

COMDOMINIUM DECLARATION
FOR
SUNSTREAM VILLAS, A CONDOMINIUM COMMUNITY

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, SUNSTREAM ASSOCIATED LTD., a Texas Partnership, hereinafter called "Declarant", is the owner of certain real property situated in the County of Harris, State of 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 regime under the Condominium Act of the State of Texas; and

WHEREAS, Declarant desires to construct improvements on said property consisting of 8-two story buildings which contain an aggregate of one hundred four (104) individual apartment-type units, together with other improvements, structures and facilities and appurtenances, which project will be known as SUNSTREAM VILLAS, a CONDOMINIUM COMMUNITY; and

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

NOW, THEREFORE, Declarant does hereby submit the real property described on the attached Exhibit "A", and all improvements thereon, subject to all incumbrances, restriction, conditions and outstanding mineral interests, if any, relating to said property to the extent, and only to the extent, that the same at the date of this instrument may be in force and effect and shown of record in the office of the County Clerk of Harris County, Texas, to the provisions of the Condominium Act of the State of Texas and this Condominium Regime, and 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, its successors and assigns and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

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

(a) "Apartment" or "apartment unit" means an individual air space unit which is contained within the perimeter walls, floors and ceilings of a building as shown on the map.

(b) "Condominium unit" means one individual air space unit together with the interest in the general common elements appurtenant to such unit.

(c) "Owner" means a person, firm, corporation, partnership, association or other legal entity, or a combination thereof, who owns one or more condominium units.

(d) "General Common Elements" means and includes:


- (1) The land on which the buildings are located;
- (2) The foundations, columns, girders, beams, supports, main wall and roofs;
- (3) The yards, gardens, unassigned parking areas, fences, unassigned storage areas, streets, service drives, walks, service easements, recreation area, boiler rooms and mechanical room, if any;
- (4) The installations consisting of the equipment and materials making up central services such as power, light, gas, water, swimming pools, and the like;
- (5) All other structures, facilities and equipment located on the property necessary or convenient to its existence, maintenance and safety, or normally in common use.
- (6) Carport parking spaces not designated in a deed conveying a townhome unit to the owner thereof.

(e) "Limited Common Elements" means a part of the general common elements reserved for the exclusive use of the owner of a condominium unit; terraces, balconies, and storage areas indicated on the map as appurtenant limited elements to a specific unit only shall be deemed limited common elements.

(f) "Entire Premises" or "Property" means and includes the land, the buildings, all improvements and structures thereon, and all rights, easements and appurtenances belonging thereto.

(g) "Common Expenses" means and includes:

- (1) All sums lawfully assessed against the general common elements by the Board of Directors;
- (2) Expenses of administration and management, maintenance, repair or replacement of the general common elements;
- (3) Expenses agreed upon as common expenses by the owners; and
- (4) Expenses declared common expenses by provisions of this Declaration and by the By-Laws.

 (h) "Association of Unit Owners" or "Association" means a Texas non-Profit corporation, which corporation shall govern the administration of this condominium property, the members of which shall be all of the owners of the condominium units.

(i) "Map", "Survey Map" or "Plans" means and includes the engineering survey of the land locating thereon all of the improvements, the floor and elevation plans and any other drawing or diagrammatic plan depicting a part of or all of the improvements, same being herewith filed, consisting of sheets labelled Exhibits "B-1", "B-2" and "B-3", inclusive, which will be hereinafter referred to as Exhibits "B", etc., and incorporated herein.

(j) "Construction Period" means that period of time during which Declarant is developing the premises and selling the Condominium Units, which time period shall extend from the date hereof until such time as the Declarant transfers title to all of the Condominium Units, including all units annexed to this condominium regime pursuant to the provisions of Paragraph 2 hereof, or two (2) years from the date on which the Declarant makes the first transfer of a Condominium Unit to an Owner other than Declarant; whichever occurs first.

(k) "Completed Unit" means a unit which is completely finished, including but not limited to the installation of all appliances and utilities, so that the unit is ready for transfer to and occupancy by the Owner other than Declarant.

2. CONDOMINIUM MAP. The map shall be filed for record simultaneously with the recording of this Declaration as a part hereof, and prior to the first conveyance of any condominium unit. Such map shall consist of and set forth (1) the legal description of the surface of the land; (2) the linear measurements and location, with reference to the exterior boundaries of the land, of the buildings and all other improvements built or to be built on said land by Declarant; (3) floor plans and elevations plans of the building built or to be built thereon showing the location, the building designation, the townhome designation and the linear dimensions of each townhome and the limited common elements; (4) the elevations of the unfinished interior surfaces of the floors and ceilings as established from a datum plane.

Declarant reserves 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.

During the Construction Period, Declarant shall retain and have the power to unilaterally amend the physical lay-out or makeup of any and all unsold buildings, Condominium Units, the Common Elements (both General and Limited) and to annex additional land and buildings, and Condominium Units to this condominium regime, and in connection therewith to change the pro rata interest or obligations of any or all units for purposes of determining ownership in the Common Elements, and for purposes of levying or determining assessment and charges and proceeds of the project; provided, however, the power hereby retained by Declarant shall be subject to Declarant first obtaining the prior written approval of the holders of ninety percent of the first mortgage liens on the individual Condominium Units and further provided, however, that any improvement constructed as a result of said amendment or annexation shall be of comparable style, quality, size and cost.

3. DIVISION OF PROPERTY INTO CONDOMINIUM UNITS. The real property is hereby divided into the following separate fee simple estates:

(a) One-hundred four (104) fee simple estates consisting of one hundred four (104) separately designated townhomes, each such townhome identified by number and by building symbol or designation on the map.

(b) The remaining portion of the entire premises is referred to as the general common elements, which shall be held in common by the owners, each such interest being an undivided .9615 percent interest in the general common elements, and each such interest being appurtenant to one of the townhomes covered hereby.

