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DECLARATION
FOR
119 GARFIELD AVENUE TOWNHOMES

THIS DECLARATION is made this 1st day of April, 2003, by 119 Garfield, LLLP, a Colorado Limited Liability Limited Partnership.

I. DEFINITIONS.

1.1 Association. "Association" means the 119 Garfield Avenue Townhomes Association, a Colorado unincorporated nonprofit association whose Members shall be the Owners of Lots AA, BB, CC, and DD, 119 Garfield Avenue Subdivision, its successors and assigns.

1.2 Building. "Building" means the residential building improvement situated on the Real Property and containing the Units, as shown and described on the Plat and any supplements thereto which may be filed in the Garfield County, Colorado records, but exclusive of any appurtenant structures such as carports, located exterior to the Building.

1.3 Declarant. "Declarant" means 119 Garfield, LLLP.

1.4 General Common Elements. "General Common Elements" means and shall include any part of the Building or any facilities or fixtures which may be within a Lot or Unit which are or may be necessary or convenient to the support, existence, use, occupancy, operation, maintenance, repair, or safety of the Building or any part thereof or any other Lot or Unit thereof. Without limiting the generality of the foregoing, the following shall constitute the General Common Elements: (a) all foundations, columns, girders, beams and supports of the Building; (b) all exterior walls of the Building, the main or bearing walls within the Building (including the common walls between Units), the main or bearing subflooring and the roof of the Building; (c) all vehicular and pedestrian access easements and utility easements of whatever nature as designated on the Plat; and (d) all utility, service and maintenance areas, spaces, fixtures, apparatus, installations and facilities for purposes of power, light, gas, telephone, television, hot water, cold water, heating, refrigeration, incineration, trash mashing, or similar utilities, including furnaces, tanks, pumps, motors, fans, compressors, vents, ducts, flues, wires, pipes, conduits and other similar fixtures, apparatus, installations and facilities, provided they do not exist solely to serve only one Lot or Unit in or on which they may be located. In this connection, all sewer and water service lines to each of the individual Units shall not be General Common Elements but shall be owned, operated, maintained, repaired and replaced by the Owner of the Unit served thereby.

1.5 Guest. "Guest" means any customer, agent, employee, tenant, guest or invitee of any Owner; and any person or entity who has acquired any title or interest, less than fee simple, in a Unit by, through or under an Owner, including any lessee, licensee or mortgagee and any customer, agent, employee, tenant, guest or invitee of any such person or entity.

1.6 Lot. "Lot" means each of the parcels of land designated and dimensionally described on the Plat as Lot AA, Lot BB, Lot CC, and Lot DD, subject to the easements also described or dedicated on the Plat or created, reserved or granted in this Declaration.

1.7 Mortgagee. "Mortgagee" means any person or entity who is a mortgagee under a recorded mortgage or a beneficiary under a recorded deed of trust or the holder of a similar recorded security instrument encumbering a Lot. "First Mortgage" means the first and most senior of all recorded mortgages, deeds of trust and similar instruments encumbering a Lot, and "First Mortgagee" means the Mortgagee under such mortgage, deed of trust or other instrument.

1.8 Owner. "Owner" means the person or persons or entity or entities, including Declarant, who own fee simple title to a Lot. The term Owner shall not include the owner or owners of any lesser estate or interest.

1.9 Plat. "Plat" means the Final Plat of 119 Garfield Avenue Subdivision filed as Reception No. _____ in the records in the office of the Clerk and Recorder of Garfield County, Colorado.

1.10 Project. "Project" means the Real Property and the Building and other improvements now or hereafter located on the Real Property.

1.11 Real Property. "Real Property" means the real property situate in the Town of Carbondale, County of Garfield, State of Colorado, described in the "Legal Description" on the Plat.

1.12 Unit. "Unit" means the four (4) individual residential dwelling areas contained in the Building including all areas such as storage areas and similar accessory facilities contained within the Building. Each Unit is contained upon a single lot as shown on the Plat and separated from the adjoining Unit or Units by a common wall or walls all as more particularly shown on the Plat.

