

CONDOMINIUM DECLARATION
FOR
THE SAND CASTLE CONDOMINIUM
PHASE I

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, DWELLING DEVELOPMENT INC., a Texas Corporation, hereinafter called "Declarant," is the owner of a certain tract of land and the improvements thereon, situated in Galveston County, Texas, which property is more particularly described on the attached Exhibit "A" which, by this reference, is made a part hereof; and

WHEREAS, Declarant desires to establish a condominium project under the Condominium Act of the State of Texas; and

WHEREAS, Declarant does hereby establish a plan for the ownership in fee simple of the real property estates consisting of the area or space contained in each of the units in the building improvements and the co-ownership by the individual and separate owners of all of the remaining property, which remaining property is hereinafter defined and referred to as the limited and general common elements:

NOW, THEREFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with the land, shall be a burden and a benefit to Declarant and any person or entity acquiring or owning an interest in the real property and improvements, their heirs, personal representatives, devisees, successors and assigns.

1. Definitions. Unless the context shall expressly provide otherwise:

A. "Unit" means an individual air space unit which is contained is contained within the perimeter walls, floors, ceilings, windows and doors of such unit (and the individual patio or balcony appurtenant to such unit, if applicable), all as shown on the Condominium Map filed herewith together with all fixtures and improvements therein contained but not including any of the structural components of the building in which such units are located.

B. "Condominium Unit" means the fee simple interest and title in and to a unit together with the undivided interest in the general and limited common elements thereto.

C. "Owner" means a person, firm, corporation, partnership, association or other legal entity, or any combination thereof, who owns one or more Condominium Units.

D. "General Common Elements" means and includes the land described in Exhibit "A"; all utility lines, including sewerage, water gas, and electricity; any air conditioning equipment, heating equipment, hot water equipment and all components thereof; any swimming pool equipment; club room, utility rooms (which includes laundry rooms and mechanical rooms) and storage rooms as shown on Exhibit "B;" roads; yards; shrubs; trees; walks; parking spaces; pavement; foundation; roof; exterior walls; chimneys; and all other areas of such land and the improvements thereon necessary or convenient to its existence, maintenance and safety which are normal and reasonably in common use, including the air above such land, all of which shall be owned by the owners of the separate units except where specifically designated "limited common elements," as that term is defined in Paragraph 1 hereof, each such owner of a unit having an undivided percentage interest in such general common elements as set forth in Exhibit "C" attached hereto.

E. "Limited Common Elements" means those common elements which are either limited to and reserved for the exclusive use of an owner of a condominium unit or are limited to and reserved for the common use of more than one but fewer than all of the condominium owners. The limited common elements shall be:

(i) the structural and other commonly used components of each building and the utilities, sewers, power, water and other common lines running through the walls, ceiling or floor of each unit; and

(ii) where applicable, any parking spaces reserved for the exclusive use of each unit and any stairways, balconies and patios reserved for the exclusive use of one or more units; such parking spaces, stairways, patios, and balconies being shown on the attached Exhibit "B" wherein unit numbers shown on such parking stairways, patios and balconies and followed by the letter "L" correspond to the unit number or unit numbers for which such parking space, stairway, patio or balcony is exclusively reserved.

F. "Condominium Project" means all of the land and improvements submitted by this Declaration.

G. "Common Expenses" means and includes expenses for maintenance, repair, operation, management, and administration; expenses declared common expenses by the provisions of this Declaration and the By-Laws of The Sand Castle Condominium Association; and all sums lawfully assessed against the general common elements by the Board of Managers of the Association.

H. "Association of Unit Owners" or "Association" means The Sand Castle Condominium Association, an incorporated non-profit association, its successors and assigns, the By-Laws of which shall govern the administration of this condominium property, the members of which shall be all of the owners of the condominium units.

I. "Building" means one or more of the building improvements containing units as shown on the map.

J. "Map" means and includes the engineering survey of the land locating thereon all of the improvements, and any other drawing or diagrammatic plan depicting a part of or all of the improvements and land.

K. "Phase" means the portion of development that this condominium Declaration shall apply to.

2. Condominium Map. Attached hereto and incorporated herein for all purposes as Exhibit "B" is the Map. The Map sets forth, among other things, the legal description of the land and a survey thereof showing the location of each building designated by letter, a general description and plat of each unit showing its square footage, building location, floor and unit number and a general description and plat of each carport, if any, appropriately numbered, all as set forth and depicted on Exhibit "B" hereto.

Declarant reserve the right to amend the Map, from time to time, to conform the same according to the actual location of any of the improvements and to establish, vacate and relocate easements, access road easements and on-site parking areas.

3. Division of Property into Condominium Units. The tract of land described in Exhibit "A" hereto and the improvements thereon are hereby divided into the following fee simple estates:

The separately designated units and the undivided interest in and to the general common elements and the limited common elements appurtenant to each unit.

Delcarant reserves the right to:

(i) physically combine the space within one unit with the space within one or more adjoining units;

- (ii) combine a part of or combination of parts of the space within one unit with part or parts of space within one or more adjoining units; and
- (iii) divide into separate units the space of one unit.

In the event Declarant performs any such acts, Declarant shall amend this Declaration to reflect such changes and to indicate the ownership of each such combined or divided unit.

4. Common Elements. Common elements are composed of general common elements and limited common elements as defined in Paragraph 1 hereof. No reference thereto, whether such common elements are limited or general, need be made in any deed or other instrument, and reference is made to the provisions of Paragraph 7 of this Declaration.

5. Utilities. All expenses incurred for the service of electricity, gas and water for all units shall be regarded as common expenses and assessed in accordance with Paragraph 21 hereof, to the extent not separately metered and/or charged to the individual units.

6. Inseparability of a Condominium Unit. Except as provided in Paragraph 3 hereof, each unit, the appurtenant undivided interest in the general common elements and the appurtenant limited common elements shall together comprise one condominium unit, shall be inseparable and may be sold, assigned, leased, devised or encumbered only as a condominium unit.

7. Description of Condominium Unit. Every contract for the sale or lease of a condominium unit prior to the filing for record of the Map may legally describe a condominium unit by its identifying number and/or address as set forth for each unit on Exhibit "B" attached hereto, followed by the words, "The Sand Castle, a Condominium," with further reference to the Map thereof and the Declaration to be filed for record. Subsequent to the filing of the Map and the recording of the Declaration, every deed, lease, mortgage, deed of trust, will or other instrument may legally describe a condominium unit by its identifying number and/or address as shown on Exhibit "B," followed by the words, "The Sand Castle Condominium" with further reference to the Map attached hereto as Exhibit "B." Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the unit but also the general common elements and the limited common elements appurtenant thereto. Each such description shall be construed to include a non-exclusive easement for ingress and egress to an owner's unit and use of all the general common elements, together with the right to the exclusive use of the limited common elements appurtenant to the unit described. The initial deeds conveying each condominium unit may contain reservations, exceptions and exclusions which the Declarant deems to be consistent with and in the best interests of all condominium unit owners and the Association.