4. COMMON ELEMENTS. A portion of the general common elements is set aside and reserved for the exclusive use of individual owners, such areas being the limited common elements. The limited common elements reserved for the exclusive use of the individual owners will be 104 of the automobile parking spaces and all of the patio spaces which are shown on the map. Terraces, balconies, and storage areas are allocated and assigned by the Declarant to the respective condominium units as indicated on Exhibits "B" etc., inclusive, hereto attached. At least one parking space shall be permanently assigned to each townhome. Declarant will offer to each owner the option to acquire the exclusive use of a covered parking space, for an additional consideration. Parking spaces will be covered by Declarant as owners exercise their options, beginning with parking space numbered 1 on the attached Exhibit etc. and continuing thereon consecutively until all townhomes have been sold. Covered parking spaces shall be maintained by the Association and the cost thereof shall be borne prorata by the owners of covered parking spaces and paid by special assessment. Each owner of a townhome electing not to have the exclusive use of a covered parking space will be allowed to select the uncovered parking space to be designated for said owner's townhome from those spaces not yet selected by an owner or reserved by Declarant for the possible construction of a cover thereon. The parking space, either covered or uncovered, designated for each unit will be indicated on the deed conveying said unit to the owner thereof. The remaining 104 parking spaces not designated for the exclusive use of an individual owner shall be general common area, to be used by owners, their families, social guests and tenants, subject to reasonable regulations promulgated by the Declarant, and by the Board of Directors after same has been elected, copies of which shall be posted in said parking areas and given to all owners. Each parking space will be appropriately marked to indicate whether said space is reserved for the exclusive use of an owner or is general common area. Portions of the common area are intended as recreational areas, and are improved with swimming pools and other recreational facilities. Reasonable regulations governing the use of said recreational facilities by owners and by their guests and invitees shall be promulgated by the Declarant, and by the Board of Directors after same has been elected. Such regulations shall be permanently posted in said recreational areas and all owners shall be furnished with a copy thereof. Each owner shall be required strictly to comply with said Rules and Regulations, and shall be responsible to the Board of Directors for the compliance therewith by members of his or her family, relatives, guests or invitees, both minor and adult.

5. INSEPARABILITY OF A CONDOMINIUM UNIT. Each townhome and the undivided interest in and to the general common elements appurtenant thereto shall be inseparable and may be conveyed, leased or encumbered only as a condominium unit.

6. DESCRIPTION OF CONDOMINIUM UNIT. Every deed, lease, mortgage, trust deed or other instrument may legally describe a condominium unit by its identifying townhome number and building symbol or designation as shown on the map, followed by the words "SUNSTREAM VILLAS, a CONDOMINIUM COMMUNITY" and by a reference to this recorded Declaration and Map. Every such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber or otherwise affect the general common elements.

7. SEPARATE ASSESSMENT AND TAXATION. Declarant shall give written notice to the assessor of the creation of condominium ownership of this property, as is provided by law, so that each townhome and its undivided interest in the general common elements shall be deemed a separate parcel and subject to separate assessment and taxation.

8. OWNERSHIP-TITLE. A condominium unit may be held and owned by more than one person as joint tenants or as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Texas.

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9. NON-PARTITIONABILITY OF COMMON ELEMENTS. The general common elements shall be owned in common by all of the owners of the townhomes and shall remain undivided, and no owner shall bring any action for partition or division of the general common elements. Subject to the provisions of paragraph (M) of Article 29, nothing contained herein shall be construed as a limitation of the right of partition of a condominium unit between the owners thereof, but such partition shall not affect any other condominium unit.

10. OCCUPANCY. Each owner shall be entitled to exclusive ownership and possession of his townhome. Each owner may use the general common elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other owners. Nothing shall be altered or constructed on or removed from the Common Elements, except upon written consent of the Board of Directors.

10a. In the event that the need for maintenance or repair is caused through the willful or negligent act of an Owner, his family, or guests, or invitees, and is not covered or paid for by insurance on such Apartment Unit, or the Common Elements, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Apartment Unit is subject, pursuant to Article 21 hereof.

11. USE. Each townhome shall be occupied and used by the owner only as and for a single family residential dwelling for the owner, his family, his social guests or his tenants; provided, however, that Declarant may erect temporary structures for use in connection with the construction, renovation, and sale of the Condominium Units and may use any of the Property as sales offices and/or furnished models and the display of advertising signs, during the construction period and for such time thereafter as is required for Declarant to sell all 104 of the Condominium Units. No Owner or resident shall use a Condominium Unit in such a manner so as to endanger the health or disturb the reasonable enjoyment of any other Owner or resident.

12. EASEMENTS AND ENCROACHMENTS. If any portion of the general common elements encroaches upon a townhouse or townhouses, 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 an adjoining townhouse or townhouses encroaches upon the general common elements, or upon any other townhouse, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. For title or other purposes, such encroachment(s) and easement(s) shall not be considered or determined to the encumbrances either on the general common elements or the townhouses.

13. TERMINATION OF MECHANIC'S OR MATERIALMEN'S LIENS AND INDEMNIFICATION. Subsequent to the completion of the improvements described on the map, no labor performed or materials furnished and incorporated in a townhouse with the consent or at the request of the owner thereof or his agent or his contractor or subcontractor shall be the basis for filing of a lien against the general common elements owned by such other owners. 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 townhouse of any other owner or against the general common elements for construction performed or for labor, materials, services or other products incorporated in the owner's townhouse at such owner's request.

