

GUNNISON COUNTY, CO JOANNE M. REITINGER, RECORDER  
467364 BK 782 PG 60 04/30/96 1:40PM

## AMENDED CONDOMINIUM DECLARATION

FOR

### NORTH STAR CONDOMINIUMS

This Amended Condominium Declaration is executed this 25<sup>th</sup> day of April, 1996, at Gunnison, Gunnison County, Colorado by Domenick M. Maimone, also known as Don Maimone.

#### 1. CREATION OF NORTH STAR CONDOMINIUMS.

1.1 Authority. This Amended Condominium Declaration is executed to submit the real property as described in paragraph 2.16 as a Condominium Common Interest Community in accordance with the provisions of the Colorado Common Interest Ownership Act.

1.2 Ownership. Declarant is the owner of the real property as described in paragraph 2.16 of this Amended Condominium Declaration and submits such Real Property to all of the terms, conditions, rights, duties, obligations, covenants, easements, restrictions and interests as set forth in this Amended Condominium Declaration.

1.3 Prior Declaration. This Amended Condominium Declaration supersedes and replaces in its entirety the Condominium Declaration for North Star Condominium recorded November 8, 1994 in Book 755 at page 521 of the records of Gunnison County, Colorado and renders the same of no further legal effect, and the Amended Condominium Map of North Star Condominiums described in paragraph 5 hereof supersedes and replaces the Condominium Map of North Star Condominiums filed November 8, 1994 at Reception No. 456172 of the records of Gunnison County, Colorado and renders the same of no further legal effect.

1.4 Amended Condominium Declaration. The Declarant, for itself and its grantees, successors, heirs, personal representatives, assigns and any person acquiring and holding an interest in the Project shall be bound by all of the provisions of this Amended Condominium Declaration.

2. DEFINITIONS. The following definitions shall apply in this Amended Condominium Declaration and the exhibits attached hereto unless the context shall expressly provide otherwise:

2.1 "Act" - means the Colorado Common Interest Ownership Act, Article 33.3 of Title 38, Colorado Revised Statutes, as now in force and as may be amended from time to time.

BK PG  
782 61

2.2 "Allocated Interests" - means the interest allocated to each Unit in the Common Elements, the common expense liability and votes in the Association.

The Allocated Interests are stated as a percentage based upon a fraction, the numerator of which is the number "1" and the denominator is the number of Units platted in the Project.

2.3 "Association" - means North Star at Crested Butte Condominiums Association, a Colorado nonprofit corporation.

2.4 "Building" - means a building or buildings within the Project.

2.5 "Common Elements" - means all of the Project except the Units.

2.6 "Common Expenses" - means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

2.7 "Condominium Common Interest Community" - means the "Project" as hereafter defined.

2.8 "Condominium Map" or "Condominium Plat" or "Amended Condominium Map" or "Map" or "Plat" - means the Condominium Map for North Star Condominiums filed November 8, 1995, and bearing Reception No. 456172 of the records of Gunnison County, Colorado, and any Supplemental Condominium Map filed in the records of Gunnison County, Colorado to enlarge the Project in accordance with paragraph 40.

2.9 "Declarant" - means Domenick M. Maimone, also known as Don Maimone, his successors and assigns.

2.10 "Declaration" or "Condominium Declaration" or "Amended Condominium Declaration" - means this Amended Condominium Declaration, and any and all duly executed amendments, supplements or additions to this Amended Condominium Declaration.

2.11 "Executive Board" - means the Board of Directors of North Star at Crested Butte Condominium Association.

2.12 "First Security Interest" - means a Security Interest on a Unit which has priority over all other Security Interests in the Unit.

2.13 "Limited Common Elements" - means a portion of the Common Elements allocated by this Declaration or the Condominium Map for the exclusive use of one or more Units but fewer than all of the Units.

2.14 "Person" - means a natural person, a corporation, a partnership, an association, a limited liability company, a trust or any other entity or any combination thereof.

2.15 "Project" - means North Star Condominiums including all of the real property, buildings, improvements, and structures pertaining thereto, together with all rights, easements and appurtenances belonging thereto, declared to be a part of the North Star Condominiums by this Declaration and which may be subsequently declared to be a part of the North Star Condominiums under the terms of any supplemental Declaration.

2.16 "Real Property" - means the Real Property described as follows:

Lots 1 through 4, Block 4, Crested Butte South - First Filing, according to the recorded plat thereof bearing Reception Number 280978 in the office of the County Recorder of Gunnison County,

County of Gunnison,  
State of Colorado.

2.17 "Security Interest" - means an interest in a Unit created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation.

2.18 "Unit" or "Condominium Unit" - means a physical portion of the Project which is designated for separate ownership and the boundaries of which are described in the Amended Condominium Declaration and the Condominium Map. The physical portion of the Unit is as contained within the unfinished interior surfaces of the perimeter walls, floors, ceilings, windows and doors of the unit, together with all fixtures and improvements therein contained except for common utility facilities.

All finished flooring and any other materials constituting any part of the finished surfaces within the Unit including plaster, paneling, tiles, wallpaper, paint and any other materials constituting any part of the finished surface thereof are a part of the Unit. All other portions of the walls, floors or ceilings are part of the Common Elements. If any chute, flue, duct, wire, conduit, bearing wall, bearing column or other utility or fixture is within or partially within the designated boundaries of the Unit, any portion thereof serving only the Unit is a Limited Common Element allocated solely to the Unit and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements. Except only as above provided, all spaces, interior partitions and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

BK PG  
782 63

Any porch, balcony, patio, steps, exterior doors, exterior windows, shutters, awnings, or other fixtures or improvements designed or designated to serve a single Unit, but located outside the boundaries of the Unit, are Limited Common Elements allocated exclusively to the Unit.

2.19 "Unit Owner" - means the Declarant or other Person who owns a Unit but does not include a Person having a Security Interest in a Unit.

3. CREATION OF NORTH STAR CONDOMINIUMS. North Star Condominiums is hereby created and declared to consist of ten Units as follows:

3.1 Number of Units. The Project shall consist of ten Units as designated and identified on the Condominium Map, together with the Allocated Interest in the Common Elements and any Limited Common Element allocated for the use of such Unit as follows:

<u>UNIT AND BUILDING</u>	<u>ALLOCATED INTEREST IN COMMON ELEMENTS BY PERCENTAGE</u>
Unit 1	10%
Unit 2	10%
Unit 3	10%
Unit 4	10%
Unit 5	10%
Unit 6	10%
Unit 7	10%
Unit 8	10%
Unit 9	10%
Unit 10	10%
	100.00%

3.2 Additional Units. The number of Units and the Allocated Interest in the Common Elements is subject to the right of the Declarant to enlarge and supplement the Project as provided in paragraph 40 and to increase the number of Units in the Project not to exceed in the aggregate twenty Units.

BK PG  
782 64

3.3 Use and Enjoyment. The Unit Owner shall have the non-exclusive right to use and enjoy all of the Common Elements and the exclusive use of any Limited Common Elements allocated to the Unit or the exclusive use in common of Limited Common Elements allocated to more than one Unit, subject to the limitations contained in this Declaration.