8. Separate Assessment and Taxation - Notice to Assessor. Declarant shall give written notice to the Assessor of the County of Galveston, State of Texas, of the creation of condominium ownership in this property, so that each unit and the undivided interest in the common elements appurtenant thereto shall be deemed a parcel and subject to separate assessment and taxation.

9. Ownership-Title. A condominium unit may be held and owned by more than one person in any real property relationship recognized under the laws of the State of Texas.

10. Non-Partitionability of General Common Elements. The general common elements shall be owned in common by all of the owners of the units and shall remain undivided, and no owner shall bring any action for partition or division of the general common elements. Nothing contained herein shall be construed as a limitation of the right of partition of a condominium unit between owners thereof, but such partition shall not affect any other condominium unit.

11. Use and Occupancy. After the initial sale or transfer by Declarant, all units shall be used and occupied for single family residence purposes by the owner, by the owner's family or the owner's guests; provided, however, that subject to the terms of Paragraph 26, an owner shall have the right to rent his unit for a term of not less than thirty (30) days, and provided further, if any mortgagee forecloses on any unit, said mortgagee shall have the right to rent said unit upon such terms as it deems advisable until the unit is sold. In the event of such sale, the buyer shall be subject to the terms of this Paragraph 11. Notwithstanding any of the foregoing, the right of Declarant to rent or lease units until their initial transfer to a third party is hereby specifically reserved.

Declarant and its employees, representatives, and agents may maintain a business and sales office, model units and other sales facilities necessary or required during the sales periods. The Managing Agent, if any, may maintain an office in one of the units in the condominium project for the purposes of managing the condominium units within this condominium project.

12. Easements for Encroachments. If any portion of the general common elements encroaches upon a unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion of a unit encroaches upon the general common elements, or upon adjoining unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the general common elements or on the units.

13. Termination of Mechanic's Lien Rights and Indemnification. No labor performed or materials furnished and incorporated in a unit with the consent or at the request of a unit owner or his agent or his contractor or subcontractor shall be the basis for filing of a lien against the unit of any other unit owner not expressly consenting to or requesting the same, or against the common elements. Each owner shall indemnify and hold harmless each of the other owners from and against all liability arising from the claim of any lien against the unit of any owner or against the common elements for construction performed or for labor, materials, services or other products incorporated in the owner's unit at such owner's request. The provisions herein contained are subject to the rights of the Managing Agent or Board of Managers of the Association as is set forth in Paragraph 16.

14. Administration and Management; Managing Agent. The administration and management of this condominium property shall be governed by the By-Laws of The Sand Castle Condominium Association, a copy of which is attached hereto as Exhibit "D" and incorporated herein by reference. An owner of a condominium unit, upon becoming an owner, shall be a member of the Association and shall remain a member for the period of his ownership. The association shall be governed by a Board of Managers as is provided in the By-Laws of the Association. The Association may delegate by written agreement any of its duties, powers, and functions to any person or firm to act as Managing Agent at any agreed compensation.

15. Records. The Board of Managers or the Managing Agent shall keep or cause to be kept records with detailed accounts of the receipts and expenditures affecting the condominium and its administration and specifying the maintenance and repair expenses of the common elements and any other expenses incurred by or on behalf of the regime. The records so kept shall be available for inspection by all owners at convenient hours on working days that shall be set and announced for general knowledge. All records shall be kept in accordance with good accounting procedures and shall be audited at least once a year by an auditor outside the Association.

16. Reservation for Access - Maintenance, Repair and Emergencies. The owners shall have the irrevocable right, to be exercised by the Managing Agent or Board of Managers of the Association, to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the general common elements thereon or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the general common elements or to another unit or units. Damage to the interior or any part of a unit or units resulting from the maintenance, repair, emergency repair or replacement of any of the general common elements or as a result of emergency repairs within another unit at the instance of the Association, shall be a common expense of all of the owners; provided, however, that if such damage

is the result of the misuse or negligence of a unit owner, then such unit owner shall be responsible and liable for all such damage. All damaged improvements shall be restored to substantially the same condition of such improvements prior to damage. All maintenance, repairs and replacements as to the general common elements, whether located inside or outside of units (unless necessitated by the negligence or misuse of a unit owner, in which case such expenses shall be charged to such unit owner), shall be the common expense of all the owners.

17. Owner's Maintenance Responsibility of Unit. For purposes or maintenance, repair, alteration and remodeling, an owner shall be deemed to own the interior non-supporting walls, the materials (such as, but not limited to, plaster, gypsum dry wall, paneling, wallpaper, paint wall and floor tile and flooring, but not including the sub-flooring) making up the finished surfaces of the perimeter walls, ceilings and floors within the unit, including the unit doors and windows. The owner shall not be deemed to own lines, pipes, wires, conduits or systems (which for brevity are herein and hereafter referred to as utilities) running through his unit which serve one or more other units except in common with other owners. Such utilities shall not be disturbed or relocated by an owner without the written consent and approval of the Board of Managers. Such right to repair, alter and remodel is coupled with the obligation to replace any finishing or other materials removed with similar or other types or kinds of materials of equal quality. An owner shall maintain and keep in repair the interior of his own unit, including fixtures hereof. All fixtures and equipment installed within the unit commencing at a point where the utilities enter the unit shall be maintained and kept in repair by the owner thereof. An owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement or hereditament (nor shall he make any changes to the individual patio or balcony appurtenant to his unit, if any). An owner shall also keep the areas appurtenant to his unit in a clean and sanitary condition and be responsible for maintenance or repairs to any limited common area of which he has beneficial use, in accordance with the terms of this paragraph. However, the Board of Managers shall have the right to do any necessary maintenance work or repairs to limited common elements if the owner fails to do so and assess the owner for the cost thereof. Further, each owner is prohibited from displaying any signs on or about his unit in such a manner that can be viewed from the exterior of his unit, except that Declarant may display signs on the Condominium Project for purposes of selling or renting unsold units at any time.

18. Compliance with Provisions of Declaration and By-Laws. Each owner shall comply strictly with the provisions of this Declaration and the By-Laws of the Association, and the decisions and resolution of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure and refusal after written notice to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief or both, and for reimbursement of all attorney's fees incurred in connection therewith and interest on all of such amounts at the highest lawful rate, which action shall be maintainable by the Managing Agent or Board of Managers in the name of the Association in behalf of the owners or, in a proper case, by an aggrieved owner.

