.

C. Premiums - Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy or abandonment of an Apartment Unit or its appurtenances, or of the Common Elements by an Owner, shall be assessed against that particular Owner.

D. Insurance Claims - The Association, acting by and through its Board, is hereby irrevocably appointed agent for each Owner

and for each holder of mortgage or other lien upon a Unit, and for each Owner of any other interest in the Condominium Property, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims, and the Board has full and complete power to act for the Association in this regard.

E. Insurance Trustee; Proceeds -

(1) All insurance policies purchased by the Association shall be for the benefit of the Association, the Unit Owners and mortgagees (and trustees and beneficiaries under deeds of trust) as their interests may appear, and shall provide that proceeds covering property losses shall be paid to any bank in Arizona which is selected as a Trustee by the Board, which bank is herein referred to as the "Insurance Trustee." The Insurance Trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of policies, or for the failure to collect any insurance proceeds.

(2) The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold them in trust for the benefit of the Unit Owners and their mortgagees as follows. An undivided share of such proceeds on account of damage to Common Elements shall be allocated to the Unit Owners according to their shares of the Common Elements set forth in paragraph 3 above. Proceeds, if any, on account of Apartment Units shall be held for the Owners of damaged Apartment Units in proportion to the cost of repairing the damage suffered by each Apartment Unit Owner, which cost shall be determined by the Association. In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear.

(3) Proceeds of insurance policies received by the Insurance Trustee shall be distributed as follows:

(a) All expenses of the Insurance Trustee shall be first paid.

(b) If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds after payment of (3)(a) above shall be expended as provided in subparagraph 11G.

(c) If it is determined as provided in subparagraph 11F that the damage for which the proceeds are paid shall not be reconstructed or repaired, or if there are excess proceeds remaining after a reconstruction and repair, the remaining proceeds shall be distributed to the beneficial owners of said proceeds (as defined in subparagraph 11E(2) above), remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

(4) In making distribution to Unit Owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association as to the names of the Unit Owners and their respective shares of the distribution, and as to whether or not the Building or Buildings are to be reconstructed or repaired.

F. Damage and Repair - If any part of the Condominium Property or any property in which the Association owns an interest shall

suffer loss or damage by casualty whether or not it shall be repaired or reconstructed, shall be determined in the following manner:

(1) If the damaged property is part of the Common Elements or any property in which the Association owns an interest, it shall be repaired or reconstructed, unless it is determined in the manner hereinafter provided that the Condominium shall be terminated.

(2) If the damaged property is a Building or Buildings containing Apartment Units, the damage shall be repaired and reconstructed if the Board finds that more than twenty percent (20%) of all of the Apartment Units are tenantable, unless within sixty (60) days after the loss or damage, the Owners of all of the Apartment Units decide to terminate the Condominium. If the damaged property is a Building or Buildings containing Apartment Units, the damage shall not be repaired or reconstructed if the Board finds that only twenty percent (20%) or less of all of the Apartment Units are tenantable, and in such case the Condominium will be terminated as hereinafter provided, unless within sixty (60) days of the loss or damage the Owners of eighty percent (80%) or more of the Common Elements and eighty percent (80%) or more of the mortgagees of record agree, in writing, to such repair or reconstruction.

(3) Any repair or reconstruction must be substantially in accordance with the plans and specifications for the original improvements; or if not, then according to plans and specifications approved by the Board.

(4) If the loss or damage is only to those parts of an Apartment Unit or Apartment Units for which the responsibility of maintenance and repair is that of the Apartment Unit Owner, then the Apartment Unit Owner shall be responsible for repair and reconstruction; provided however, to the extent any insurance proceeds collected are attributable to the Apartment Units (and not the Common Elements) the share of the proceeds attributable to the Apartment Units shall be used for repairs and reconstruction of the Apartment Units.