4. INSEPARABILITY OF A CONDOMINIUM UNIT. Each Unit and the Allocated Interest in the Common Elements, the Allocated Interest in the Limited Common Elements, if any, and any easements appurtenant thereto shall together comprise one Unit which shall be inseparable and may be conveyed, devised or encumbered only as a Unit.

6. CONDOMINIUM MAP.

5.1 Condominium Map. The Condominium Map shall be filed for record in the records of Gunnison County, Colorado prior to the first conveyance of a Unit by the Declarant. The Condominium Map shall contain all of the required information pertaining to the Project as required by the Act.

5.2 Supplemental Condominium Maps. A supplemental Condominium Map shall be filed for record in the records of Gunnison County, Colorado prior to the first conveyance of a Unit by the Declarant pursuant to paragraph 4.4 hereof. Any supplemental Condominium Map shall contain the same requirements as is required for the Condominium Map.

5.3 Amendments. Declarant reserves the right to amend the Condominium Map from time to time, to conform the same according to the actual location of any of the improvements and to establish, relocate and vacate easements, access roads and parking areas. Declarant's right under this paragraph shall terminate upon the conveyance of all of the Units as set forth on the Condominium Map or within one year of the date of filing the Condominium Map, whichever event shall first occur.

5.4 Interpretation. In interpreting the Condominium Map or any part thereof, the existing physical boundaries of the Units shall be conclusively presumed to be its boundaries.

6. DESCRIPTION OF UNIT.

6.1 Legal Description. Every instrument affecting the title to a Unit shall describe the Unit as follows:

Unit \_\_\_\_\_, North Star Condominiums, according to the Amended Condominium Map bearing Reception No. \_\_\_\_\_ of the records of Gunnison County, Colorado and the Amended Condominium Declaration of North Star Condominiums recorded in Book \_\_\_\_\_ at page \_\_\_\_\_ of the records of Gunnison County, Colorado,

County of Gunnison,  
State of Colorado.

BK PG  
782 65

6.2 Amendments. The reference to the Condominium Map and the Amended Condominium Declaration as set forth in paragraph 6.1 above, shall be deemed to include any supplements or amendments to the same whether or not specific reference is made thereto. In the event that the Project is enlarged as provided in paragraph 40, the legal description of any Unit within the Project, as so enlarged, shall be as set forth in the supplemental Amended Condominium Declaration and the supplemental Condominium Map.

6.3 Sufficiency. Such legal description shall be sufficient for all purposes to sell, convey, transfer, and encumber or otherwise affect the Unit and the Allocated Interest in the Common Elements appurtenant to the Unit, including any Limited Common Elements, and all other appurtenant property and property rights of the Unit and to incorporate all of the rights, duties, limitations and burdens incident to the ownership of a Unit as described in this Declaration.

7. TITLE. A Unit may be held and owned by more than one Unit Owner as joint tenants or as tenants in common, or in any real property tenancy or estate recognized under the laws of the State of Colorado.

8. TERM OF OWNERSHIP. The separate estate of a Unit Owner created by this Declaration shall continue until revoked in the manner contained in this Declaration or by operation of law.

9. NON-PARTITIONABILITY AND TRANSFER OF COMMON ELEMENTS. The Common Elements shall be owned in common by all of the Unit Owners and shall remain undivided. By the acceptance of a deed or other instrument of conveyance or assignment, each Unit Owner specifically waives its right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Elements. Each Unit Owner specifically covenants and agrees not to institute nor maintain any action to partition or otherwise divide the Common Elements, except only as may be provided by this Declaration.

10. BUSINESS AND RESIDENTIAL USE AND OCCUPANCY: The Units shall be used and occupied solely for the business and residential purposes as authorized by the then existing zoning of Gunnison County, Colorado, and any covenants or agreements entered into with Gunnison County, Colorado as to such use and occupancy.

11. EASEMENTS FOR ENCROACHMENTS. To the extent that any Unit or Common Element encroaches on any other Unit or Common Element, an easement for the encroachment and the maintenance of the same exists so long as the Building is in existence or the encroachment exists.

12. ALTERATION OF UNITS. A Unit Owner:BK PG  
782 66

12.1 May make any improvements or alterations to his Unit within the physical boundaries of the Unit that do not impair the structural integrity, electrical systems, mechanical systems or other utility systems of the Project or lessen the support and structural integrity of any portion of the Project.

12.2 After acquiring an adjoining Unit or a part of an adjoining Unit, may remove or alter an intervening partition or create apertures therein, even if the partition in whole or in part is a Common Element, if those actions do not impair the structural integrity, electrical systems, mechanical systems or utility systems or lessen the support of any portion of the Project. The removal of any partitions or the creation of any apertures shall not alter nor change the boundaries or description of the Units.

12.3 May not change the appearance of the Common Elements without the written consent of the Association.

13. RELOCATION OF BOUNDARIES BETWEEN UNITS. The Unit Owners of adjoining Units may relocate the common boundary line between such adjoining Units by an amendment to the Amended Condominium Declaration and the Condominium Map in the manner provided by this Declaration and the Act in effect at the time of the proposed relocation of the boundaries.

14. RESERVATION FOR ACCESS - MAINTENANCE, REPAIR AND EMERGENCIES.

14.1 Right of Access. The Association shall have the irrevocable right to have access to each Unit and all Common Elements from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, or at any hour for making emergency repairs, maintenance or inspection therein necessary to prevent damage to the Common Elements or to another Unit.

14.2 Damages. Damage to the interior or any part of a Unit, except for Unit Owner installed or constructed improvements, resulting from the maintenance, repair, emergency repair or replacement of any of the Common Elements or as a result of emergency repairs within another Unit shall be an expense of the Association; provided, however, that if such maintenance, repair or replacement is caused by the negligence of the Unit Owner, his agents, employees, invitees or tenants then such Unit Owner shall be responsible and liable for all of such damage and the cost thereof shall be the Unit Owner's obligation and shall be immediately paid to the Association upon demand therefor.

14.3 Restoration. Any damages to the interior of a Unit or the Common Elements that may be occasioned by the Association exercising its right under this

BK PG  
782 67

paragraph shall be immediately restored to the extent reasonably practical, to the same condition in which the same existed prior to such damage.

14.4 Common Expense. All maintenance, repairs and replacement of the Common Elements, whether located inside or outside of any Unit (unless caused by the negligence, misuse or deliberate act of a Unit Owner, in which case such expense shall be charged to such Unit Owner), shall be an expense of the Association.

15. ASSESSMENTS AND TAXATION. Each Unit shall be separately assessed for all taxes and assessments of the State of Colorado, the County of Gunnison, Colorado, and any other political subdivision or district having authority to tax. For the purpose of such assessment, the valuation of the Common Elements shall be allocated among the Units in accordance with the Allocated Interests of such Units.

16. ASSOCIATION AS ATTORNEY-IN-FACT. The Declarant, for itself and its successors and assigns and any person acquiring and holding an interest in the Project, its grantees, successors, heirs, personal representatives or assigns does hereby irrevocably appoint the Association as attorney-in-fact for the Unit Owner within the Project with respect to the Project upon its damage, destruction, obsolescence or condemnation and any amendment to the Declaration or the termination of the Project as provided by the Act then in effect.