19. Revocation or Amendment to Declaration. This Declaration shall not be revoked unless all of the owners and of the holders of any recorded mortgage or deed of trust covering or affecting any or all of the condominiums unanimously consent and agree to such revocation by instrument(s) duly recorded. Except as provided in Paragraph 3 hereof, this Declaration shall not be amended unless the owners representing an aggregate ownership interest of sixty percent (60%), or more, of the common elements and all of the holders of any recorded mortgage or deed of trust covering or affecting any or all condominiums consent and agree to such amendment by instrument(s) duly recorded; provided, however, that the percentage of undivided interest in the common elements appurtenant to each unit, as expressed in this Declaration, shall have a permanent character and shall not be altered without the consent of all of the unit owners expressed in an amended Declaration duly recorded, and provided further that revocation of this Declaration shall always require the consent of all of the owners.

20. Additions, Alterations and Improvements of General and Limited Common Elements. There shall be no additions, alterations or improvements of or to the general and limited common elements requiring an expenditure by the Association in excess of ONE THOUSAND DOLLARS (1,000.00) in any one (1) calendar year without prior approval of fifty-one percent (51%) of the owners. Such limitation shall not be applicable to the replacement, repair, maintenance or restoration of any common element.

21. Assessment for Common Expenses. All owners shall be obligated to pay the assessments, either estimated or actual, imposed by the Board of Managers of the Association to meet the common expenses.

Assessments for the estimated common expenses shall be due monthly in advance on the first day of each month. The Managing Agent or Board of Managers shall prepare and deliver or mail to each owner a monthly statement of the owner's monthly assessment. In the event the ownership of a condominium commences on a day other than the first day of a month, the assessment for that month shall be prorated.

The assessments made for common expenses shall be based upon the cash requirements deemed to be such aggregate sum as the Managing Agent, or if there is no Managing Agent, then the Board of Managers of the Association, determines is to be paid by all of the condominium owners, including as limited herein, the Declarant, expenses growing out of or connected with the maintenance, repair, operation, additions, alterations and improvements of and to the general common elements, which sum may include, but shall not be limited to expenses of management; taxes and special assessments until separately assessed; premiums for fire insurance with extended coverage and vandalism and malicious mischief with endorsements attached issued in the amount of the maximum replacement value of all of the condominium units (including all fixtures; interior walls and partitions; decorated and finished surfaces or perimeter walls, floors and ceilings; doors, windows and other elements or materials comprising a part of the units); casualty and public liability and other insurance premiums; landscaping and care of grounds; common lighting; repairs and renovations; removal of pollutants and trash collections; wages; utility charges; beautification and decoration; professional including legal and accounting fees, management fees, expenses and liabilities incurred by the Managing Agent or Board of Managers on behalf of the owners under or by reason of this Declaration and the By-Laws of the Association; for any deficit arising or any deficit remaining from a previous period; the creation of a reasonable contingency fund, reserves, working capital, and sinking funds as well as other costs and expenses relating to the common elements. In the event the cash requirement for common expenses exceed the aggregate assessments made pursuant to this Paragraph 21, the Managing Agent, or if there is no Managing Agent, then the Board of Managers for the Association may from time to time and at any time increase, prorata, the monthly assessments set forth in this Paragraph 21. The omission or failure of the Board of Managers to fix the assessment for any period shall not be deemed a waiver, modification or a release of the owners from their obligation to pay the same.

22. Owner's Personal Obligation for Payment of Assessments. The amount of common expenses assessed against each condominium shall be the personal and individual debt of the owner thereof. No owner may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his unit. The Board of Managers or Managing Agent shall have the responsibility to take prompt action to collect any unpaid assessment which remains unpaid more than fifteen (15) days from the due date for payment thereof. In the event of a default by an owner in the payment of the assessment, such owner shall be obligated to pay interest at the rate of ten percent (10%) per annum on the amount of the assessment from due date thereof, together with all expenses, including attorney's fees, incurred to collect such assessment together with late charges as provided by the By-Laws of the Association. Suit to recover a money judgment for unpaid common expenses shall be had in Galveston County, Texas, and maintainable without foreclosing or waiving the lien securing same. Additionally, in the event that the mortgage on a unit should so provide a default in the payment of an assessment shall be a default in such mortgage and if required by the mortgagee by written notice to the Association, the Board of Managers or Managing Agent shall give prompt notice of any default in payment of an assessment to the mortgagee.

During the development and sale period (which shall be defined as the period up to the time of the first annual meeting of the Association to be held within thirty (30) days after the expiration of ninety (90) days from the date upon which there has occurred the conveyance by the Declarant of one hundred percent (100%) in number of the units in the condominium project, or sooner if so elected by Declarant) the Declarant shall be responsible for payment of the monthly Association assessment for the unsold units at the time the expense is incurred. In no event, however shall the Declarant be responsible for the payment of any assessments for deferred maintenance, reserves for replacements, capital improvements, or other special assessments until after the first annual meeting of the Association.

So long as Declarant owns one or more of the units, he shall be subject to the provisions of this Declaration and he hereby covenants to take no action which will adversely affect the rights of the Association with respect to assurance against latent defects in the condominium project or other rights assigned to The Sand Castle Condominium Association by reason of the establishment of the condominium project.

23. Assessment Lien. All sums assessed but unpaid for the share of common expenses chargeable to any condominium unit shall constitute a lien on such unit superior to all other liens and encumbrances, except only for tax and special assessment liens on the unit in favor of any assessing unit, and all sums unpaid on a first mortgage or first deed of trust or record, including all unpaid obligatory sums as may be provided by such encumbrance. To evidence such lien, the Board of Managers or the Managing Agent shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the name of the owner of the condominium unit and a description of the condominium unit. Such a notice shall be signed by one of the Board of Managers or by one of the officers of the Association or by the Managing Agent and shall be recorded in the office of the County Clerk of Galveston County, Texas. Such lien for the common expenses shall attach from the date of failure of payment of the assessment. Such lien may be enforced by the foreclosure of the defaulting owner's condominium unit by the Association in like manner as a mortgage on real property subsequent to the recording of a notice or claim thereof. In any such proceedings the owner shall be required to pay the costs, expenses and attorneys' fees incurred. The owner of the condominium unit being foreclosed shall be required to pay to the Association the monthly assessment for the condominium unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power to bid in the condominium unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same. Any mortgagee holding a lien on a condominium unit may pay, but shall not be required to pay, any unpaid common expenses payable with respect to such unit, and such payment shall not be deemed a waiver of default by the unit owner.