14. ADMINISTRATION AND MANAGEMENT. The administration of this condominium property shall be governed by the By-Laws of Sunstream Villas Owners Association, a non-profit association, hereinafter referred to as the "Association". 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. Declarant shall, during the Construction Period, cause to be formed a Texas non-profit corporation bearing the same name and said non-profit corporation shall adopt the By-Laws of the Association and shall thereafter act and do all things to be done by Association, according to the By-Laws of the Association. The Association shall be managed by a Board of Directors, duly appointed or elected, pursuant to the terms and conditions of the By-Laws. The Association shall enter into a Management Agreement, upon such terms and conditions as established in the By-Laws, which Management Agreement shall be consistent with this Declaration.

15. ACCESS FOR MAINTENANCE AND REPAIR. The owners shall have the irrevocable right, to be exercised by the Board of Directors of the Association, to have access to each townhouse from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the general common elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the general or limited common elements or to another townhouse or townhouses.

16. OWNER'S RESPONSIBILITY FOR MAINTENANCE OF TOWNHOUSE. An owner shall maintain and keep in repair the interior of his own townhouse, including the fixtures thereof. All fixtures and equipment, including the heating and air conditioning system, installed within the townhouse, commencing at a point where the utility lines, pipes, wires, conduits or systems (which for brevity are hereafter referred to as "utilities") enter the townhouse shall be maintained and kept in repair by the owner thereof. Without limitation on the generality of the foregoing, an owner shall maintain and keep in good repair (and replace, if so required) the air conditioning compressor, fans, ductwork, heating unit and cooling coils, utilized in and for his townhouse; as well as all other fixtures situated within or installed into the limited common elements appurtenant to such townhouse; and an owner shall be obliged to promptly repair and replace any broken or cracked windows, doors or glass therein that might be so broken or cracked. Notwithstanding anything to the contrary contained in this Article 16, an owner when exercising his right and responsibility of repair, maintenance, replacement or remodeling, as herein defined, shall never alter, in any manner whatsoever, the exterior appearance of his townhouse.

As owner shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding his townhouse, nor shall such owner be deemed to own the utilities running through his townhouse which are utilized for, or serve more than one townhouse, except as a tenant in common with the other owners. An owner, however, shall be deemed to own and shall maintain the inner decorated and/or finished surfaces of the perimeter and interior walls, floors and ceilings, doors, windows and other such elements consisting of paint, wallpaper and other such finishing materials.

17. INTERFERENCE WITH STRUCTURAL SOUNDNESS OF BUILDING. 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. No owner shall in any way alter, modify, add to, or otherwise perform any work whatever upon any of the common elements, save with written consent of the Board of Directors first obtained.

18. DIMENSIONS. It is expressly agreed, and each and every purchaser of a townhouse, his heirs, executors, administrators, assigns, successors, and grantees hereby agree, that the square footage, size and dimensions of each townhouse as set out and shown in this Declaration or in said survey plats attached as Exhibits hereto, are approximate and are shown for descriptive purposes only, and that the Declarant does not warrant, represent, or guarantee that any townhouse actually contains the area, square footage, or dimensions shown by the plat thereof. Each purchaser of a townhouse hereby expressly waives any claim or demand which he may have against the Declarant or any other person whomsoever, on account of any difference, shortage, or discrepancy between the townhouse as actually and physically existing and as it is shown on the respective plat thereof, which is attached as an Exhibit hereto. It is specifically agreed that in interpreting deeds, mortgages, deeds of trust, and other instruments for any purpose whatsoever or in connection with any matter, the existing physical boundaries of the townhouse or of any townhouse reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be the boundaries, regardless of setting, arising, or lateral movement of the building and regardless of variances between the boundaries shown on the plat and those of the building.

19. COMPLIANCE WITH PROVISIONS OF DECLARATION AND BY-LAWS. Each owner shall comply strictly with the provisions of this Declaration, the By-Laws and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or injunctive relief, or both maintainable by the Board of Directors on behalf of the owners or, in proper case, by an aggrieved owner.

20. REVOCATION OR AMENDMENT TO DECLARATION. This Declaration shall not be revoked nor shall any of the provisions herein be amended unless the owners representing an aggregate ownership interest of 90% of the condominium units then subject hereto, or more, and all of the holders of any recorded mortgage or deed

of trust covering or affecting any or all condominium units unanimously consent and agree to such revocation or amendment by instrument(s) duly recorded; except as provided in subparagraphs (c) and (e) of Article 27 hereof. The making of physical changes in the interior of a townhouse or townhouses coming into the possession of a mortgagee by virtue of foreclosure of any first mortgage, and physical changes to and alterations of the townhouse or townhouses owned by virtue of foreclosure of any first mortgage may be made without the consent of the other owners or mortgagees, and this Declaration may be amended, without others' or mortgagees' consent, by the owner acquiring same by foreclosure, to correspond with such physical changes; provided, however, that the undivided interest of each townhouse owner in the general common elements as expressed in this Declaration shall have a permanent character and shall not be altered without the consent of all of the unit owners and first mortgagees expressed in an amended Declaration duly record.

21. ASSESSMENTS FOR COMMON EXPENSES - UTILITIES - INSURANCE. Assessments shall be based upon the cash requirements deemed to be such aggregate sum as the Board of Directors of the Association shall from time to time determine is to be paid by all of the owners, including Declarant, to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the general common elements, which sum may include, among other things, cost of management, assessments, 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, casualty and public liability and other insurance premiums, landscaping and care of grounds, common lighting, repairs and renovations, garbage collections, wages, water charges, electricity charges, gas charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Board of Directors under or by reason of this Declaration, the payment of any deficit remaining from a previous period, the creation of a reasonable contingency or other reserve or surplus funds as well as other costs and expenses relating to the general common elements. The limited common elements shall be maintained as general common elements and owners having exclusive use thereof shall not be subject to any special charges or assessments for the repair or maintenance thereof. The omission or failure of the Board to fix the assessment for any month shall not be deemed a waiver, modification, or a release of the owners from the obligation to pay.