17. AMENDMENT OF DECLARATION.

17.1 Amendment. Except only as otherwise provided by the Act, the Declaration, including the Condominium Map, may be amended only by vote or agreement of the Unit Owners to which at least 67% of the votes in the Association are allocated and by 51% of the holders of any recorded First Security Interests.

17.2 Recording. Any Amendment to the Declaration, including the Condominium Map, shall be effective upon recording the same in the records of Gunnison County, Colorado.

17.3 Execution of Amendment. Any Amendment to the Declaration, or the Condominium Map, shall be prepared and executed by the Association and signed by the President of the Association or any other officer of the Association designated for such purpose. The Association shall certify that the Amendment was adopted and approved in accordance with the provisions of this paragraph 17 and such certification shall be conclusive proof that the Amendment was duly adopted in proper form.

17.4 Percentage Vote of First Security Interest Holders. In determining the appropriate percentage for approval of any Amendment by the holders of First Security Interest, each First Security Interest shall have the same vote as is allocated to the Unit encumbered by such First Security Interest.



BK PG  
782 68

17.5 Junior Security Interest. The consent of any junior Security Interest shall not be required under the provisions of this paragraph.

17.6 Reservation by Declarant. Notwithstanding any other provision of this Declaration, Declarant reserves and is granted a special Declarant right until such time as all of the Units within the Project have been conveyed to third person purchasers, to amend this Declaration, and the Condominium Map, for the following purposes:

17.6.1 To enlarge the Condominium Project as provided in paragraph 40 of this Declaration.

17.6.2 To correct a technical or typographical error and/or to clarify any existing provision.

17.6.3 To comply with applicable laws, ordinances or regulations of any governmental entities having jurisdiction over the Project.

17.6.4 To comply with the requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or other lenders or insurers in the secondary mortgage market, or to include or change any provision so as to cause any such agency or entity to make, purchase, sell, insure or guarantee First Security Interests on a Unit.

The Declarant shall certify that such Amendment to the Declaration and the Condominium Map was amended by the Declarant in accordance with this paragraph 17.6 and shall be effective upon recording the Amendment in the records of Gunnison County, Colorado. Provided, however, no Amendment by the Declarant under this paragraph 17.6 shall in any manner affect or impair the lien of a First Security Interest upon a Unit or to modify, change, or amend the terms and conditions of such First Security Interest.

## 18. TERMINATION OF THE PROJECT.

18.1 Termination. Except only in the case of a taking of the entire Project, and all of the Units, by eminent domain, the Project may only be terminated by a vote or agreement of the Unit Owners to which at least 67% of the votes in the Association are allocated and by 51% of the holders of any recorded First Security Interests unless otherwise specifically provided by the Act.

18.2 Agreement. The termination of the Project shall be evidenced by a Termination Agreement executed by the Unit Owners having at least 67% of the allocated votes in the Association and by 51% of the holders of any recorded First Security Interests in the same manner as is required for a Deed. The Termination Agreement shall specify a date after which the termination agreement shall be void

unless the same is recorded in the records of Gunnison County, Colorado on or before such date.

18.3 Termination Agreement. The Termination Agreement must contain provisions setting forth terms and conditions:

18.3.1 That all of the Common Elements and Units of North Star Condominiums must be sold following termination and to include the terms and conditions of such sale, or

18.3.2 For the sale of the Common Elements, but not the Units, and the terms and conditions of such sale, or

18.3.3 That if the Common Elements or Units are not to be sold, then title thereto vests in the Unit Owners, as tenants in common, in the same proportion that a Unit Owner had in the Allocated Interests in the Common Elements appurtenant to the Unit.

18.4 Powers of Association. Following the termination of the North Star Condominiums, the Association shall continue to exercise all of the powers; rights, duties and obligations as specified in the Act.

19. NORTH STAR AT CRESTED BUTTE CONDOMINIUMS ASSOCIATION.

19.1 On or before the date that the first Unit in North Star Condominiums is conveyed to a third person purchaser, North Star at Crested Butte Condominiums Association shall be organized and incorporated as a Colorado nonprofit corporation.

19.2 The membership of the Association shall at all times consist exclusively of all Unit Owners in the Project or, in the event of termination, of the former Unit Owners in the Project.

20. POWERS AND DUTIES OF ASSOCIATION. The Association shall have the following powers and duties:

20.1 Adopt and amend Bylaws and Rules and Regulations.

20.2 Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for Common Expenses from the Unit Owners.

20.3 Hire and terminate managing agents and other employees, agents and independent contractors.

BK PG  
782 70

20.4 Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself and two or more of the Unit Owners on matters effecting North Star Condominiums.

20.5 Make contracts and incur liabilities.

20.6 Regulate the use, maintenance, repair, replacement and modification of Common Elements.

20.7 Cause additional improvements to be made as a part of the Common Elements.

20.8 Acquire, hold, encumber and convey in its own name any right, title, or interest to real or personal property; provided, however, that the Association may not convey or subject to a security interest all or any portion of the Common Elements except upon the affirmative vote of the Unit Owners as provided by Section 38-33.3-312 of the Act.

20.9 Grant easements, leases, licenses and concessions through or over the Common Elements.

20.10 Impose and receive any payments, fees or charges for the use, rental or operation of the Common Elements, other than Limited Common Elements.

20.11 Impose charges for late payment of assessments, recover reasonable attorneys' fees and other legal costs for collection of assessments and other action to enforce the power of the Association, regardless of whether or not suit was initiated, and, after notice and opportunity to be heard, levy reasonable fines for violations of the Amended Condominium Declaration and the Bylaws and Rules and Regulations adopted by the Association.

20.12 Impose reasonable charges for the preparation and recordation of Amendments to the Amended Condominium Declaration and the Condominium Map or statement of unpaid assessments.

20.13 Provide for the indemnification of its officers and the executive board of the Association.

20.14 To maintain directors' and officers' liability insurance.

20.15 Exercise all of the powers conferred upon the Association by this Amended Condominium Declaration and the Articles and Bylaws of the Association.

20.16 Exercise all of the powers granted to the Association by the Act.

BK PG  
782 71

20.17 Obtain and maintain all required insurance as provided by this Declaration.

20.18 Act as attorney-in-fact for the Unit Owners as provided by this Declaration.

21. ADMINISTRATION AND MANAGEMENT BY THE ASSOCIATION.

21.1 Association as Attorney-in-Fact. The title to any Unit is hereby declared and expressly made subject to the terms and conditions of the Declaration, and acceptance by any grantee of a deed from the Declarant or any prior Unit Owner shall constitute the appointment of the Association as the Unit Owner's attorney-in-fact for the purposes expressly set forth in this Declaration.

21.2 Unit Owner's Compliance. Each Unit Owner shall comply strictly with the provisions of this Declaration, any supplement or amendment hereto, and all decisions, resolutions, rules and regulations of the Association adopted in accordance with this Declaration. Failure to comply with any of the same shall be grounds for an action to recover any amounts due, for damages or injunctive relief or both, together with reasonable attorneys' fees and costs, incurred in connection therewith, brought by the Association on behalf of the Unit Owners, or, in a proper case, by any aggrieved Unit Owner.