24. Liability for Common Expense upon Transfer of Condominium Unit is Joint. Upon payment to the Managing Agent, or if there is no Managing Agent, then to the Association of a reasonable fee not to exceed Twenty-Five and No/100 Dollars (\$25.00), and upon written request of any owner or mortgagee or prospective mortgagee of a condominium unit, the Association, by its Managing Agent, or if there is no Managing Agent, then by the financial officer of the Association, shall issue a written statement setting forth the amount of the unpaid common expenses, if any, with respect to the subject unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for any advanced payments of common assessments, for prepaid items, such as insurance premiums, but not including accumulated amounts for reserves or sinking funds, if any, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a

statement of indebtedness shall be complied with within ten (10) days, all unpaid common expenses which become due prior to the date of making such request shall be subordinate to the rights of the person requesting such statement. The grantee of a condominium unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for the unpaid common assessments up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor; provided, however, that upon payment of a reasonable fee not to exceed Twenty-Five and No/100 Dollars (\$25.00), as is hereinabove provided, and upon written request, any such prospective grantee shall be entitled to a statement from the Managing Agent, or if there is no Managing Agent, then from the Association, setting forth the amount of the unpaid assessments, if any, with respect to the subject unit, the amount of the current monthly assessment, the date that such assessment becomes due, and credits for any advanced payments of common assessments, prepaid items, such as insurance premiums, which statement shall be conclusive upon the Association. Unless such request for a statement shall be complied with within ten (10) days of such request, then such requesting grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for any unpaid assessments against the subject unit. The provisions set forth in this paragraph shall not apply to the initial sales and conveyances of the condominium units made by Declarant, and such sales shall be free from all common expenses to the date of conveyance made or to a date as agreed upon by Declarant and Declarant's grantee.

25. Mortgaging a Condominium Unit - Priority. An owner shall have the right from time to time to mortgage or encumber his unit and the interests appurtenant thereto by deed of trust, mortgage or other instrument, but the lien created thereby shall be subject to the terms and provisions of this Declaration, and any mortgagee or other lienholder who acquires a unit through judicial foreclosure, public sale or other means shall be subject to the terms and conditions of this Declaration except as specifically excepted herefrom.

26. Right of First Refusal by Owners. In the event any owner of a condominium unit other than the Declarant shall wish to sell, lease, or rent a condominium unit and shall have received a bona fide offer therefor from a prospective purchaser, lessee or tenant, the remaining unit owners shall be given written notice thereof together with an executed or machine copy of such offer. Such notice and copy of offer shall be delivered to the Board of Managers who shall notify each of the owners of such notice and offer. One or more of the unit owners, acting individually or through another owner or owners, shall have the right to purchase, lease or rent the subject condominium unit upon the same terms and conditions as set forth in the offer; provided that during the twenty (20) day period immediately following the notice, written notice of such election to purchase, lease or rent is given to the selling, leasing or renting owner and a matching down payment or deposit is paid to an escrow agent. Closing shall take place within ten (10) days thereafter. If more than one election to purchase, lease or rent is made, the election prior in time shall take priority.

The right of first refusal herein provided shall not apply to leases, subleases or tenancies having a term of less than 365 days or 12 months, but shall apply to any such lease or tenancy which is renewed or extended past said 365 day or 12 month period.

In the event any owner other than the Declarant shall attempt to sell, lease or rent his condominium unit without affording to the other owners the right of first refusal herein provided, such sale, lease or rental shall be wholly null and void and shall confer no title or interest whatsoever upon the intended purchaser, lessee or tenant who shall be subject to eviction and removal, forcibly or otherwise, with or without process of law.

The subleasing or subrenting of said interest shall be subject to the same limitations as are applicable to the leasing or renting thereof. The liability of the owner under and by the provisions contained in this Declaration shall continue, notwithstanding the fact that he may have

leased or rented said interests as provided herein.

In no case shall the right of first refusal reserved herein affect the right of an owner to subject his condominium unit to a bona fide deed of trust, mortgage or other security instrument.

The failure of or refusal by the owners to exercise the right to do so purchase, lease or rent shall not constitute or be deemed to be a waiver of such right to purchase, lease or rent when an owner receives any subsequent bona fide offer from a prospective purchaser, lessee, or tenant.

Except as otherwise provided in Paragraphs 27 and 28, each and every conveyance by a grantor(s) of a condominium unit shall be, for all purposes deemed to include and incorporate in such instrument of conveyance an agreement that the grantee carry out the provisions of the "right of first refusal" as provided in this paragraph.

27. Exemption from Right of First Refusal - First Mortgagees. In the event of any default on the part of any owner under any first mortgage which entitles the holder thereof to foreclose same, any sale under such foreclosure, including delivery of a deed to the first mortgagee in lieu of such foreclosure, shall be made free and clear of the provisions of Paragraph 26, and the purchaser (or grantee under such deed in lieu of foreclosure) of such condominium unit shall be thereupon and thereafter subject to the provisions of the Declaration and the By-Laws of the Association. If the purchaser following such foreclosure sale (or grantee under deed given in lieu of such foreclosure) shall be the then holder of the first mortgage, or its nominee, the said holder or nominee may thereafter sell and convey the condominium unit free and clear of the provisions of Paragraph 26, but its grantee shall thereupon and thereafter be subject to all of the provisions hereof.

28. Exemption from Right of First Refusal - Other. The following transfers are also exempt from the provisions of Paragraph 26:

- A. The transfer by operation of law of a deceased joint tenant's interest to the surviving joint tenant(s);
- B. The transfer of a decedent's interest to a devisee by will or his heirs at law under intestacy laws;
- C. The transfer of all or any part of a partner's interest as a result of a withdrawal, death or otherwise, to the remaining partners carrying on the partnership business and/or to a person or persons becoming partners. A transfer of all or part of a partner's or partners' interest between one or more partners and/or to persons becoming partners;
- D. The transfer by gift, by Court order or by operation of law;
- E. The transfer of an owner's interest to a trust wherein the owner, or his spouse, or his children or their descendants are the beneficiaries thereunder; and
- F. The initial transfer of a unit by Declarant or the leasing or renting by Declarant of any unit or units for any period of time.

Such persons, owners, grantees, trustees or donees acquiring an interest shall be subject to all of the provisions of Paragraph 26 except as is provided herein.

29. Certificate of Compliance - Right of First Refusal. Upon written request of any prospective transferor, purchaser, tenant or a prospective mortgagee of a condominium unit, the Managing Agent or the Association by its Secretary shall issue a written and acknowledged certificate in recordable form evidencing that:

A. With respect to a proposed lease or sale under Paragraph 26, that proper notice was given by the selling or the leasing owner and that the remaining owners did not elect to exercise their option to purchase or lease;

B. With respect to a deed to a first mortgagee or its nominee in lieu of foreclosure, a deed from such mortgagee or its nominee, pursuant to Paragraph 26, that the deeds were, in fact, given in lieu of foreclosure and were not subject to the provisions of Paragraph 26; and

C. With respect to any contemplated transfer which is not in fact a sale or lease, that the transfer will not be subject to the provisions of Paragraph 26;

and such a certificate shall be conclusive evidence of the facts contained therein. The provisions set forth in this Paragraph shall not apply to the initial sales and conveyances of condominium units made by Declarant or the leasing or renting of condominium units by Declarant for any period of time.