Taxes are not part of the common expenses except as otherwise provided in Article 31 hereof.

Water, sewer, gas and common area electric utility expenses are not separately metered and shall be part of the common expenses.

Each owner shall pay for his own electric utilities which are separately metered and billed to his unit.

The Board of Directors shall obtain and maintain at all times insurance of the type and kind provided hereinabove, and including for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other townhouse or 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 the insured, which policy or policies shall identify the interest of each condominium unit owner and which shall provide for a standard non-contributory mortgagee clause in favor of each first mortgagee. It shall also provide that it cannot be cancelled by either the insured or the insurance company until after thirty days prior written notice to each first mortgagee. Said Board of Directors shall, upon request of any first mortgagee, furnish a certified copy of such blanket policy and the separate certificate identifying the interest of the mortgagor. All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy including payment of the insurance premium applicable to that owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under such policy, as to the interests of all other insured owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

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 the owner, and casualty and public liability insurance coverage within each individual unit, are specifically made the responsibility of the owner thereof.

22. OWNER'S OBLIGATION FOR PAYMENT OF ASSESSMENTS. All owners shall be personally obligated to pay the estimated assessments imposed by the Board of Directors of the Association to meet the common expenses. All assessments shall be made pro-rata according to each owner's fractional interest in and to the general common elements. Assessments for insurance premiums shall be based upon that proportion of the total premium(s) that the insurance carried on a condominium unit bears to total coverage. Assessments for the estimated common expenses, including insurance, shall be due monthly in advance on or before the fifth (5th) day of each month. Failure to pay by the tenth (10th) day of each month shall require the imposition and assessment of a late charge of \$10.00.

The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, welfare and recreation of the residents in the Property and in particular for the improvement, maintenance and preservation of the Property, services, and facilities devoted to said purposes and related to the use and enjoyment of the Common Elements, and of the Apartment Units situated upon the Property. Such uses may include, but are not limited to, the cost of the Association of the following: All insurance, repair, replacement and maintenance of the Common Elements; fire, extended coverage, vandalism, malicious mischief, and liability insurance for the Condominium Units; management costs, taxes, legal and accounting fees and may from time to time be authorized by the Association; construction of other facilities; maintenance of easements upon, constituting a part of, appurtenant to or for the benefit of the Property; mowing grass, caring for the grounds, landscaping, caring for the swimming pools, and equipment, roofs and exterior surfaces of all Buildings, and carports, garbage pickup; pest control, streets; outdoor lighting; security service for the Property; water and sewer service furnished to the Property by or through the Association; discharge of any liens on the Common Elements; and other charges required by this Condominium Declaration, or other charges that the Association is authorized to incur which the Association shall determine the establishment and maintenance of a reserve for repair, maintenance, and other charges as specified herein.

Contribution for monthly assessments shall be prorated if the ownership of a condominium unit commences on a day other than on the first day of a month.

Until January 1st of the year immediately following the conveyance of the first Condominium Unit to an Owner other than the Declarant, the monthly assessment shall be \$50.00. *to Jan 1, 1980*

From and after January 1st of the year immediately following the conveyance of the first Condominium Unit to an Owner, other than the Declarant, the Board of Managers may set the Monthly Assessment for the next succeeding twelve (12) month period at an amount which shall not exceed one hundred ten percent (110%) of the Monthly Assessment allowed for December of the preceding year. If the Board determines that a greater increase of the Monthly Assessment is required to adequately perform the duties and responsibilities of the Association and pay all expenses thereof, then the Board may call a special meeting of the Owners. By the assent of a two-thirds (2/3) vote of the quorum of Owners, present at such meeting, the monthly assessment may be set at whatever level such Owners approve. The new assessment shall become the basis for future annual increases, using the one hundred ten (110%) percent formula as above outlined.

The Board of Directors shall have authority to lower the monthly assessment, if it deems feasible.

During the Construction Period, the Declarant shall be responsible for the maintenance of each building until all Units in said building have been completed, as defined herein, or until Declarant transfers, in writing, responsibility for said maintenance to the Association, whichever first occurs. With respect to the buildings which Declarant is responsible for maintaining, as provided herein, said maintenance shall be at the level of maintenance established by the Association, and should, in the sole opinion of the Association, Declarant fail to maintain said building at said level, the Association may give written notice thereof to the Declarant, specifying with particularity the areas of deficiency, and Declarant shall have fifteen (15) days to correct said deficiencies and if, in the reasonable determination of the Association, said deficiencies are not corrected within said fifteen (15) day period, the Association may accept responsibility for the maintenance of said building, in which case Declarant will be responsible for the payment of the Monthly Assessment for all units

owned by Declarant in said building, commencing on the first day of the month following the month in which the Association accepts said responsibility, and the Association shall have a lien for the payment of said assessments as provided herein. In the event extra maintenance or repairs are required to bring said building to the level of maintenance established by the Association, the Association shall have the right to make a special assessment against the Declarant to pay for said extra maintenance and repairs. During the Construction Period, Declarant shall provide any additional funds required to pay actual cash outlays required to fund current operating expenses of the Association; Declarant shall not be obligated to fund any reserve accounts until after the Construction Period is terminated and then only reserve accounts accruing after the Construction Period is terminated. After the Construction Period is terminated, Declarant shall pay the Monthly Assessments for all Units owned by Declarant.

The Monthly Assessments provided for herein shall commence as to any Condominium Unit on the first day of the month following the conveyance of said unit to an Owner other than Declarant, or the first day of the month following the transfer of the responsibility for the maintenance of the building in which said Unit is located from Declarant to the Association, which first occurs. The Association shall fix the amount of the monthly assessment against each unit at least thirty (30) days prior to January 1 of each year, provided; however, that the Association shall have a right to adjust the monthly assessment, as long as any such adjustment does not exceed the maximum permitted hereunder, with thirty (30) days written notice given to each Owner. Written notice of the monthly assessment shall be sent to every Owner subject thereto. The due date shall be established by the Association and, unless otherwise provided or unless otherwise agreed by the Association, the Association shall collect the assessments monthly from the Owner of each Condominium Unit.