21.3 Construction and Validity. The administration and management of North Star Condominiums shall be governed by this Declaration and the Articles of Incorporation and the Bylaws of the Association. In the event of any conflict between or among the provisions of the Declaration (including all supplements thereto), the Articles of Incorporation or Bylaws of the Association, the following shall control:

21.3.1 All provisions of this Declaration, the Articles of Incorporation and Bylaws are severable.

21.3.2 The rule against perpetuities does not apply to defeat any provision of this Declaration, the Articles of Incorporation and Bylaws of the Associations or Rules and Regulations adopted by the Association.

21.3.3 In the event of a conflict between the provision of this Declaration and the Articles of Incorporation and the Bylaws of the Association, this Declaration shall prevail.

21.4 Membership. The Unit Owner, upon becoming such Unit Owner, shall be entitled and required to be a member of the Association and shall remain a member for the period of ownership of the Unit.

BK PG  
782 72

21.5 Appurtenant Right. There shall be one membership in the Association for each Unit. Such membership shall be appurtenant to the Unit and shall be transferred automatically by a conveyance of the Unit to a new Unit Owner.

21.6 Voting. Each membership shall be entitled to one vote and in the event the membership is held by more than one Unit Owner, the vote must be cast only as a single vote and split or divided votes of membership shall not be allowed.

21.7 Transfer. No person other than a Unit Owner may be a member of the Association and a membership may not be transferred except in connection with the conveyance or transfer of the Unit; provided however, that such membership may be assigned to the holder of a Security Interest as further security for the loan secured by the lien of such holder upon the Unit.

21.8 Rights of Declarant. Notwithstanding any other provision of this Declaration or the Articles of Incorporation of the Association, Declarant, their successors and assigns, shall have the right to appoint the members of the Board of Directors (who need not be members of the Association or Unit Owners) during the period of Declarant control, which is 10 years after the date of filing of this Declaration. The period of Declarant control shall terminate no later than the earlier of (1) 60 days after the conveyance of 75% of the Units that may be created within North Star Condominiums to Unit Owners other than Declarant, (2) two years after the last conveyance of a Unit in North Star Condominiums by Declarant in the ordinary course of business, or (3) two years after any right to add new Units in North Star Condominiums was last exercised. Further, not later than 60 days after the conveyance of 25% of the Units that may be created in North Star Condominiums to Unit Owners other than Declarant, at least one member and not less than 25% of the members of the Board of Directors shall be elected by the Unit Owners other than Declarant, and not later than 60 days after the conveyance of 50% of the Units that may be created in North Star Condominiums to Unit Owners other than Declarant, not less than 1/3 of the members of the Board of Directors must be elected by Unit Owners other than Declarant.

## 22. ASSESSMENT FOR COMMON EXPENSES BY THE ASSOCIATION.

22.1 Payment of Assessments. Declarant, for each Unit owned by it, and each Unit Owner by the acceptance of a deed therefor shall be deemed to covenant and agree and shall be obligated to pay to the Association all assessments made by the Association for the purposes provided in this Declaration.

22.2 Apportionment. Assessments for Common Expenses shall be apportioned among all of the Unit Owners in accordance with their Allocated Interests in the Common Elements.

BK PG  
782 73**22.3 Special Apportionment of Certain Assessments and Expenses.**

The following expenses shall be assessed and allocated as follows:

22.3.1 Any Common Expenses associated with the maintenance, repair or replacement of a Limited Common Element shall be assessed against the Units to which that Limited Common Element is assigned.

22.3.2 Any Common Expense or portion thereof benefitting fewer than all of the Units shall be assessed exclusively against the Units so benefitted.

22.3.3 Insurance premiums and costs shall be assessed in proportion to the risk.

22.3.4 The cost of utilities shall be assessed in proportion to usage.

22.3.5 If any Common Expenses caused by the misconduct of any Unit Owner, the Association may assess that expense exclusively against such Unit Owner.

**22.4 Unit Owner's Responsibility.** Each Unit Owner shall be solely and exclusively liable and responsible for the repairs, upkeep, maintenance and capital improvements to the roof, exterior walls, windows, doors, and utility systems of the Unit owned by the Unit Owner subject to the following conditions:

22.4.1 The Unit Owner shall at all times keep the exterior of the Unit as set forth in this paragraph in good condition and repair and in a clean and attractive conditions.

22.4.2 The exterior walls, doors, and windows shall be of the same type and kind as the entire Project and the Unit Owner may not change the appearance, structure or type of any exterior portion of the Unit, as above described, without the consent and approval of the Board of Directors of the Association.

22.4.3 In the event that such Unit Owner fails, neglects or refuses to keep the exterior of his Unit, as above described, in good condition and repair and in a clean and attractive condition, then and in that event, the Association, by its board of directors, may authorize and direct any required repairs or maintenance to be made to such Unit and to charge the cost of the same to the Unit as a special assessment payable solely by that Unit.

BK PG  
782 74

23. AMOUNT OF ASSESSMENTS FOR COMMON EXPENSES.

23.1 Determination of Assessments. The annual assessments made for the Common Expenses shall be based upon the budget adopted by the Association.

23.2 Budget. The Board of Directors shall prepare a proposed budget for the Association. Within 30 days after the date of adoption of the proposed budget by the Board of Directors, the Association shall mail, by ordinary first class mail, or otherwise deliver a summary of the budget to all the Unit Owners and shall set a date for a meeting of the Unit Owners to consider the ratification of the budget not less than 14 nor more than 60 days after the mailing or other delivery of the summary of the budget. Unless at that meeting of the Unit Owners a majority of the Unit Owners reject the budget the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Unit Owners must be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Board of Directors.

23.3 Liability for Assessments. Each Unit Owner is liable for the assessments made against the Unit of that Unit Owner during the period of ownership of such Unit. No Unit Owner may be exempt from liability for payment of the assessments by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit against which the assessments are made.

23.4 No Waiver. The omission or failure of the Association to fix such assessment for any period shall not be deemed a waiver, modification or release of the Unit Owners from their obligation to pay the same.

23.5 Payment of Utilities. Each Unit Owner shall be obligated to pay all charges for any separately metered utilities servicing his Unit. In the event that any utility is master metered to the Association, then such utility service shall be a part of the Common Expenses as above provided.

23.6 Reserve Funds. The Association shall be obligated to establish reserve funds for:

23.6.1 The maintenance, repair and replacement of the Common Elements.

23.6.2 The payment of all insurance premiums as to insurance required to be maintained by the Association.

23.6.3 Any taxes including ad valorem real property taxes, personal property taxes and special district taxes imposed upon any real property or personal property owned by the Association:

BK PG  
782 75

The amount of such reserve funds shall be determined by the Association and shall be funded through the payment of the Common Expenses. The reserve funds shall be held by the Association in a separate account, which may be an interest-bearing account, to be held in trust for the Unit Owners for such purposes.