(5) Immediately after a determination is made to repair or reconstruct damage to property for which the Association has the responsibility for repair and reconstruction, the Association shall obtain reliable and detailed estimates of the cost of the repair or reconstruction.

(6) If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, assessments shall be made against the Apartment Unit Owners who own the damaged property, and against all Apartment Unit Owners in the case of damage to Common Elements, in sufficient amounts to provide funds to pay the estimated costs. Additional assessments may be made at any time during or following the completion of construction. Such assessments against Apartment Unit Owners for damage to Apartment Units shall be in proportion to the cost of reconstruction and repair of their respective Apartment Units. Such assessments on account of damage to Common Elements shall be in proportion to the Owner's share in the Common Elements.

G. Manner of Disbursement - The proceeds from assessments and insurance received by the Insurance Trustee shall be disbursed in the following manner:

(1) That portion of the insurance proceeds, if any, representing damage, the reconstruction and repair of which is the responsibility of the Apartment Unit Owner, shall be paid by the Insurance Trustee to the Apartment Unit Owner or, if there is a mortgagee endorsement, then to the Apartment Unit Owner and the mortgagee jointly, who may use such proceeds as they may determine; provided however, to the extent that any damage to an Apartment Unit affects in any way the Common Elements or any other Owner's Apartment Unit, the proceeds must be used for reconstruction and repair of such damage.

(2) The portion of insurance proceeds representing damage, the reconstruction and repair of which is the responsibility of the Association, shall be disbursed in payment of the costs of such repair and reconstruction in the manner required by the Board and upon approval of an architect qualified to practice in Arizona and employed by the Association to supervise the work.

(3) The Insurance Trustee shall not be required to determine whether a disbursement is to be made, the identity of the payee, or the amount to be paid, but may rely upon a certificate of the Board acting for and on behalf of the Association stating such information.

H. Termination - If it is determined in the manner hereinabove provided that the Building or Buildings containing Condominium Units shall not be repaired or reconstructed because of damage or destruction as set forth in subparagraph 11F(2) above, then and in such event, this Condominium shall be terminated and all of the Owners and all of the mortgagees and lienholders of record of all of the Units hereby constitute and appoint the Board, and each of the members of the Board, as their attorney-in-fact for the purpose of executing, acknowledging and recording a declaration withdrawing the Property from this Horizontal Property Regime, which power is irrevocable and coupled with an interest.

12. Management Agreements - Each Unit Owner hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Board. A copy of all management agreements shall be available to each Unit Owner. Any and all management agreements entered into by the Association shall provide that said management agreements may be cancelled and terminated by an affirmative vote of two-thirds (2/3) of the Unit Owners.

13. Negligence - Each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any of his family, employees, invitees, agents or lessees, but only to the extent that such expense is not reimbursed by the proceeds of any insurance carried by the Association.

14. Violation of Declaration -

A. Violation of any of the restrictions or conditions, or breach of any of the covenants or agreements contained herein or breach of any rules and regulations promulgated by the Board shall enable the Board or the Association, by and through its authorized agent, or an encumbrancer in the event that both the Board and the Association refuse or fail to act, to enter an Apartment Unit as to which said violation or breach may exist and summarily enforce such restrictions, conditions, covenants, agreements, or rules and regulations and to abate and remove the thing or condition which may exist thereon contrary to the provisions hereof, at the sole expense of the Owner of said

Apartment Unit, without being deemed guilty of having trespassed in any manner, which remedy shall be in addition to any other remedy or remedies set forth in this Declaration or pursuant to law.

B. The Association, acting by and through its Board of Directors or by and through its authorized agent, or an encumbrancer in the event that both the Board and the Association refuse or fail to act, shall have the right to enforce any of the restrictions, conditions, covenants or agreements contained in the Master Restrictions and/or in the Tract Declaration upon the terms and conditions set forth in said Master Restrictions and Tract Declaration and in accordance with law and equity. In the event any action is brought in order to enforce the Master Restrictions and/or the Tract Declaration by the Association, the Board, or an authorized agent thereof, or by an encumbrancer, the defaulting Owner shall be obligated, in addition to such other remedies and relief as may be granted, to pay all court costs and reasonable attorneys' fees.