~~A~~ In addition to the regular monthly assessments authorized by this Declaration or by the By-Laws, the Board of Directors may levy in any fiscal year a special assessment or assessments applicable to that fiscal year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction or unexpected major repair or replacement of a described capital improvement constituting or to constitute part of the common elements, including the necessary fixtures and personal property related thereto, or for the purchase of any movable or personal property for the common use of all the owners, or for such other appropriate and for the common benefit of all of the owners in proportion to their ownership interest in the common elements as set out in this Declaration; provided, however, that no such special assessment shall become effective until the same has received the affirmative vote of at least two-thirds (2/3) of the total votes cast, in person or by proxy, at a special meeting of the members of the Association to be called for the purpose of such vote, notice of which special meeting shall be given to each member in accordance with the provisions of the By-Laws regarding notices of special meetings. At any such meeting the members may, by the required affirmative vote aforesaid, amend or modify any such assessment prepared by the Board of Directors. The pro-rata part and share of each owner of any such special assessment shall be due and payable as provided in the resolution adopting or approving any such special assessment.

23. WAIVER OF USE OF GENERAL COMMON ELEMENTS OR ABANDONMENT OF TOWNHOUSE BY OWNER. No owner may exempt himself from liability for this contribution towards the common expenses by waiver of the use or enjoyment of any of the general common elements, or by abandonment of his townhouse.

24. ASSESSMENT LIEN. All sums assessed by either regular or special assessments but unpaid for the share of common expenses chargeable to any condominium unit, including interest thereof at ten (10%) per cent per annum, shall constitute a lien on such unit superior (prior) to all other liens and encumbrances, except only for:

- (a) Tax and special assessment liens in favor of any assessing unit, and
- (b) All sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance, and including additional advances made thereon prior to the arising of such a lien.

To evidence such lien the Board of Directors may, but shall not be required to, prepare a written notice 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 Directors and may be recorded in the Office of the Clerk Recorder of Harris County, Texas. Such lien for the common expenses shall attach from the date of the failure of payment of the assessment. Such lien may be enforced by foreclosure of the defaulting owner's condominium unit by the Association in like manner as a mortgage on real property upon the recording of a notice or claim thereof. In any such foreclosure, the owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorney's fees. The owner shall also be required to pay to the Association a reasonable rental 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 *not*
on the condominium unit at foreclosure sale and to acquire and hold, lease, mortgage *to bid*
and convey same. *7/11/02*

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The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages granted or created by the Owner of any Condominium Unit to secure the payment of monies advanced and used for the purpose of purchasing and/or improving such unit. Sale or transfer of any Unit shall not affect the assessment lien; provided, however, that the sale or transfer of any Condominium Units pursuant to a foreclosure under such purchase money or improvement mortgages or deeds of trust, shall extinguish the lien of such assessments as to payments thereof coming due prior to such sale or transfer. No sale or transfer shall relieve such Condominium Unit, or the Owners thereof, from liability for any assessments thereafter becoming due or from the lien thereof.

The amount of the common expenses assessed against each condominium unit shall also be a debt of the owner thereof at the time the assessment is made. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing same.

Any encumbrancer holding a lien on a condominium unit may pay any unpaid common expenses payable with respect to such unit, and upon such payment such encumbrancer shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance.

Each owner, by acceptance of a deed to a condominium 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 such charges as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including non-judicial foreclosure pursuant to Article 3810 of the Texas Revised Civil Statutes, and such owner hereby expressly grants to the Association a power of sale in connection with said lien.

25. STATEMENT OF INDEBTEDNESS - JOINT LIABILITY FOR COMMON EXPENSE UPON TRANSFER OF CONDOMINIUM UNIT. Upon payment to the Association of a reasonable fee not to exceed Thirty (\$30.00) Dollars, and upon the written request of any owner or any encumbrancer or prospective encumbrancer of a condominium unit, the Association, by its Board of Directors, shall issue a written statement setting forth 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 advanced payments or for the prepaid items, including but not limited to insurance premiums, which 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 of such request shall be subordinate to the lien of the person requesting such statement.

The grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his proportionate share of the common expenses 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 therefore; provided, however, that upon payment to the Association of a reasonable fee not to exceed Thirty (\$30.00) Dollars, and upon written request, any such prospective grantee shall be entitled to a statement from the Board of Directors, setting forth the amount of the

unpaid assessment, 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 advanced payments or for prepaid items, including but not limited to insurance premiums, which shall be conclusive upon the Association. Unless such, request for a statement of indebtedness shall be complied with within ten (10) days of such request, then such 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 Article 25 shall not apply to initial sales of the units by Declarant.

26. MORTGAGING A CONDOMINIUM UNIT - PRIORITY. Any owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The owner of a condominium unit may create a second mortgage on the following conditions: (1) That any such second mortgage shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for common expenses, and other payments created by this Declaration and by the By-Laws: (2) That the mortgagee under any second mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises, which insurance policies were effected and placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a second mortgagee upon written request to the Association:

27. ASSOCIATION AS ATTORNEY-IN-FACT. This Declaration hereby makes mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction or obsolescence.