30. Insurance. The Managing Agent, or if there is no Managing Agent, then the Board of Managers, shall obtain and maintain at all times, insurance of the type and kind as are or shall hereafter customarily be covered with respect to other condominium buildings, fixtures, equipment and personal property, similar in construction, design and use issued by responsible insurance companies authorized to do business in the State of Texas. The insurance shall be carried in blanket policy form naming the Association as the insured, as attorney-in-fact or trustee (for all of the condominium unit owners), which policy or policies shall provide that they cannot be cancelled or substantially modified until after ten (10) days prior written notice is first given to the Association and each first mortgagee. The Managing Agent, or if there is no Managing Agent, then the Board of Managers, shall also obtain and maintain, to the extent obtainable, public liability insurance in such limits as may from time to time be determined, covering the Association, each member of the Board of Managers, the Managing Agent and the resident Manager.

Each owner may obtain additional insurance at his own expense for his own benefit. Insurance coverage on the furnishings and other items of personal property belonging to an owner and casualty and public liability insurance coverage within each individual unit are specifically made the responsibility of the owner thereof.

31. Association as Attorney-In-Fact. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the condominium project, in whole or in part, upon its destruction, repair or obsolescence.

Title to any condominium is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the owners irrevocably constitute and appoint the Sand Castle Condominium Association their true and lawful attorney in their name, place and stead for the purpose of dealing with said property upon its destruction or obsolescence as is hereinafter provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant Secretary, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a condominium owner which are necessary and appropriate to exercise the powers herein granted. Any repair, reconstruction or replacement made of the improvement(s) shall be to substantially the same condition existing prior to the damage, with each unit and the general and limited common elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purposes of repair, restoration or replacement unless the owners agree not to rebuild in accordance with the provisions set forth hereinafter. The Association shall have full authority, right and power, as attorney-in-fact, to cause any repair

and restoration of the improvement(s) permitted or required hereunder.

Each owner, by ownership of a unit in the condominium project, shall be deemed to appoint the Association as his true and lawful attorney-in-fact to act in his behalf without limitation on the generality of the foregoing, the Association as said attorney shall have the full power and authority to purchase and maintain such insurance, to collect and remit the premiums therefor, to collect proceeds and to distribute the same to the Association, the owners and their respective mortgagees (subject to the provisions hereof) as their interests may appear, to execute releases of liability and to execute all documents and to do all things on behalf of such owner and the condominium project as shall be necessary or convenient to the accomplishment of the foregoing; and any insurer may deal exclusively with the Association in regard to such matters. The Association shall not be responsible for procurement or maintenance of any insurance covering the contents or the interior of any unit for the liability of any owner for occurrences therein not caused by or connected with the Association's operation, maintenance or use of the condominium project.

32. Reconstruction or Repair. Reconstruction and repair shall occur as follows:

A. In the event of damage or destruction due to fire or other disaster, or to condemnation by governmental authorities under power of eminent domain, the insurance proceeds or condemnation proceeds, as the case may be, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed. The Association shall have full authority, right and power, as attorney-in-fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed. The Association shall have full authority, right, and power, as attorney-in-fact, to cause the repair and restoration of the improvements.

B. If the insurance proceeds or condemnation proceeds, as the case may be, are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than four-sevenths(4/7) of all the condominium units (the whole property), not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and proceeds of an assessment to be made against all of the owners and their condominium units. Such deficiency assessment shall be a common expense and made prorata according to each owner's percentage interest in the general common elements and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in Paragraph 23. In addition hereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association, as attorney-in-fact, pursuant to the provisions of this Paragraph. The delinquent owner shall be required to pay the Association the costs and expenses for filing the notices, interest on the amount of the assessment and all reasonable attorney's fees. The proceeds derived from the sale of such condominium shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

(i) For payment of taxes and special assessment liens in favor of any governmental entity and customary expenses of sale;

(ii) For payment of the balance of the lien of any first mortgage;

(iii) For payment of unpaid common expenses and all costs, expenses and fees incurred by the Association;

(iv) For the payment of junior liens and encumbrances in the order of and to the extent of their priority; and

(v) The balance remaining, if any, shall be paid to the condominium unit owner.

C. If the insurance proceeds or condemnation proceeds, as the case may be, are insufficient to repair and reconstruct the damaged improvement(s), and if such damage is more than four-sevenths (4/7) of all of the condominium units (the whole property), not including land, and if the owners representing an aggregate ownership interest of fifty-one percent (51%) or more, of the general common elements do not voluntarily, within one hundred (100) days thereafter, make provisions for reconstruction, which plan must have the unanimous approval or consent of every first mortgagee, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's president and Secretary or Assistant Secretary, the entire remaining premises shall be sold by the Association, pursuant to the provisions contained in the declaration, the Map and the By-Laws. The insurance settlement proceeds shall be collected by the Association, according to each owner's percentage interest in the general common elements, and such divided proceeds shall be paid into separate accounts, each such account representing one of the condominium units. Each such account shall be in the name of the Association, and shall be further identified by the condominium units designation and the name of the owner. From each separate account, the Association, as attorney-in-fact, shall forthwith use and disburse the total amount (of each) of such accounts, without contribution from one account to another, toward the partial or full payment of the lien of any first mortgage against the condominium unit represented by the apportioned amount of the proceeds derived from the sale of the entire property. Such apportionment shall be based upon each condominium unit owner's percentage interest in the general common elements. The total funds of each account shall be used and disbursed without contribution from one account to another, by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in sub-paragraph B (i) through (v) of this Paragraph.

D. Each owner shall be responsible for the reconstruction repair or replacement of the interior accessories and appliances of his unit, other than those accessories or appliances contained in the original specifications for construction of the condominium project. Each owner shall also be responsible for the costs of repair, reconstruction or replacement of any portion of his unit ascertained by the insurance adjusters to be damaged by his own negligence, misuse or the negligence or misuse by his family, guests, agents, servants, employees or contractors, and thus not compensated by insurance.

E. If the owner representing an aggregate ownership interest of fifty-one percent (51%), or more, of the general common elements adopt a plan for reconstruction, which plan has the unanimous approval of all first mortgagees, then all of the owners shall be bound by the terms and other provisions of such plan. Any assessment made in connection with such plan shall be a common expense and made prorata according to each owner's percentage interest in the general common elements and shall be due and payable as provided by the terms of such plan, but not sooner than thirty (30) days after written notice thereof. The Association shall have full authority, right and power as attorney-in-fact, to cause the repair or restoration of improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in Paragraph 23. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association. The delinquent owner shall be required to pay to the

Association the costs and expenses for filing the notices, interest at the rate of eight percent (8%) per annum on the amount of the assessment and all reasonable attorney's fees. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph B (i) through (v) of this Paragraph.