15. Covenants Running with the Land - It is intended and is hereby declared that the provisions of this Declaration shall be covenants running with the land, and such provisions, except as otherwise provided herein, shall apply to and be binding, to the fullest extent permitted by law, on all successors in interest to Declarant and shall benefit and be enforceable by every person who now, or at any time hereafter, owns or holds an interest in said Property. Declarant shall be deemed a beneficiary of said provisions hereof and such provisions shall run in favor of Declarant without regard to whether Declarant is or remains an Owner of said Property or interest therein. As such beneficiary, Declarant shall have the right, in the event of any breach of any of said provisions hereto, to exercise all the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach of any of said provisions to which beneficiaries of such agreement may be entitled.

16. Invalidity of any Provisions - The invalidity of any one or more phrases, sentences, clauses, paragraphs or sections hereof shall not affect the remaining portions of this instrument or any part thereof, all of which are inserted conditionally on their being held valid in law and, in the event that one or more of the phrases, sentences, clauses, paragraphs or sections contained herein should be invalid or should operate to render this Declaration invalid, this Declaration shall be construed as if such invalid phrase or phrases, sentence or sentences, clause or clauses, paragraph or paragraphs, or section or sections had not been inserted. In the event that any provisions or provisions of this instrument appear to be violative of the rule against perpetuities, such provision or provisions shall be construed as being void and of no effect as of twenty-one (21) years after the death of the last surviving of the following individuals: Richard C. Thomas, his wife and children who shall be living at the time this instrument is recorded.

17. Use of the Common Elements - Each Owner shall have the right to use the Common Elements in common with all other Owners as may be required for the purposes of access and ingress and egress to, and use and occupancy and enjoyment of, the respective Apartment Units owned by such Owner, and for such other related purposes as from time to time may be prescribed by the Board. Such right to use the Common Elements shall extend to each Owner and the agents, servants, tenants, family members and invitees of each Owner. Such rights to use and possess the Common Elements shall be subject to and governed by the provisions of this Declaration, the By-Laws, and the rules and regulations promulgated in accordance with subparagraph 5K above.

18. A. Termination of Condominium - This Horizontal Property Regime may be terminated by the agreement of all the Owners and holders of mortgages and encumbrances pursuant to the provisions of Section 33-556, Arizona Revised Statutes, or as herein provided.

B. Shares of Owners after Termination - After termination of the Horizontal Property Regime, the Unit Owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees or trustees (or beneficiaries) under deeds of trust and lienors shall have mortgages, deeds of trust and liens upon the respective undivided shares of the Unit Owners. Such undivided shares of the Owners shall be the same as the undivided shares in the Common Elements appurtenant to the Owners' Apartment Units prior to the termination (unless otherwise expressly set forth herein).

19. Remedies - The following provisions are in addition to and not in lieu of any other terms and conditions contained in the Declaration relating to remedies:

In the event of any default by an Owner under the provisions of the Act, this Declaration, the By-Laws, or the rules and regulations of the Association, the Association or its successors or assigns, or the Board or its agents, shall have each and all of the rights and remedies which may be provided for in the Act, this Declaration, the By-Laws of said rules and regulations, or which may be available by law, and may prosecute any action or other proceedings against such defaulting Owner and others for enforcement or foreclosure of its lien and the appointment of a receiver for the Unit without notice, without regard to the value of such Unit or the solvency of such Owner, or for damages or injunction, or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of the Unit and to rent the Unit and apply the rent received to payment of unpaid assessments and interest accrued thereon, and to sell the same as provided in subparagraph 8G, or for any combination of remedies or for any other relief. Nothing contained in this Declaration shall preclude the Association, its agents, the Board, Declarant, or an aggrieved Owner or other Person having an interest in the Property from exercising any available remedy at law or in equity. The proceeds of any such judicial sale shall first be paid to discharge court costs, other litigation costs including but without limitation reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Owner in a final judgment. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, shall be paid to the Owner. Upon the confirmation of the sale, the purchaser thereupon shall be entitled to a deed to the Unit and to immediate possession of the Unit and may apply to the court for a writ of restitution for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the judgment shall so provide, that the purchaser shall take the interest in the property sold subject to this Declaration. All expenses of the Association in connection with any action or proceedings, including court costs and reasonable attorneys' fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the highest rate which may be charged individuals under law shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of his respective share of the Common Expenses, and the Association shall have a lien for all of the same, as well as for nonpayment of his respective share of the Common Expenses, upon the Unit of such defaulting Owner and upon all of his additions and improvements thereto. In the event of any such default by any Owner, the Association and the Board and the manager or managing agent, if

so authorized by the Board, shall have the authority to correct such default and to do whatever may be necessary for such purpose and all expenses in connection therewith shall be charged to and assessed against such defaulting Owner and such assessment shall constitute a lien against the defaulting Owner's Unit. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or the Board. The liens provided for in this paragraph 19 shall be junior to bona fide first mortgages and first trust deeds made in good faith and for fair value, and shall be foreclosed in the same manner as the lien provided for the foreclosure of realty mortgages in the State of Arizona.

If any Owner (either by his conduct or by the conduct of any other occupant of his Apartment Unit) shall violate any of the provisions of this Declaration, or the By-Laws or the rules and regulations, as then in effect, and such violation shall continue for fifteen (15) days after notice in writing from the Board or shall occur repeatedly during any fifteen-day period after written notice or request to cure such violation from the Board, then the Board or any other agents of the Association, or any other Owner, shall have the power to file an action against the defaulting Owner for a judgment or injunction against the Owner or occupant requiring the defaulting Owner to comply with the provisions of this Declaration or the By-Laws or the rules and regulations, and granting other appropriate relief including money damages, reasonable attorneys' fees, and court costs. Anything to the contrary herein notwithstanding, any breach of any of the covenants, restrictions, reservations, conditions and servitudes provided for in this Declaration, or any right of re-entry by reason thereof, shall not defeat or adversely affect the lien of any mortgage or deed of trust made in good faith and for value upon any Apartment Unit and its appurtenant undivided fractional interest in the Common Elements, but except as herein specifically provided, each and all of said covenants, restrictions, reservations, conditions and servitudes shall be binding upon and effective against any lessee or Owner of a Unit whose title thereto is acquired by foreclosure, trustee's sale, sale, deed in lieu of foreclosure or otherwise.

20. Miscellaneous -

A. Formation Date for Association - Anything to the contrary notwithstanding contained herein, Developer agrees to take the necessary action to cause the Association to be formed prior to the time that forty (40) Units are sold and deeds for such Units are delivered to the respective purchasers. Until such time as the first meeting of the members of the Association as described in subparagraph 9B above, Developer shall have all rights and remedies accorded hereunder to the Association and its Board; provided however, that nothing contained herein shall be in derogation of or a waiver of any and all rights which are granted Declarant or Developer by this instrument after the Association is legally formed.

B. Notices - All notices, requests, demands or other communications to or upon the persons referred to herein shall be deemed to have been given or made when deposited in the mails, postage prepaid, or in the case of telegraphic notice, when delivered to the telegraph company addressed (i) to Sand Castle Improvement Association, Inc., The Lakes, Tempe, Arizona, and (ii) to the Owners at their respective Units as designated by number, Sand Castle, The Lakes, Tempe, Arizona. No other method of giving notice is hereby precluded.