Title to any condominium unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Declarant or from any owner shall constitute appointment of the attorney-in-fact herein provided. All of the owners irrevocably constitute and appoint the SUNSTREAM VILLAS OWNERS ASSOCIATION, their true and lawful attorney in their name, place and stead, for the purpose of dealing with the property upon its destruction or obsolescence as is hereafter provided. As attorney-in-fact, the Association, by its president and 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 unit owner which are necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the improvement(s) as used in the succeeding subparagraphs means restoring the improvement(s) to substantially the same condition in which it existed prior to the damage, with each unit and the general and limited common elements having the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be made available to the Association for the purpose of repair, restoration or replacement unless the owners and all first mortgagees agree not to rebuild in accordance with the provision set forth hereinafter.

(a) In the event of damage or destruction due to fire or other disaster, the insurance proceeds, 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.

(b) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than two-thirds of all of the general common elements, 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 the proceeds of an assessment to be made against all of the owners and their condominium units. Such deficiency assessment shall be a common expense made pro-rata according to each owner's undivided interest in and to the general common elements and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have the authority to cause the repair or reconstruction 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 Article 24. 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 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. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, at attorney-in-fact, in the following order:

- (1) For payment of the balance of the lien of any first mortgage;
- (2) For payment of taxes and special assessment lien in favor of any assessing entity;
- (3) For payment of unpaid common expenses;
- (4) For payment of junior liens and encumbrances in order of and to the extent of their priority; and
- (5) The balance remaining, if any, shall be paid to the condominium unit owner.

(c) If more than two-thirds (2/3) of all of the general common elements, not including land, are destroyed or damaged, and if the owners representing an aggregate ownership interest of one hundred (100%) of the condominium units do not voluntarily, within one hundred (100) days thereafter, make provision 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, the entire remaining 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 insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each unit owner's interest (as such interests appears on the policy or policies), and such divided proceeds shall be paid into individual 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 number of the townhouse 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 any account to another, toward the full payment of the lien of any first mortgage against the condominium unit represented by such separate account. There shall be added to each such account, 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 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 the same order as is provided in sub-paragraph (b) (1) through (5) of this Article 27.

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If the owners representing an aggregate ownership interest of one hundred (100%) per cent of the condominium units 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 pro-rata according to each owner's 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 the authority 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 Article 14. 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 proceeds derived from 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 sub-paragraph (b) (1) through (5) of this Article 27.

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(d) The owners representing an aggregate ownership interest of ninety (90%) per cent of the condominium units, or more, may agree that the general common elements of the property are obsolete and that the same should be renewed or reconstructed. In such instance, then the expense thereof shall be

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payable by all of the owners as common expenses; provided, however, that any owner not agreeing to such renewal or reconstruction may give written notice to the Association that such unit shall be purchased by the Association, and if the parties can agree on the fair market value thereof, then such sale shall be consummated within thirty (30) days thereafter. If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "commencing date" from which all periods of time mentioned herein shall be measured. Within ten (10) days following the commencement date, each party shall nominate in writing (and give notice of such nomination to the other party), an appraiser who shall be a member of the Houston Board of Realtors. If either party fails to make such a nomination, the appraiser nominated shall within five (5) days after default by the other party appoint and associate with him another appraiser (to be selected from the Houston Board of Realtors). If the two appraisers designated by the parties, or selected pursuant hereto in the event of the default of one party, are unable to agree, they shall appoint another appraiser (to be selected from the Houston Board of Realtors) to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, then each appraiser previously appointed shall nominate two (2) persons (each of whom shall be a member of the Houston Board of Realtors) and from the names of the four persons so nominated, shall be drawn by lot by any judge of any court of the record in Texas, and the name so drawn shall be such umpire. The nominations from whom the umpire is to be drawn by lot shall be submitted within ten (10) days after the failure of the two appraisers to agree, which in any event shall not be later than twenty (20) days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value or in the case of their disagreement, the decision of the umpire, shall be final and binding. The expenses and fees of such appraisers shall be borne equally by the Association and owners. The sale shall be consummated within fifteen (15) days thereafter, and the Association, as attorney-in-fact, shall disburse such proceeds as is provide in sub-paragraph (b) (1) through (5) of this Article 27.

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(e) The owners representing an aggregate ownership interest of ninety-five (95%) per cent of the condominium units, or more, with the unanimous consent of all first mortgagees, may agree that the general common elements of the property 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, 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 interest in the general common elements, and such apportioned proceeds shall be paid into individual 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 number of the townhouse 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 funds, without contribution from one fund to another, for the same purposes and in the same order as is provided in sub-paragraph (b) (1) through (5) of this Article 27.

28. PERSONAL PROPERTY FOR COMMON USE. Upon termination of the construction period as defined in Article 1 herein, Declarant shall execute and deliver a bill of sale to the Association transferring all items of personal property located on the entire premises and furnished by Declarant, which property is intended for the common use and enjoyment of the condominium unit owners and occupants. The Association shall hold title to such property for the use and enjoyment of the condominium unit owners and occupants. No owner shall have any other interest and right thereto, and all such right and interest shall absolutely terminate upon the owner's termination of possession of his condominium unit.

29. PROTECTION OF MORTGAGEE.

(a) Notice to Association. An owner who mortgages his apartment shall notify the Board Directors, giving the name and address of his mortgagee. The Board shall maintain such information in a book entitled "Mortgagees of Townhouses".

(b) Notice of Default. The Association shall notify a first mortgagee in writing of any default by the mortgagor in the performance of such mortgagor's obligations as set forth in the Declaration which is not cured within thirty (30) days.

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(c) Examination of Books. The Association shall permit first mortgagees to examine the books and records of the Association during normal business hours.

(d) Reserve Fund. The Association shall establish an adequate reserve fund for replacement of common elements components and fund the same by regular monthly payments rather than by extraordinary special assessments.

(e) Annual Audits. The Association shall furnish each first mortgagee an annual financial statement of the Association within ninety (90) days following the end of each fiscal year of the Association.