F. The owners representing an aggregate ownership interest of seventy-five percent (75%), or more, of the general common elements may agree that the general common elements are obsolete and adopt a plan for the renewal and reconstruction, which plan has the unanimous approval of all first mortgagees of record at the time of the adoption of such plan. If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the owners as common expenses.

G. The owners representing an aggregate ownership interest of seventy-five percent (75%) or more, of the general common elements may agree that the condominium units are obsolete and that the same should be sold. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire premises shall be sold by the Association, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the Map and the By-Laws. The sales proceeds shall be apportioned between the owners on the basis of each owner's percentage interest in the general common elements, and such apportioned proceeds shall be paid into separate accounts, each such account representing one condominium unit. Each such account shall be in the name of the Association, and shall be further identified by the condominium unit designation and the name of the owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount (of each) of such accounts, without contribution from one account to another, for the same purposes and in the same order as is provided in sub-paragraph B (i) through (v) of this Paragraph.

33. Personal Property for Common Use. The Association, as attorney-in-fact for all of the owners, may acquire and hold for use and benefit of all of the condominium unit owners, real, tangible and intangible personal property and may dispose of the same by sale or otherwise. The beneficial interest in any such property shall be owned by all of the condominium unit owners in the same proportion as their respective interest in the general common elements, and such interest therein shall not be transferable except with a transfer of a condominium unit. A transfer of a condominium unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto. Each owner may use such property in accordance with the purpose for which it is intended without hindering or encroaching upon the lawful rights of the other owners. The transfer of title to a condominium unit under foreclosure shall entitle the purchaser to the beneficial interest in such personal property associated with the foreclosed condominium unit.

34. Registration of Mailing Address. Each owner shall register his mailing address with the Association, and notices or demands intended to be served upon an owner shall be sent by mail, postage prepaid, addressed in the name of the owner at such registered mailing address. All notices, demands, or other notices intended to be served upon the Board of Managers of the Association or to the Association shall be sent certified mail, postage prepaid, to Manager's Office, or at such other address of which the Board may be furnished from time to time.

35. Period of Condominium Ownership. The separate and condominium estates created by this Declaration and the Map shall continue until this Declaration is revoked in the manner and as is provided in Paragraph 19 of this Declaration or until terminated in the manner as is provided in sub-paragraph C or G of Paragraph 32 of the Declaration.

36. General Reservations. Declarant reserves the right to establish easements, reservations, exceptions and exclusions consistent with the condominium ownership of the condominium project and for the best interest of the condominium unit owners and the Association in order to serve the entire condominium project.

37. Certain Additional Provisions Relating to the Obtainment of Federal Mortgage Commitments. Notwithstanding any other provisions to the contrary contained herein, for the purposes of complying with the requirements of the Federal National Mortgage Association to qualify the condominium units for Federal National Mortgage Association financed mortgages, the following additional terms and provisions shall be deemed a part of these Declarations:

(1) The prior written approval of all holders of first mortgages on condominium units must be obtained for the following:

(a) The abandonment of the condominium status of the Condominium Project, except for abandonment provided by statute in case of substantial loss to the units and common elements;

(b) The partition or subdivision of any unit or of the common elements;

(c) A change in the percentage interest of the unit owners.

(2) An adequate reserve fund for replacement of components of the common elements must be established, which must be funded by monthly payments, rather than by extraordinary special assessments. In addition, there must be established a working capital fund for the initial month of operation of the Property equal to a minimum amount of two months' estimated common area charge for each unit. The managing agent or the Board of Managers of the Association shall be responsible for the collection of the two months' estimated common area charge at the time sales commence of the Condominium Project.

(3) The holders of all first mortgages shall have the right to examine the books and records of The Sand Castle Homeowner's Association and to require the submission of annual reports and other financial data.

(4) If all or any part of the project should be condemned, each first mortgagee shall be notified of the proceedings of such condemnation and of the operation of the rules contained in paragraph 32 hereof, which preserve the mortgagee's first lien priority.

(5) Any managing agent or other person or entity handling funds of The Sand Castle Homeowner's Association must be provided with appropriate fidelity bond coverage, which shall be a common expense.

(6) Neither the Declarant acting in its capacity as owner of the units nor the unit owners may amend either this Declaration or the bylaws attached hereto as Exhibit "D" in any manner by which such amendment would violate the "FNMA Conventional Selling Contract Supplement" of the Federal National Mortgage Association, as amended, and as they may be amended from time to time, unless any proposed amendment which might be considered violative thereof shall be consented to in writing by each and every mortgage holder of all units in the project.

38. The declarant does hereby reserve the right to use the name "The Sand Castle Condominium" for any future development of condominiums on adjoining, adjacent or abutting property. Any additional phases (portion of development) shall exist as a separate Condominium Project and act independent from any other Phase.

39. General.

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

B. The provisions of this Declaration shall be in addition to and supplemental to the Condominium Act of the State of Texas, and to all other provisions of law.

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

IN WITNESS WHEREOF, Declarant has duly executed this Declaration
this _____ day of _____, 1980.

DWELLING DEVELOPMENT, INC.
A Texas Corporation

By _____
Willis M. Lucas, President

BYLAWS OF
THE SANDCASTLE CONDOMINIUM ASSOCIATION

PHASE I

ARTICLE I
NAME AND OFFICES

Section 1. Name and Offices. Until the Board of Directors otherwise determine, the registered office of THE SAND CASTLE CONDOMINIUM ASSOCIATION required by the Texas Non-Profit Corporation Act to be maintained in the State of Texas, shall be 8227 Stewart Rd., Galveston, Texas 77551, but such registered office may be changed from time to time by the Board of Directors in the manner provided by law and need not be identical to the principal office of the Corporation. Meetings of members and directors may be held at such places within the State of Texas, County of Galveston, as may be designated by the Board of Directors.

ARTICLE II
DEFINITIONS

Section 1. "Association" shall mean and refer to THE SAND CASTLE CONDOMINIUM ASSOCIATION, A Texas Non-Profit Corporation, its successors and assigns.

Section 2. The "Property" shall mean and refer to that certain real property situated in Galveston, Galveston County, for THE SAND CASTLE, A CONDOMINIUM, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

Section 4. "Tract" shall mean and refer to any of the individual units described in the recorded Master Declaration for THE SAND CASTLE, A CONDOMINIUM.

Section 5. "Phase" shall mean and refer to the portion of development that this condominium document applies to.

Section 6. "Owner or "Owners" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any unit which is part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to THE SAND CASTLE DWELLING DEVELOPMENT INC, its successors and assigns if such successors or assigns should acquire more than one unit from the Declarant for the purpose of resale.