II. DECLARATION AND EFFECT THEREOF.

2.1 Declaration. Declarant for itself, its successors and assigns, as Owner of the Project, hereby declares that the Project shall at all times be owned, held, used and occupied subject to the provisions of this Declaration.

2.2 Division Into Lots. The Project is hereby divided into four (4) Lots, each consisting of a separate fee simple estate in a Lot or Lots as described and depicted on the Plat, including all appurtenances to each such Lot as herein provided.

2.3 Association Ownership of General Common Elements. The General Common Elements shall be owned by the Association, subject to the beneficial use thereof by the Owners and the other rights herein expressed. Until such time as the Association comes into existence upon the first conveyance of a Lot by Declarant as hereafter provided, Declarant shall retain complete authority over and control of the Project, and any functions and duties enjoined upon the Association herein shall be performed and fulfilled by the Declarant.

2.4 Description of a Lot. Any instrument affecting title to a Lot may legally describe it by reference to the identifying Lot letters shown on the Plat. The legal description of a Lot shall be in the following form:

Lot _____
119 Garfield Avenue Subdivision
In accordance with and subject to the Declaration
for 119 Garfield Avenue Townhomes recorded
_____, 2003, in Book
_____ at Page _____ as Reception No. _____,
and Plat recorded _____, 2003,
as Reception No. _____, all of the records
in the office of the Clerk and Recorder of Garfield
County, Colorado.

and any conveyance or other instrument affecting title to a Lot or Unit or any part thereof shall be deemed to include and describe the entire Lot, including the appurtenances and all of the rights, easements, obligations, limitations, encumbrances, covenants, conditions and restrictions benefiting or burdening the Lot under the terms of this Declaration and the Plat.

Any reference to the 119 Garfield Avenue Townhomes in any description shall mean the 119 Garfield Avenue Subdivision according to the Plat and this Declaration, both as filed and recorded in the office of the Clerk and Recorder of Garfield County, Colorado.

2.5 Inseparability/Partition. The interests of an Owner in a Lot or Unit and its appurtenances shall be inseparable, and no partition of such interests shall be permitted.

2.6 Ad Valorem Taxation. All taxes, assessments and other charges of the State of Colorado or of any of its political subdivisions or of any special improvement district or of any other taxing or assessing authority shall be assessed against and collected on each Lot or Unit separately and not on the Project as a whole and each Lot or Unit shall be carried on the tax books as a separate and distinct parcel. A written notice as required by the Colorado Common Interest Ownership Act, setting forth descriptions of the Lots and shall be furnished by Declarant with all necessary information with respect to apportionment of valuation of General Common Elements for tax assessment purposes. The lien for taxes assessed to any Lot shall be confined to that Lot. No forfeiture or sale of any Lot for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Lot.

2.7 Mechanic's Lien. No labor performed or materials furnished for use in connection with any Lot or Unit with the consent or at the request of the Owner of such Lot or Unit or his agent, contractor or subcontractor shall create any right to file a statement of mechanic's lien against the Lot or Unit of any other Owner not expressly consenting to or requesting the same or against any interest in the General Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners from and against liability or loss arising from the claim of any lien against the Lot or Unit, or any part thereof, of such other Owner for labor performed or materials furnished for use in connection with the first Owner's Lot or Unit. At the written request of any Owner, the Association shall enforce such indemnity by collecting from the Owner of the Lot on which the labor was performed and/or for which the materials were furnished the amount necessary to discharge any such lien, including all costs, incidental thereto, including attorney's fees. If not promptly paid, the Association may collect the same in the manner provided herein for collection of assessments for the purpose of discharging the lien.

III. VARIOUS RIGHTS AND EASEMENTS.

3.1 Owner's Right in General Common Elements. Subject to the provisions of this Declaration, each Owner and each Owner's Guests shall have a nonexclusive right to use and enjoy the General Common Elements, provided there is no hindrance or encroachment upon the lawful rights of use and enjoyment of other Owners and their Guests as described in this Declaration and the Rules and Regulations of the Association.