(f) Notice of Meetings. The Association shall furnish each first mortgagee prior written notice of all meetings of the Association and permit the designation of a representative of such mortgagee to attend such meetings.

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(g) Approval for Amendments to Declaration, etc. The prior written approval of each first mortgagee shall be required for the following: (i) abandonment or termination of SUNSTREAM ASSOCIATION, a CONDOMINIUM COMMUNITY as a Condominium Regime, except for abandonment or termination provided by law, in case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any amendment to the Declaration or By-Laws of the Association; and (iii) the termination of any professional management contract for the Condominium Project.

(h) Leases. With the exception of a lender in possession of a condominium unit following foreclosure, or any deed or other arrangement in lieu of foreclosure, no owner shall be permitted to lease his unit for transient or hotel purposes. No owner may lease less than the entire unit. The Association shall require that all leases of any apartment units must: (i) be in writing, and (ii) provide that such leases are specifically subject in all respects to the provisions of the Declaration and By-Laws of the Association, and that any failure by the lessee to comply with the terms and conditions of such documents shall be a default under such leases. Other than the foregoing, there shall be no restriction on the right of any apartment owner to lease his unit.

(i) Notice of Damage or Destruction. The Association shall furnish all first mortgagees timely written notice of any substantial damage or destruction of townhouses and of any part of the common elements and facilities if such loss exceeds \$10,000.00, or damage to a condominium unit exceeds \$1,000.00.

(j) Notice of Condemnation or Eminent Domain. The Association shall furnish the first mortgagees timely written notice of any condemnation, or eminent domain proceeding regarding all or any portion of a townhouse or of the common elements and facilities and of any proposed acquisition of all or any part of such properties through condemnation or eminent domain proceedings if such taking exceeds \$10,000.00

(k) Management Agreements. Any management agreement entered into by the Association will be terminable by the Association for cause upon not more than thirty (30) days' written notice, and the term of such management agreement will not exceed the period of one (1) year, renewable by agreement of the parties to such agreement for successive one (1) year periods.

(l) Exemption From Right of First Refusal. When any first mortgagee obtains title to a townhouse pursuant to the remedies provided in the mortgage, such as foreclosure of the mortgagee or deed of trust, or deed in lieu of foreclosure, such mortgagee shall be exempt from any "right of first refusal".

(m) Right to Partition. No unit may be partitioned or subdivided by the owner thereof without the prior written approval of the holder of the first mortgage lien on such property and the Board of Directors of the Association.

(n) Claims for Unpaid Assessments. Any first mortgagee who obtains title to the unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage, or pursuant to a deed in lieu of foreclosure, shall not be liable for such unit's unpaid dues or charges which accrued prior to the acquisition of title to such unit by the mortgagee.

(o) Taxes, Assessments and Charges. All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall relate only to the individual condominium units and not to the condominium project as a whole.

(p) Other Acts by Association Requiring Approval of First Mortgagees or Owners. Unless at least all of the first mortgagees (based upon one vote for each first mortgage owned), and 75% of the owners (other than the Declarant) of the individual condominium units have given their prior written approval, the Association shall not be entitled to: (i) partition or subdivide any condominium unit, (ii) by act or omission, seek to abandon, partition, sub-divide, encumber, sell or transfer, the common elements (the granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project shall not be deemed a transfer within the meaning of this clause) (iii) use hazard insurance proceeds for losses to any condominium property (whether to units or to common elements) for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in case of substantial loss to the units and/or common elements of the condominium project, or except as otherwise provided in this Declaration.

30. LIMITATION OF RESTRICTIONS ON DECLARANT. Declarant is undertaking the construction of a complex as individual condominium units. The completion of that work and the sale, rental and other disposal of condominium units is essential to the establishment and welfare of the property as a residential community. In order that said work may be completed and said property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, its contractors, or sub-contractors from doing on the property or any condominium unit, whatever is reasonably necessary or advisable in connection with the completion of said work; or

(b) Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the property such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said property as a residential community and disposing of the same condominium units by sale, lease or otherwise; or

(c) Prevent Declarant from conducting on any part of the property its business of completing said work and of establishing a plan of residential ownership and of disposing of said property in condominium units by sale, lease or otherwise; or

(d) Prevent Declarant from maintaining such sign or signs on the property as may be necessary for the sale, lease or disposition thereof.

So long as Declarant, its successors and assigns, owns one or more of the condominium units described herein, Declarant, its successors and assigns shall be subject to the provisions of this Declaration.

31. TAXES. Ad valorem taxes, assessments and other charges of the City, County, State or other political entities, or any special district thereof, shall be separately assessed, and each condominium unit owner shall pay, at his own personal expense, all tax assessments against his townhome. Such taxes are not part of the common expenses. However, taxes on personal property owned by the Association as part of the common elements shall be paid by the Association as a common expense.

32. NOTICES. All notices, demands or other notices intended to be served upon an owner shall be sent by ordinary or certified mail, postage prepaid, addressed in the name of such owner in care of the townhouse number and building address of such owner. All notices, demands or other notices intended to be served upon the Board of Directors of the Association, or the Association, shall be sent by ordinary or certified mail postage prepaid, to 2100 West Loop South, Suite 1600, Houston, Texas 77027, until such address is changed by a notice of address change duly recorded.