Section 8. "Declaration" shall mean and refer to the Master Declaration for THE SAND CASTLE, A CONDOMINIUM, as recorded in the Official Public Records of Real Property of Galveston County, Texas. The terms and provisions of the Declaration are deemed incorporated herein in their entirety, as if fully set forth herein, and made a part hereof for all purposes. If any provision of these Bylaws shall conflict or be inconsistent with the terms of the Declaration, the terms of the Declaration shall control.

Section 9. "Member" or "Members" shall mean and refer to those persons entitled to membership as provided in the Declaration and further defined hereinafter.

ARTICLE III

MEMBERS

Section 1. Each and every owner of the fee or a fee interest in a townhouse building tract in the property and all additions or annexations thereto shall automatically, upon becoming an owner, be a member of the Association and shall remain a member thereof until his ownership ceases for any reason at which time his membership in the Association shall automatically cease.

Section 2. The Association shall have one class of voting membership but no capital stock since it is organized for the purposes specified in the Articles of Incorporation. Each member shall be entitled to a vote which is equal in percentage to his percentage ownership in the general common elements of the Property, as defined in the Declaration.

ARTICLE IV

MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held within thirty (30) days after

the expiration or ninety (90) days after the Declarant has sold 100% of the Property to third party purchasers, or one (1) year from the date of filing of the Declaration, whichever occurs first, and each subsequent regular annual meeting of the members shall be held on the third Tuesday of January of each year thereafter, at the hour of 7:30 p.m. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-third (1/3) of all the votes of the members.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 but not more than 30 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association, for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-third (1/3) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his tract.

ARTICLE V

BOARD OF DIRECTORS

Section 1. Board of Directors. The affairs of the Association shall be managed by the Board of Directors (referred to in the Declaration as the "Board of Managers" which shall be Board of Managers) and, subject to such restrictions, if any, as may be imposed by law, the Articles of Incorporation or by these Bylaws, the Board of Directors may, and are fully authorized to, exercise all the powers of the Association. Directors need not be members of the Association.

In addition to the powers and authority expressly conferred upon the Board of Directors by law, the Articles of Incorporation or amendment thereof, by these bylaws of any amendment thereof, the Board may exercise all the powers of the Association and do all such lawful acts and things as may be done by the Association which are not by the laws of the State of Texas or by the Articles or Incorporation or by these Bylaws directed or required to be exercised or done by the members.

Section 2. Number of Directors. The Board of Directors shall consist of three(3) persons, but the number of directors may be increased from time to time by amendment to the Bylaws of the Corporation; provided, however, that the number of directors shall never be less than three (3). Until the election of directors at the first annual meeting of the members, the initial board of directors shall so serve.

Section 3. Election and Term. The directors shall be elected by the members at the annual meeting of the members, or at a special meeting of the members held in lieu of the annual meeting, if the same is not held when provided for by these Bylaws, and each such director shall hold office, unless removed in accordance with the provisions of these Bylaws or he resigns, for a term of one (1) year and until his successor shall have been elected and qualified. Each director shall qualify by accepting his election to office either expressly or by acting as a director.

Section 4. Resignation. Any director or officer of the Association may resign at any time by providing the Secretary of the Association with written notice of his resignation.

Section 5. Vacancy and Increase. Any vacancy or vacancies occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors though less

than a quorum of the Board of Directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office and until his successor shall have been elected and qualified. In case of any increase in the number of directors, the additional director or director shall be elected at either an annual meeting or a special meeting of the members called for that purpose.

Section 6. Removal. The directors of the Association, and each of them, may be removed from office from time to time and at any time with or without cause, by the members entitled to vote, at any meeting thereof at which a quorum is present, by the vote of two-thirds of the votes of the members present in person or by proxy and entitled to vote thereat; and any vacancy or vacancies in the Board resulting therefrom may be filled by the remaining directors, though less than a quorum, or by the members, whichever shall first act thereon.

Section 7. Offices and Records. The directors may have or establish one or more offices of the Association and keep the books and records of the association, except as otherwise provided by statute, in such place or places in the State of Texas, as the Board of Directors may from time to time determine.

Section 8. First Meeting. Upon the election of new members to the Board of Directors, the Board of Directors may hold a meeting for the purpose of organization and transaction of business, if a quorum is present, immediately after and at the same place as the annual meeting of the members and no notice of such meeting shall be necessary except to members of the Board.

Section 9. Regular Meetings. Regular meetings of the Board of Directors shall be held at such times and places as shall be designated or determined from time to time by resolution of the Board of Directors. Notice of such regular meetings shall not be required except to members of the Board.

Section 10. Order of Business. At all meetings of the Board of Directors business shall be transacted in such order as from time to time the Board of Directors may determine. At all meetings of the Board of Directors the President shall preside and in the absence of the President, a Vice President shall preside, but if neither the President nor a Vice President shall be present or if neither shall for any reason preside at any meeting of the Board

of Directors, then a Chairman shall be chosen from among the directors present and such Chairman so chosen shall preside at the meeting.

The Secretary of the Corporation, or in his absence, an Assistant Secretary, shall act as Secretary of the meetings of the Board of Directors, but in the absence of the Secretary and an Assistant Secretary, or if for any reason neither acts as Secretary thereof, the Chairman shall appoint any person of his choice to act, and such person shall act as Secretary of the meeting.

Section 11. Presumption of Assent. A director of the Association who is present at a meeting of the Board of Directors at which action on any association matter is taken shall be presumed to have assented to the action unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right of dissent shall not apply to a director who voted in favor of such action.

Section 12. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE VI

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made from the floor at the annual meeting.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VII

MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any three directors, after not less than three (3) days notice to each director.

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

Section 4. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE VIII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

- (a) Adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) Suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

(c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-laws, the Articles of Incorporation, or the Declaration;

(d) Declare the office of a member of the Board of Directors to be vacant in the event such members shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) Employ a manager (Managing Agent as referred to in the Declaration), independent contractors, or such other employees as they deem necessary, and to prescribe their duties.

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

(a) Cause to be kept complete records of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting which such statement is requested in writing by one-third (1/3) of the members who are entitled to vote;

(b) Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) As more fully provided in the Declaration, to:

(1) fix regular monthly or annual assessments or charges against the townhomes;

(2) fix the amount of special assessments for capital improvements to the common area; and,

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or bring an action at law against the owner personally obligated to pay the same.

(d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

- (e) Procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

ARTICLE IX

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

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

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

Section 5. Resignation and Removal. Any officer may be removed from office without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

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

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person simultaneously may hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes, except as may be otherwise approved by the Board of Directors.

Vice-President

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the board.