3.2 Owner's Rights in Lots. Subject to the provisions of this Declaration, each Owner shall have full and complete dominion and ownership of the Owner's Lot and Unit and each Owner and each Owner's Guests shall have the exclusive right to use and enjoy the same except as otherwise herein provided.

3.3 Association Rights. The Association shall have the right or easement, as the case may be, to make such use of General Common Elements and the Lots and Units as may be necessary or appropriate for it to perform the duties and functions which it is obligated or permitted to perform under this Declaration; provided, however, that any entry onto a Lot or into a Unit shall be made with as little inconvenience as practicable to the Owner and that any damage to the Lot or Unit entered shall be repaired by and at the expense of the Association.

3.4 Owner's Easements for Access, Support and Utilities. Each Owner shall have a non-exclusive easement in and over General Common Elements, including General Common Elements within a Lot or Unit of another Owner, for horizontal and lateral support of the Lot or Unit which is part of his Lot or Unit and for utility service provided to that Lot or Unit, including water, sewer, gas, electricity, telephone and television service, as the case may be and where such utility service is consistent with the original design and construction of the Project.

3.5 Easements for Encroachments. If any part of the General Common Elements encroaches or shall hereafter encroach upon a Lot or Unit, an easement for such encroachment and for the maintenance of the same shall exist. If any part of any Lot or Unit encroaches or

shall hereafter encroach upon the General Common Elements, or upon another Lot or Unit, the Owner of that encroaching Lot or Unit shall have an easement for such encroachment and for the maintenance of the same. Such encroachments shall not be considered to be encumbrances either on the General Common Elements or on the Lots or Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the Building or other improvements to a Lot, by error in the Plat, by settling or shifting of the Building or other improvements to a Lot, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

3.6 Easements on Lots or Units for Repair, Maintenance and Emergencies. Some of the General Common Elements are or may be located upon or within a Lot or Unit or may be conveniently accessible only through such a Lot or Unit. The Association shall have an easement for access to each Lot or Unit and to all General Common Elements from time to time during such reasonable hours as may be necessary for the operation, maintenance, repair or replacement of any of the General Common Elements located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the General Common Elements or to any Lot or Unit.

3.7 Negligence or Willful Misconduct. Any damage to any Lot or Unit caused by the negligence or willful misconduct of the Association or any of its agents during any entry thereto shall be repaired by and at the expense of the Association.

3.8 Easements Deemed Appurtenant. The easements and rights herein created for an Owner shall be appurtenant to the Lot of that Owner and all conveyances of and other instruments affecting title to a Lot shall be deemed to grant and reserve the easements and rights as are provided for herein, even though no specific reference to such easements appears in any such conveyance.

3.9 Partition of Lots Prohibited. No Owner shall partition or subdivide any Lot and Unit so as to convey to a prospective Owner any interest in less than the entire Lot and Unit and its appurtenances. This provision is not intended, however, to prohibit joint or common ownership by two or more persons or entities of a Lot and Unit.

IV. CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1 Association as Attorney-In-Fact for Owners. The Association is hereby irrevocably appointed attorney-in-fact for the Owners of all Lots, and each of them, to manage, control and deal with the interest of such Owner so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder; to deal with the Project upon its destruction or obsolescence as hereinafter provided; and to deal with and handle insurance and insurance proceeds and condemnation and condemnation awards as hereinafter provided. The acceptance by any person or entity of any interest in any Lot shall constitute an appointment of the Association as attorney-in-fact as herein provided.



4.2 General Common Elements and Utilities. The Association shall be obligated to and shall provide for the care, operation, management, maintenance, improvement, repair and replacement of the General Common Elements. Without limiting the generality of the foregoing, said obligations shall include keeping the General Common Elements in good, clean, attractive and sanitary condition, order and repair; removing snow and any other materials from the General Common Elements to permit access to and throughout the Project and to the Lots and keeping the Project safe, attractive and desirable; making necessary or desirable alterations, additions, betterments or improvements to or on the General Common Elements. No prior approval of Owners shall be required for such work but prior approval of the Association, acting through its Members or Manager shall be required for all such work.