23.7 Special Assessments. In addition to assessments for Common Expenses as above set forth, the Association may at any time and from time to time determine, levy and assess any special assessment for the purpose of paying, in whole or in part, the costs, fees or expenses of any construction, reconstruction, repair, replacement or maintenance of the Common Elements, or any other lawful purpose contemplated by this Declaration, or the Articles of Incorporation or Bylaws of the Association, or permitted by law. Such special assessment shall be assessed to each Unit Owner in accordance with his Allocated Interests in the Common Elements as set forth in attached Exhibit B and shall be due and payable in the manner set forth in the notice of such special assessment.

24. TIME OF PAYMENTS OF ASSESSMENTS FOR COMMON EXPENSES.

24.1 Fiscal Year. The assessments of the Association shall be computed and determined on a fiscal year basis.

24.2 Payable Monthly. Unless the board of directors of the Association otherwise determines, assessments shall be payable monthly in advance on or before the tenth day of each month by the Unit Owners. Delinquent assessments shall bear interest as provided in this Declaration.

24.3 Written Notice. The Association shall give written notice to the Unit Owners of the annual assessment, and shall deliver to each Unit Owner itemized statements.

24.4 Late Charges and Interest. The Association may establish the rate of interest to be charged as to any past due assessment, not to exceed 21% per year. Until otherwise established by the Association, if any assessment is not paid within 10 days after the date that it becomes due and payable, a late charge of \$20.00 to cover the extra costs and expenses involved in handling such delinquent payment shall be imposed and any past due assessment shall bear interest at the rate of 1.5% per month from the date the assessment was due until the date that such assessment is paid.

25. LIEN FOR NONPAYMENT OF ASSESSMENTS.

25.1 Lien for Assessment. The Association shall have a statutory lien on any Unit for any assessment levied against that Unit or fines imposed against that Unit Owner. All fees, charges, late charges, attorneys' fees; fines and interest as provided by this Declaration are enforceable as assessments.



BK PG  
782 76

25.2 Priority of Lien. The lien for assessments by the Association is prior to all other liens and encumbrances on a Unit except:

25.2.1 Liens and encumbrances of record prior to the date of the recording of this Declaration.

25.2.2 A First Security Interest on the Unit which was recorded before the date on which the assessment sought to be enforced by the lien became delinquent. Provided, however, a lien for assessments of Common Expenses based upon the duly adopted budget of the Association which would have been due, in the absence of any acceleration, during the six months immediately preceding institution by either the Association or any party holding a lien senior to any part of the lien of the Association of an action or non-judicial foreclosure to enforce or extinguish the lien for Common Expenses shall be prior to the lien of the First Security Interest, or any greater priority for a lien for Common Expenses as may hereafter be provided by the Act.

25.2.3 Liens for real estate taxes and assessments or charges of any governmental entity against the Unit.

25.3 Notice of Lien. The recording of this Declaration constitutes record notice and perfection of any lien for assessments by the Association and no further recordation of any claim of lien for assessments is required. Provided, however, the Association may further record a lien for assessments in the records of Gunnison County, Colorado.

25.4 Enforcement of Lien. The lien for assessments of the Association may be enforced by foreclosure by the Association in the same manner as a foreclosure of a mortgage. In such foreclosure, the Unit Owner shall be required to pay the costs and expenses for such proceedings, the cost and expenses for filing the notice of claim of lien and all reasonable attorneys' fees. The Unit Owner shall also be required to pay to the Association the assessments for the 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 acquire the Unit at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

25.5 Payment by Holder of Security Interest. Any holder of a Security Interest on a Unit may pay, but shall not be required to pay, the amount secured by such lien, and upon such payment the holder of such Security Interest shall have a lien on such Unit for the amounts paid of the same rank as the lien of its Security Interest.

## 26. UNIT OWNERS' OBLIGATION FOR PAYMENT OF ASSESSMENTS.

The amount of any unpaid assessments against a Unit shall be the personal and individual debt of the Unit Owner. The Association shall have the right to maintain judicial proceedings to recover a money judgment for all unpaid assessments without foreclosing or waiving the lien

BK PG  
782 77

for such assessments. In any legal action for a money judgment, the Association may recover all late charges and interest to the date of payment, all costs of collection and reasonable attorneys' fees.

27. STATEMENT OF ASSESSMENTS:

27.1 Written Statement of Assessments. The Association shall furnish to the Unit Owner, such Unit Owner's designee or to the holder of a Security Interest in the Unit or its designee upon written request delivered personally or by certified mail to the Association or the registered agent of the Association, a written statement setting forth the amount of unpaid assessments currently levied against that Unit. The statement of assessment shall be furnished within 14 calendar days after receipt of the request and shall be binding upon the Association. If no statement of assessments is furnished to the Unit Owner or the holder of a Security Interest in the Unit or their designee either by personal delivery or certified mail return receipt requested, then the Association shall have no right to assert a lien upon the Unit for unpaid assessments which were due as of the date of the request.

27.2 Joint Liability. The grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid assessments due and owing by the grantor for the Common Expenses up to the time of the grant or conveyance of the Unit, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor, subject only to the limitations set forth in paragraph 27.1. The term "Grantee" as used in this section shall not apply to the holder of a First Security Interest on a Unit which First Security Interest was recorded prior to the date upon which any assessment against the Unit became a lien as provided in this Amended Condominium Declaration.

28. LIMITATION OF MECHANIC'S LIEN RIGHTS AND INDEMNIFICATION.

28.1 No Lien on Common Elements. Subsequent to the completion of the improvements described on the Condominium Map, or any supplement thereto, no labor performed or materials furnished and incorporated into a Unit with the consent of or at the request of the Unit Owner, or his agent, shall be the basis of a lien against any other Unit unless such other Unit Owner expressly consented to or requested the same, or against the Common Elements, except only as to the undivided interest of the Unit for whom such labor or materials have been furnished.

28.2 Indemnification. The Unit Owner shall indemnify and hold harmless the Unit Owner of every other Unit and the Association from and against liability or loss arising from the claim of any lien against the Unit of that Unit Owner for labor performed or materials furnished on such Unit.

BK PG  
782 78

29. SECURITY INTEREST IN UNIT. The Unit Owner shall have the right to grant a Security Interest in a Unit. Any such Security Interest shall at all times be subject to the terms and conditions of this Declaration and the Act.

30. INSURANCE.

30.1 Required Insurance by Association. The Association shall maintain and maintain at all times, to the extent reasonably available, insurance coverage as hereafter set forth. All such insurance shall be written and issued by insurance companies licensed to do business in the State of Colorado and with an acceptable insurance rating.

30.2 Property Insurance. The Association shall obtain and maintain property insurance for broad form covered causes of loss, including fire and extended coverage with standard risk endorsements including vandalism and malicious mischief. The property insurance shall insure the Common Elements and all property owned by the Association, and any interest therein, in an amount not less than the full insurable replacement cost of the insurable property, less applicable deductibles at the time such insurance is obtained. All policies shall contain a standard non-contributory mortgage clause in favor of the holder of each Security Interest of a Unit, which shall provide that the loss, if any, thereunder, shall be payable to the Association for the use and benefit of holders of such Security Interest as their interests may appear.