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be represented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE X

OFFICERS' AND DIRECTORS' SERVICES, CONFLICTING
INTERESTS AND INDEMNIFICATION

Section 1. Services. No director and, unless otherwise determined by the Board of Directors, no officer of this Association shall be required to devote his time or any particular portion of his time or render services or any particular services exclusively to this Association. Each and every director and, unless otherwise determined by the Board of Directors, each and every officer of this Association shall be entirely free to engage, participate and invest in any and all such businesses, enterprises and activities, either similar or dissimilar to the business, enterprise and activities of this Association, without breach of duty to this Association and without accountability or liability to this Association in any event or under any circumstances or conditions.

Section 2. Directors' and Officers' Interests in Contracts. No contract or other transaction between the Association and one or more of its directors or officers, or between the Association and any firm or partnership of which one or more of its directors or officers are members or employees or in which they are otherwise interested, or between the Association and any corporation or association or other entity in which one or more of this Association's directors or officers are shareholders, members, directors, officers or employees or in which they are otherwise interested, shall be void or voidable by reason of or as a result of such connection with or holding an office or offices as a director or officer or as directors or officers of this Association or such interest in or in connection with such other firm, partnership, corporation, association, or other entity, notwithstanding the presence of such director or directors, officer or officers, at the meeting of the Board of Directors of this Association which acts upon or in reference to any such contract or other transaction, and notwithstanding his or their participation in such action, if the fact of such interest shall be disclosed or known to the Board of Directors, the Board of Directors shall authorize, approve or ratify such contract or other transaction by a vote of a majority of the directors present, such interested director or directors to be counted in determining whether a quorum is present, but not to be counted in calculating the majority necessary to carry such vote, nor shall any director or officer be responsible to, or liable to account to, this Association for any profits realized by or from or through any such

contract or other transaction of the Association so authorized, ratified or approved, by reason of such interest or his being or having been a director or officer, or both, of this Association. Nothing herein contained shall create responsibility or liability in or in connection with any such event or events or prevent the authorization, ratification or approval of such contracts or other transactions in any other manner permitted by law or by statute. This section shall not be construed to invalidate any contract or other transaction which would otherwise be valid under the common or statutory law applicable thereto.

Section 3. Non-Liability of Directors and Officers in Certain Cases. No director or officer shall be liable for his acts as such if he is excused from liability under any present or future provision or provisions of the Texas Non-Profit Corporation Act; and, in addition, to the fullest extent now or hereafter permitted by the Texas Non-Profit Corporation Act, each officer or director shall in the discharge of any duty imposed or power conferred upon him by the Association, be fully protected if, in the exercise of ordinary care, he acted in good faith and in reliance upon the written opinion of an attorney for the Association, the books of account or reports made to the Association by any of its officials or by an independent certified public accountant or by an appraiser selected with reasonable care by the Board of Directors, or in reliance upon other records of the Association.

Section 4. Indemnification of Directors and Officers. Each director and each officer or former director or officers of this Corporation shall be and hereby is indemnified by the Association against liabilities imposed upon him and reasonable expenses actually incurred by him in connection with any claim made against him, or the defense of any action, suit or proceeding to or in which he may be or be made a party by reason of his being or having been such director or officer, and against such sums as independent counsel selected by the Board of Directors shall deem reasonable payment made in settlement of any such claim, action, suit or proceeding primarily with a view of avoiding expenses of litigation; provided, however, that no director or officer shall be indemnified with respect to matters as to which he shall be adjudged in such action, suit or proceedings to be liable for negligence or misconduct in performance of duty, or with respect to any matters which shall be settled by the payment of sums which counsel selected by the Board of Directors shall not deem reasonable payment made primarily with a view to avoiding expenses of litigation, or with

respect to matters for which such indemnification would be against public policy. Such right of indemnification shall be in addition to, but shall not exclude, any rights to which directors or officers may be entitled.

Section 5. Dividends Prohibited. No dividend shall be paid and no part of the income of the Association shall be distributed to the directors or officers.

Section 6. Loans to Directors and Officers Prohibited. No loans shall be made by the Association to the directors or officers. Any director who votes for or assents to the making of a loan to a director or officer of the Association, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the Association for the amount of such loan and the immediate repayment thereof.

ARTICLE XI

EXECUTIVE COMMITTEE

The Board of Directors, by resolution or resolutions adopted by the affirmative vote of a majority of the number of directors affixed by these Bylaws, may designate two or more directors to constitute an Executive Committee, and in like manner may discontinue such Executive Committee. The members of such Executive Committee shall, respectively, hold office only during the term of the Board of Directors. Such Executive Committee, to the extent provided in such resolution or resolutions shall have and may exercise all of the authority of the Board of Directors in the business and affairs of the Association during the term of the Board of Directors as specified by the Texas Non-Profit Corporation Act or other applicable law and may authorize the seal of the Association to be affixed to all instruments, papers and documents which may require it; except that the Executive Committee shall have no power (a) to elect directors, (b) to alter, amend, or repeal these Bylaws or any resolution or resolutions of Board of Directors designating an Executive Committee, or (c) to appoint or replace any member of the Executive Committee. Regular meetings of the Executive Committee shall be held at such time and place as the Committee may determine, and special meetings may be called at any time by an officer of the Corporation or by any member of the Committee. No notice of any meeting of the Executive Committee shall be required, and a majority of the members of the Committee shall constitute a quorum for the transaction of business. Minutes of all such meetings shall be kept and presented to the Board of Directors upon request. The designation of such Executive Committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any member

thereof, of any responsibility imposed upon it or him by law.

ARTICLE XII

COMMITTEES

The Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE XIII

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XIV

ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association regular monthly, annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of ten (10%) per cent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

ARTICLE XV

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: THE SAND CASTLE CONDOMINIUM ASSOCIATION.

ARTICLE XVI

Section 1. These Bylaws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.

ARTICLE XVII

Section 1. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first year shall begin on the date of incorporation.

Section 2. Laws and Statutes. Wherever used or appearing in these Bylaws, the words "law" or "laws" or "Statute" or "Statutes", respectively, shall mean and refer to laws and statutes, or a law or a statute, of the State of Texas, to the extent only that such is or are expressly applicable, except where otherwise expressly stated or the context requires that such words not be so limited.

Section 3. Headings. The headings of the Articles and Sections of these Bylaws are inserted for convenience of reference only and shall not be deemed to be a part thereof or used in the construction or interpretation thereof.

IN WITNESS WHEREOF, we being all of the Directors of THE SAND CASTLE CONDOMINIUM ASSOCIATION, have hereunder set our hands this ___ day of _____, 1980.

Certificate of Secretary

The undersigned, Secretary of the Texas Non-Profit Corporation known as The Sand Castle Condominium Association, does hereby certify that the above and foregoing Bylaws were duly adopted by the Board of Directors of said Association on the ___ day of _____, 1980, and that they now constitute said Bylaws.

Signed this ___ day of _____, 1980.

Secretary