C. No Waiver; Remedies Cumulative - No failure or delay on the part of any person in exercising any right, power or privilege

hereunder and no course of dealing between or among the persons subject hereto, shall operate as a waiver of any provision hereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof nor the exercise of any other right, power or privilege. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies which any person subject hereto would otherwise have. No notice to or demand on any person in any case shall entitle such person to any other or further notice or demand in similar or other circumstances or constitute a waiver of rights to any other or further action in any circumstances.

D. Judicial Proceedings - All Owners agree that any matter arising under this Declaration may be finally adjudged or determined in any court or courts of the State of Arizona or of the United States of America having jurisdiction in the State of Arizona, and such Owners hereby submit generally and unconditionally to the jurisdiction of such courts and of any of them in respect to any such matter; provided however, as to those matters to be submitted to arbitration pursuant to any provision hereof, such arbitration provisions shall be controlling and prevail. For the purposes of instituting or defending any action with respect to the Common Elements, or with respect to any matter affecting the Owners with regard to the Common Elements, and further in connection with enforcing this Declaration, the By-Laws and any rules and regulations adopted pursuant to this Declaration or the By-Laws, or in any other instance where the Board or the members of the Association deem it is necessary for the best interests of the Condominium as a whole, the Association, acting by and through its Board, shall be deemed the Real Party in interest and is hereby authorized to commence and prosecute any such proceedings or to defend any such action. Nothing contained in this subparagraph 20D shall be deemed or construed to impose upon the Association, its members or its Board, any liabilities or obligations nor grant to any third party or parties any rights that any of said above-named parties would not otherwise have if this subparagraph were not contained herein.

E. Descriptive Headings - The descriptive headings of the several sections of this instrument are inserted for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

F. Governing Law - This instrument and the rights and obligations of the parties hereunder shall be construed in accordance with and be governed by the laws of the State of Arizona.

G. Mortgage/Deed of Trust - Wherever the words "mortgage" or "mortgagee" are used or referred to in this Declaration, the words will also be deemed to include a "deed of trust" or "trustee" or "beneficiary" under a deed of trust, which terms may be used interchangeably.

H. Binding Effect - Subject to the provisions contained herein, this instrument shall be binding upon and inure to the benefit of successors, assigns, purchasers, mortgagees, trustees and beneficiaries of deeds of trust, encumbrancers, grantees, donees and lienors of and from Declarant and upon and unto their respective successors, assigns, purchasers, mortgagees, trustees and beneficiaries of deeds of trust, encumbrancers, grantees, donees and lienors.

I. Amendments or Supplements to Declaration -

(1) Except as otherwise permitted or restricted in this subparagraph 20I, the provisions of this Declaration may be

STATE OF ARIZONA)
County of Maricopa) ss. DKT 109-19760135

On this the 11 day of December, 1974, before me, the undersigned Notary Public, personally appeared Larry E. Cox, who acknowledged himself to be the Assistant Secretary of STAMAN, THOMAS AND COMPANY, an Arizona corporation, and that he as such officer, being so authorized, executed the foregoing instrument for the purposes therein contained, by signing the name of the said corporation by himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
Notary Public

My commission expires:
[Signature]

THE FOREGOING DECLARATION SUBMITTING PROPERTY TO HORIZONTAL PROPERTY REGIME TOGETHER WITH COVENANTS, CONDITIONS AND RESTRICTIONS FOR SAND CASTLE IS HEREBY ACCEPTED AND APPROVED:

Western Savings and Loan Association, an Arizona corporation

By [Signature]
Its ASSISTANT SECRETARY

STATE OF ARIZONA)
County of Maricopa) ss.

On this the 11th day of December, 1974, before me, the undersigned Notary Public, personally appeared Larry E. Cox who acknowledged himself to be the Assistant Secretary of WESTERN SAVINGS AND LOAN ASSOCIATION, an Arizona corporation, and that he as such officer, being so authorized, executed the foregoing instrument for the purposes therein contained, by signing the name of the said corporation by himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
Notary Public

My commission expires:
My Commission Expires Oct. 5, 1977