33. ALTERATION OF BOUNDARIES OF TOWNHOMES. If one person, firm or entity (including Declarant) is the Owner of all or part of two (2) Townhomes which are adjoining, whether adjoining vertically (above and below each other) or horizontally (on the same floor of the Building) or if two (2) Owners of adjoining Townhomes so agree, then such Owner or Owners shall have the right to remove all or any part of any intervening partition or floor or to create doorways or other openings in such partition or floor, notwithstanding the fact that such partition or floor may in whole or in part be a Common Element, so long as no portion of any bearing wall or bearing column is weakened or removed and no portion of any Common Element other than that partition is damaged, destroyed or endangered. In any of such events, the Owner or Owners involved may relocate the boundaries between adjoining Townhomes by causing an appropriate instrument of amendment to this Condominium Declaration to be executed by the President of the Association and recorded. The instrument of amendment (i) shall show the boundaries between those Townhomes which are being relocated, (ii) shall recite the occurrence of any conveyancing between the Owners of such adjacent Townhomes and (iii) shall specify and reasonable reallocation as agreed upon between the Townhomes involved of the aggregate Ownership Interests in the Common Elements pertaining to those Townhomes. Such plats and floor plans as may be necessary to show the altered boundaries between the Townhomes involved shall be certified as to their accuracy by a registered architect or engineer.

There shall be no judicial partition of the project or any part thereof, nor shall Declarant or any person acquiring any interest in the project or any part thereof seek any such judicial partition, until the happening of the conditions set forth in Paragraph 30 hereof in the case of damage or destruction or unless the property has been removed from the provisions of the Texas Condominium Act; provided, however, that if any Condominium Unit shall be owned by two or more co-tenants as tenants-in-common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such co-tenants. But such partition shall not affect any other Condominium Unit.

34. GENERAL.

(a) If any of the provisions of this Declaration or any Article, 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 provision, 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 and supplemental to the Condominium Ownership Act of the State of Texas and to all other provisions of law.

(c) That 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.

35. CONDEMNATION. If all or any part of the Property is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary) the Association and each Owner shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give timely written notice of the existence of such proceeding to all Owners and to all first mortgagees known to the Association to have an interest in any condominium unit. The expense of participation in such proceedings by the Association shall be borne by the Common Fund. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings. All damages or awards for any such taking shall be deposited with the Association, and such damages or awards shall be applied as provided herein. In the event that an action in eminent domain is brought to condemn a portion of the general common elements (together with or apart from any condominium unit), the Association, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto; or to convey such property to the condemning authority in lieu of such condemnation proceeding. With respect to any such taking, all damages and awards shall be determined for such taking as a whole and not for each Owner's interest therein. After the damages or awards for such taking are determined, such damages or awards shall be paid to each Owner in proportion to his percentage ownership interest in the general common elements, or if there is a first mortgage lien on the Owner's unit to the holder of said first mortgage. The Association may, if it

deems advisable, call a meeting of the Owners, at which meeting the Owners, by a majority vote whether to replace or restore as far as possible the general common elements so taken or damaged. In the event it is determined that such general common elements should be replaced or restored by obtaining other land or building additional structures, this Declaration and the Map attached hereto shall be duly amended by instrument executed by the Association on behalf of the Owners. In the event that such eminent domain proceeding results in the taking of or damage to one or more, but less than two-thirds (2/3) of the total number of condominium units, then the damages and awards for such taking shall be determined for each condominium unit and the following shall apply:

The Association shall determine which of the condominium units damaged by such taking may be made tenantable for the purposes set forth in this Declaration, taking into account the nature of this Condominium Project and the reduced size of each condominium unit so damaged.

The Association shall determine whether it is reasonably practicable to operate the remaining condominium units of the Project, including those damaged units which may be made tenantable, as a condominium in the manner provided in this Declaration.

In the event that the Association determines that it is not reasonably practicable to operate the undamaged condominium units and the damaged units which can be made tenantable then the Condominium Project shall be deemed to be regrouped and merged in to a single estate owned jointly in undivided interest by all Owners, as tenants-in-common, in the percentage ownership interests previously owned by each Owner in the general common elements.

In the event that the Association determines that it will be reasonably practicable to operate the undamaged condominium units and the damaged units which can be made tenantable as a condominium unit, then the damages and awards made with respect to each unit which has been determined with respect to each unit which has been determined to be capable of being made tenantable shall be applied to repair and reconstruct such condominium unit so that it is made tenantable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the Owners or those condominium units which are tenantable. With respect to those units which may not be tenantable, the award made with respect to such unit shall be paid as set forth above and the remaining portion of such units, if any, shall become a part of the general common elements and repair and use of such units shall be determined by the Association. Upon the payment of such award for the account of such Owner as provided herein, such condominium unit shall no longer be a part of the Condominium Project and the percentage ownership interests in the general common elements appurtenant to each remaining condominium unit which shall continue as part of the Condominium Project shall be equitably adjusted to distribute the ownership of the undivided interests in the general common elements among the reduced number of Owners. If the entire Condominium Project is taken, or two-thirds (2/3) or more of the condominium units are taken or damaged by such taking, all damages and awards shall be paid to the accounts of the Owners of units, as provided herein, in proportion to their percentage ownership interests in the general common elements and this Condominium Regime shall terminate upon such payment. Upon such termination, the condominium units and general common elements shall be deemed to be regrouped and merged into a single estate owned to the regrouped and merged into a single estate owned in undivided interest by all Owners as tenants-in-common in the percentage ownership interest previously owned by each Owner in the general common elements. Any damages or awards provided in this paragraph to be paid to or for the account of any Owner by the Association shall be applied as set forth above.

IN WITNESS WHEREOF, Declarant, has hereunder set its hand and seal this the _____ day of _____, A.D., 1977.

SUNSTREAM ASSOCIATES,
a Texas Ltd. Partnership

BY: _____

THE STATE OF TEXAS :

COUNTY OF HARRIS :

Before me, the undersigned authority, on this day personally appeared _____, a general partner in the limited partnership of SUNSTREAM ASSOCIATES, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act of the said SUNSTREAM ASSOCIATES, a limited partnership, and that he executed the same as its General Partner for the purposes and consideration therein expressed.

Given under my hand and seal of office on this ____ day of _____, 1977.

Notary Public in and for
Harris County, Texas