30.3 General Liability Insurance. The Association shall obtain and maintain commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements in an amount deemed sufficient in the judgment of the Board of Directors of the Association but in any event not less than \$1,000,000.00 per injury, per person, per occurrence and umbrella liability limits of \$1,000,000.00 per occurrence, covering claims for bodily injury and property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other use of the Project and shall provide insurance coverage insuring the Board of Directors, the Association, the managing agent and their respective employees, agents and all persons acting as agents. Unit Owners shall be included as additional insureds but only for claims and liability arising in connection with the ownership, existence, use or management of the Common Elements. Such insurance policies shall cover claims of one or more insured parties against other insured parties.

30.4 Workman's Compensation Insurance. Workman's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the form now or hereafter required by law.

BK PG  
782 79

30.5 Flood Insurance. If the Project is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards and the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, a "blanket" policy of flood insurance on the Project in an amount which is the lesser of the maximum amount of insurance available under the Act or the aggregate of the unpaid principal balances of the Security Interests on the Units comprising the Project.

30.6 Fidelity Insurance. The Association may purchase adequate fidelity coverage against dishonesty of employees, destruction or disappearance of money or securities and forgery. Said policy shall also contain endorsements thereto covering any persons who serve the Association without compensation.

30.7 Additional Insurance. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Project, including plate or other glass insurance and any personal property of the Association located thereon.

30.8 Insurance Not Available. In the event that the insurance as described in paragraphs 30.2 and 30.3 is not reasonably available or if any policy of such insurance is cancelled or not renewed without a replacement policy therefor having been obtained, the Association shall promptly give written notice of such fact to all Unit Owners by personal delivery or by United States mail, postage prepaid.

30.9 Special Provisions. As to the insurance coverage provided in paragraphs 30.2 and 30.3 above, all policies must provide that:

30.9.1 Each Unit Owner is an insured person under the policy with respect to liability arising out of such Unit Owner's interest in the Common Elements and as a member of the Association.

30.9.2 The insurance company waives its right to subrogation under the policies of insurance against any Unit Owner or members of the Unit Owner's household.

30.9.3 No act of omission by any Unit Owner, unless acting within the scope of such Unit Owner's authority on behalf of the Association, will void any insurance policy or be a condition to recovery under such insurance policy.

30.9.4 If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by such policy, the Association's insurance policy will provide primary insurance.

30.9.5 That such insurance policy may not be cancelled or modified without at least 30 days prior written notice to the Association.

BK P6  
782 80

30.10 Payable to Association. All property insurance policies as provided in paragraph 30.2 above shall provide that any loss covered by such insurance shall be adjusted with the Association and the insurance proceeds for such loss shall be payable to the Association and not to the holder of a security interest. The Association shall hold the insurance proceeds in trust for the Unit Owners and holders of Security Interest as their interest may appear. Except only as hereafter provided, the proceeds of such insurance must be disbursed first for the repair or restoration of the damaged property, and the Association, Unit Owners and the holders of Security Interest are not entitled to receive any payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Project is terminated.

30.11 Insurance by Unit Owners. Any insurance policy issued to the Association does not obviate the necessity for a Unit Owner to obtain insurance on their own behalf as to any and all losses not covered by the insurance of the Association. Provided, however, all policies of any such Unit Owner shall contain waivers of subrogation and provide that the liability of the insurance company issuing insurance obtained by the Association shall not be affected or diminished by reason of any such insurance carried by the Unit Owner.

30.12 Insurance Responsibility of Unit Owner. Insurance coverage on furnishings, including carpet, draperies, wallpaper, and any other items of personalty or other personal property belonging to a Unit Owner and public liability coverage within each Unit shall be the sole and direct responsibility of the Unit Owner thereof, and the board of directors, the Association and/or the managing agent shall have no responsibility therefor.

30.13 Certificate of Insurance. Any insurance company issuing policies of insurance as provided in paragraphs 30.2 and 30.3 above shall issue Certificate of Insurance or Memorandums of Insurance to the Association and, upon request, to any Unit Owner or to the holder of a First Security Interest.

### 31. DAMAGE OR DESTRUCTION TO NORTH STAR CONDOMINIUMS.

31.1 Mandatory Repair or Replacement. If all or any portion of the Project, for which insurance is required to be maintained as provided in paragraphs 30.2 and 30.3, is damaged or destroyed, such damage or destruction must be promptly repaired and/or replaced by the Association unless:

31.1.1 The Project is terminated in the manner provided in paragraph 18 of this Declaration.

31.1.2 The repair or replacement of the damaged or destroyed portions of the Project would be illegal under any state or local statute or ordinance governing health or safety.

BK PG  
782 81

31.1.3 80% of the Unit Owners, being one vote for each Unit and including the Unit Owners of every Unit for which a Limited Common Element is allocated which will be affected by such action, vote not to rebuild, repair or replace the Project.

31.2 Rebuild and Replace. Except only as otherwise provided in paragraph 31.1 above, the Association shall promptly repair and replace any damaged or destroyed portions of the Project.

31.3 Insurance Proceeds. The Association shall utilize all insurance proceeds payable as a result of such damage or destruction to the repair and replacement of such damaged portions of the Project.

31.4 Insurance Proceeds Insufficient. In the event that the cost of repair or replacement is in excess of the insurance proceeds and reserves payable as a result of such damage or destruction, then any additional costs of such repair or replacement shall be a Common Expense of the Association and assessed in the manner provided by paragraph 23 of this Declaration. The Association shall levy and assess a special assessment for such repairs and replacement as provided in paragraph 23.7 of this Declaration. In the event that any Unit Owner fails or refuses to pay such special assessment in the time and in the manner provided by the Association, the Association shall foreclose the lien of its special assessment as to such Unit in the manner provided in paragraph 25 of this Declaration and the proceeds derived from the foreclosure of such Unit shall be used and disbursed by the Association in the following order:

31.4.1 For the payment of any taxes and assessments to any governmental authority.

31.4.2 To the costs and expenses to foreclose the lien of the Association, including reasonable attorneys' fees.

31.4.3 The unpaid balance due to the holder of a First Security Interest, which First Security Interest was recorded in the records of Gunnison County, Colorado prior to the date of the special assessment of the Association.

31.4.4 The payment of the special assessment due to the Association under this paragraph, and the payment of any unpaid assessments or costs, expenses and fees due the Association.

31.4.5 The payment of any Security Interest in the order of and to the extent of their priority.

31.4.6 The balance remaining, if any, shall be paid to the Unit Owner.

BK PG  
782 82

31.5 Assessments Not Abated. The assessments of the Association shall not be abated during the period of repair and replacement unless otherwise provided by the Association.

31.6 Election Not to Repair. In the event that an election not to repair or replace any portions of the Project which have been damaged or destroyed and for which insurance proceeds are available, then the insurance proceeds attributable to such damage or destruction shall be distributed and paid in the same order as set forth in paragraph 31.4 of this Declaration.

All such proceeds shall be payable and distributed in accordance with the Allocated Interests of each Unit in the Common Elements.

## 32. OBSOLESCENCE OF NORTH STAR CONDOMINIUMS.

32.1 Obsolescence. In the event of the obsolescence of the Project, the Project may be terminated in the manner provided by paragraph 18 of this Declaration.

32.2 Plan of Renewal. In the event of such obsolescence, the Association may adopt a plan for the renewal and reconstruction of the Project and submit the same to the Unit Owners for approval. If 80% of the Unit Owners, being one vote for each Unit, vote to approve and adopt the plan of renewal, then such plan of renewal shall be binding upon the Association and all Unit Owners, whether or not the Unit Owners have previously consented to the plan of renewal. The cost of the plan for renewal shall be a Common Expense of the Association and the Association shall levy a special assessment for the payment of all costs of such plan of renewal. In the event that any Unit Owner fails or refuses to pay such special assessment in the time and in the manner provided by the Association, the Association shall foreclose the lien of its special assessment as to such Unit in the manner provided in paragraph 25.4 of this Declaration and the proceeds derived from the foreclosure of such Unit shall be distributed and paid by the Association in the same order as set forth in paragraph 31.4 of this Declaration.

33. CONDEMNATION. If all or any part of a Unit or the Common Elements is acquired by eminent domain or sold or otherwise disposed of in lieu of or avoidance of condemnation or eminent domain then the following conditions shall apply:

33.1 Unit. If a Unit is acquired by eminent domain or part of a Unit is acquired by eminent domain leaving the Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by the Declaration or by the laws, ordinances, rules or regulations of any governmental entity having jurisdiction over the Unit, the eminent domain award must include compensation to the Unit Owner for that Unit and its Allocated Interests in the Common Elements or any Limited Common Elements whether or not the same are acquired by eminent domain. Unless the

BK PG  
782 83

eminent domain decree specifically otherwise provides, the Allocated Interests in the Common Elements and Limited Common Elements of the Unit acquired by eminent domain are automatically reallocated to the remaining Units in the Project in proportion to the respective Allocated Interests of those Units in the Common Elements before the eminent domain taking. Any remnant of a Unit remaining after a part of the Unit is taken in eminent domain under this paragraph is thereafter a Common Element.

**33.2 Part of a Unit.** If a part of a Unit is acquired by eminent domain the award must compensate the Unit Owner for the reduction in value of the Unit and that Unit's interest in the Common Elements and any Limited Common Elements, whether or not any Common Elements or Limited Common Elements are acquired. Upon acquisition by eminent domain, unless the decree specifically otherwise provides (1) the allocated interests of the Unit taken by eminent domain are reduced in proportion to the reduction in size of the Unit and (2) the portion of allocated interests divested from the partially acquired Unit in eminent domain is automatically reallocated to that Unit and to all of the remaining Units in proportion to the respective interests of those Units before the taking by eminent domain, with the partially acquired Unit participating in the reallocation on the basis of its reduced allocated interest.

**33.3 Common Elements.** If any part of the Common Elements are acquired by eminent domain, that portion of any award attributable to the Common Elements taken must be paid to the Association. Any portion of the award attributable to the acquisition of a Limited Common Element must be equally divided among the Unit Owners to which that Limited Common Element was allocated at the time of acquisition by eminent domain. For the purposes of acquisition of a part of the Common Elements, other than the Limited Common Elements, service of process of the Association shall constitute sufficient notice to all Unit Owners and service of process on each individual Unit Owner shall not be necessary or required.

The reallocations of the allocated interests in the Common Elements pursuant to this paragraph 33 shall be confirmed by an Amendment to the Declaration prepared, executed and recorded by the Association.

**33.4 Entire Project.** If all of the Units and all of the Common Elements are acquired by eminent domain then the Project shall terminate in the manner provided in paragraph 18 of this Declaration.

**34. PROPERTY FOR COMMON USE.** The Association may acquire and hold for the use and benefit of all of the Unit Owners, real and personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be owned by the Unit Owners in the same proportion as their Allocated Interests in the Common Elements and shall not be transferable except with a transfer of a unit. A conveyance of a Unit shall transfer to the grantee ownership of the grantor's beneficial interest in all such property acquired and held by the Association.



BK PG  
782 84**35. REGISTRATION BY UNIT OWNER OF MAILING ADDRESS.**

**35.1 Register Mailing Address.** Each Unit Owner shall register his mailing address with the Association, and except for assessments statements and other routine notices, all other notices or demands intended to be served upon an Unit Owner shall be sent by certified mail return receipt requested, postage prepaid, addressed in the name of the Unit Owner at such registered mailing address or personally delivered. All notices, demands or other notices intended to be served upon the Association shall be sent by certified mail return receipt requested, postage prepaid, to the address of the Association.

**35.2 Single Address for Mailing.** In the event any Unit is owned by more than one person, or by a partnership, joint venture, corporation, or other such entity, the Unit Owners thereof shall designate to the Association in writing the name and address of the agent of the Unit Owner to whom all legal or official assessments, liens, levies or other such notices may be properly and lawfully mailed, and upon failure to so designate an agent, the Association shall be deemed to be the agent for receipt of notices to such Unit Owners.

**36. ADDITIONAL RIGHTS OF HOLDERS OF FIRST SECURITY INTEREST.** In addition to any other rights provided in this Amended Condominium Declaration, any First Security Interest holder who shall make a request in writing to the Association, shall have the following additional rights:

**36.1 Annual Financial Statement.** To be furnished a copy of the annual financial statement of the Association, and to be further furnished an audit of the Association, if the same is performed, such documents to be furnished at the same time that they are furnished to the Unit Owners.

**36.2 Notice of Amendment.** To be given written notice by the Association of any meeting of the Association called for the purpose of considering any Amendment, change, revision or termination of the Declaration. Such notice shall state the nature of any such change being proposed.

**36.3 Notice of Default.** To be given written notice of any default by a Unit Owner of a Unit encumbered by a First Security Interest in the performance of any duty or obligation required hereunder or rules and regulations of the Association, which default remains uncured more than 30 days following notice to the defaulting Unit Owner.

**37. GENERAL.**

**37.1 Validity.** If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder

BK PG  
782 85

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.

37.2 Additional Provisions. The provisions of this Declaration shall be in addition and supplemental to the Act and to all other provisions of law.

37.3 Context of Words. 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.

37.4 Rate of Delinquent Interest. Unless the board of directors of the Association determines otherwise, any and all sums, amounts, expenses, assessments or any funds due and payable as provided in this Declaration which are not paid within ten (10) days of the date that the same are due and payable shall bear interest at the rate of one and one-half percent (1.50%) per month from the date that the same were first due and payable to the date until paid.

37.5 Enforcement. In the event of any breach by any Unit Owner, or by the Association, of any of the terms and conditions of this Declaration, any supplement hereto, any document provided for herein, the rules and regulations promulgated hereunder, the Articles of Incorporation and Bylaws of the Association, or any resolution, decision, or determination made by said Association, its members, directors, or officers in accordance with applicable Colorado law, the party not in default shall have the right to bring suit in law, or in equity, or both, against the party in default to obtain monetary damages for said breach, and/or to obtain injunctive relief, in any court of competent jurisdiction.

38. APPLICABLE LAW. This Declaration is filed in the records of Gunnison County, Colorado and it is agreed that the proper jurisdiction and venue of any action pertaining to the interpretation or enforcement of this Declaration shall be in the District Court of Gunnison County, Colorado.

39. ATTORNEYS' FEES. It is agreed that if any action is brought in a court of law by either party to this Declaration as to the enforcement, interpretation or construction of this Declaration or any document provided for herein, the prevailing party in such action shall be entitled to reasonable attorneys' fees as well as all costs incurred in the prosecution or defense of such action.

40. RESERVATION TO ENLARGE.

40.1 Enlargement Rights. The Declarant reserves the right to subject all or any part of the real property described in paragraph 2.16 to the provisions of this Declaration at any time before December 31, 2006. The consent of any existing Unit Owners or Security Interest holders of any Unit shall not be required for any such enlargement and expansion and Declarant may proceed with such enlargement and

BK PG  
782 86

expansion without limitation, in his sole option. Declarant may exercise such right to enlarge with respect to different parcels of the Real Property at different times and in any sequence the Declarant may determine. There is no assurance as to the portions of the Real Property that may be subjected to Declarant's right to enlarge or the order in which those portions may be subjected to the Declarant's right to enlarge. If Declarant exercises his right to enlarge as to a portion of the Real Property, there is no obligation that Declarant exercise his right to enlarge as to all or any other portion of the Real Property.

**40.2 Development Rights.** The Declarant expressly reserves the right to construct additional Units, Common Elements and Limited Common Elements ("Additional Improvements") on any portion of the Real Property. Declarant further expressly reserves the right to withdraw all or any portion of the Real Property from this Declaration by recording a document evidencing such withdrawal in the records of Gunnison County, Colorado; provided, however, no portion of the Real Property may be withdrawn after a Unit in that portion of the Real Property has been conveyed to a purchaser.

Provided, however, in no event may the total number of Units in the Project, as so enlarged, exceed twenty Units.

**40.3 Supplement to Declaration.** In the event Declarant elects to submit all or any portion of the Real Property or the Additional Improvements to this Declaration, at such time as construction of the Additional Improvements on the Real Property are substantially complete, Declarant shall record a supplement to this Declaration reallocating the interest in the Common Elements so that the Allocated Interests in the Common Elements will be apportioned according to the total number of Units submitted to this Declaration. The Allocated Interests in the Common Elements allocated to each Unit in the Project, as expanded, shall be allocated in the same manner as is provided in paragraph 3.1 of this Declaration.

**40.4 Supplement to Map.** Declarant shall, contemporaneously with the supplement to this Declaration, file a supplemental Condominium Map as provided in paragraph 5.2 above.

**40.5 Interpretation.** The recording of a supplement to this Declaration and the supplemental Condominium Map in the records of Gunnison County, Colorado, shall automatically:

**40.5.1** Vest in each existing Unit Owner his Allocated Interest in the Common Elements.

**40.5.2** Vest in each existing mortgagee a perfected security interest in the reallocated interest in the Common Elements of each existing Unit Owner.

BK PG  
782 87

40.5.3 Upon recording of a supplement to this Declaration, the definitions used in this Declaration shall automatically be extended to encompass and refer to the Project, as expanded. The Additional Improvements shall be added to and become a part of the Project for all purposes. All conveyances of Units after such enlargement and expansion shall be effective to transfer rights in all Common Elements as enlarged and expanded, whether or not any reference is made to any supplement to this Declaration or the Condominium Map. Reference to this Declaration and the Condominium Map in any instrument shall be deemed to include all supplements to this Declaration and the Condominium Map without specific reference thereto.

41. BINDING AGREEMENT: It is understood and agreed that this Declaration shall be binding upon the heirs, executors, administrators and assigns of the parties hereto.

IN WITNESS WHEREOF, the Declarant has executed this Amended Condominium Declaration the date first above written.

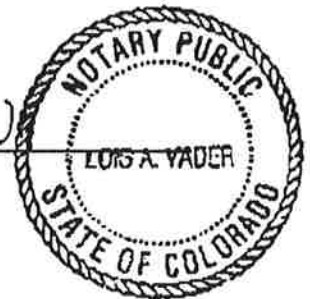
*Domenick M. Maimone*  
\_\_\_\_\_  
Domenick M. Maimone  
also known as Don Maimone

STATE OF COLORADO    )  
  ) ss.  
County of Gunnison    )

The foregoing Amended Condominium Declaration has been acknowledged before me this 25<sup>th</sup> day of April, 1996, by Domenick M. Maimone, also known as Don Maimone.

Witness by hand and official seal.  
My commission expires: August 29, 1998

*Lisa A. Vader*  
\_\_\_\_\_  
Notary Public



Prepared by:  
Russell & Wilderson, P.C.  
120 North Taylor - P.O. Box 179  
Gunnison, Colorado 81230  
Tele: 970-641-3326  
Fax: 970-641-3094

GUNNISON COUNTY, CO JOANNE M. REITINGER, RECORDER  
467365 BK 782 PG 88 04/30/96 1:40PM

CONSENT TO AMEND  
CONDOMINIUM DECLARATION

First National Summit Bank, formerly First National Bank of Gunnison, as the holder of a Deed of Trust dated May 12, 1994 recorded May 16, 1994 in Book 745 at page 477 encumbering Units 2 through 10, North Star Condominiums, according to the Condominium Map thereof at Reception No. 456172 and the Condominium Declaration pertaining thereto in Book 755 at page 521, and a Uniform Commercial Code Financing Statement dated May 16, 1994 recorded in Book 745 at page 488, all of the records of Gunnison County, Colorado, hereby consents to the Amendment thereof by Its Declarant, Domenick M. Maimone, also known as Don Maimone.

Executed APRIL 25, 1996.

FIRST NATIONAL SUMMIT BANK,  
formerly FIRST NATIONAL BANK OF  
GUNNISON

  
Craig Kaffenberger, Vice President

STATE OF COLORADO )  
                                  ) ss.  
County of Gunnison )

The foregoing instrument was acknowledged before me on the 25<sup>th</sup> day of April, 1996, by Craig Kaffenberger as Vice President of the First National Summit Bank formerly First National Bank of Gunnison.

Witness my hand and official seal.  
My commission expires: March 05, 2000



  
Notary Public

Teri Haus, Notary Public  
801 N. Main St.  
Gunnison, CO 81230

GUNNISON COUNTY, CO JOANNE M. REITINGER, RECORDER  
167366 BK 782 PG 87 04/30/96 1:40PM

CONSENT TO AMEND  
CONDOMINIUM DECLARATION

The undersigned, Sandra J. Stratman, as the record owners of Units 2 through 10, North Star Condominiums, according to the Condominium Map thereof at Reception No. 456172 and the Condominium Declaration pertaining thereto in Book 755 at page 521 of the records of Gunnison County, Colorado, hereby consents to the Amendment thereof by its Declarant, Domenick M. Maimone, also known as Don Maimone.

Executed 4/03, 1996.

*Sandra J. Stratman*  
\_\_\_\_\_  
Sandra J. Stratman

STATE OF Arizona )  
County of Pima ) ss.

April, 1996, The foregoing instrument was acknowledged before me on the 3 day of  
1996, by Sandra J. Stratman.

Witness my hand and official seal.  
My commission expires: \_\_\_\_\_



*M. A. McAlpine*  
\_\_\_\_\_  
Notary Public