Each Owner shall be obligated to and shall provide for the care, operation, management, maintenance, improvement, repair and replacement of the utilities serving such Owner's Lot and Unit solely.

4.3 Other Association Functions. The Association may undertake or contract for any lawful activity, function or service for the benefit, or to further the interests of all, some or any Owners of Lots on a self-supporting, regular assessment or supplementary assessment basis. Such activities, functions or services may include the providing of garbage and trash collection services and other common services.

4.4 Labor and Services. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as the services of such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration.

4.5 Real and Personal Property of Association. By Member Action, the Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise. The Association may acquire and hold title to real property, in addition to holding title to the General Common Elements, for the performance of Association purposes and functions. Subject to the Rules and Regulations of the Association, each Owner and each Owner's Guests may use such Association property. Upon termination of ownership of the Project and dissolution of the Association the beneficial interest in any such property shall be deemed to be owned by the then Owners of Lots, an undivided one-fourth (1/4th) interest by the Owner of each Lot.

4.6 Construction on Association Property. By Member Action, the Association may construct new improvements or additions to real property owned by the Association or demolish improvements thereon, provided that in the case of any improvements, addition or demolition (other than maintenance or repairs to same).

4.7 Association Right to Utilize, Lease or License General Common Elements. The Association shall have the right to utilize, lease or license portions of the General Common Elements for the furtherance of its duties, obligations, rights or privileges.

4.8 Association Right to Borrow Money. The Association shall have the right to borrow funds to pay for any expenditures or outlay required to fulfill its duties, obligations, rights or privileges given to it by this Declaration; provided, however, that in the event the loan proceeds exceed an amount equal to twenty-five percent (25%) of the Association's approved annual budget, the Manager shall call a meeting to discuss the same and give thirty (30) days notice thereof to all Members and the Association shall obtain the approval of such borrowing by Member Action. Following such approval, the Association may levy a regular or supplementary assessment under the provisions of Article VI for the purpose of the payment of any funds so borrowed and may pledge as collateral for any such borrowings the assessment so levied together with any of the Association's real or personal property, including the General Common Elements.

4.9 Rules and Regulations. The Association may make and enforce reasonable and uniformly applied rules and regulations ("Rules and Regulations") governing the use of Lots and Units and of General Common Elements. Such Rules and Regulations may, without limitation, regulate use of General Common Elements to assure equitable use and enjoyment by all persons entitled thereto and require that draperies, shades or other window coverings shall present a uniform and attractive appearance from the exterior of the Building. Any such Rules and Regulations made by the Association may be amended from time to time by Member Action.

The Association shall furnish each Owner with a written copy of each and every Rule and Regulation adopted pursuant to this Article IV; however, failure to furnish said copy shall not be deemed to invalidate said Rules or Regulations to any extent.

The Association shall have the right to enforce any of the Rules and Regulations of the Association or the obligations of any Owner under this Declaration by suspending the right of such Owner to vote at meetings of the Association; provided that such use and/or voting suspension may not be imposed for a period longer than thirty (30) days per violation. No penalty may be imposed under this paragraph until the Owner accused of any such violation has first been notified in writing of the violation and afforded the right to have a hearing before the Members of the Association, or has, in writing, waived such right. Each such Owner shall have the right to be heard in person, by submission of a written statement, or through a spokesman, at any such hearing. The Association may also take judicial action against any Owner to enforce compliance with such Rules and Regulations or other obligations or to obtain injunctive relief and damages for noncompliance, all to the extent permitted by law.

4.10 Implied Rights. The Association shall have and may exercise any right or privilege given to it expressly by this Declaration, or reasonably to be implied from the provisions of this Declaration, or given or implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges.

V. THE ASSOCIATION.

5.1 General Purposes and Powers. The Association has been or will be formed to be and constitute the Association to which reference is made in this Declaration, to perform functions and hold and manage property as provided in this Declaration and to further the interests of Owners of Lots in the Project. It shall have all powers necessary or desirable to effectuate these purposes.

5.2 Membership. Each Owner, by virtue of being an Owner and for so long as he is an Owner, shall be a Member of the Association. Membership in the Association shall be appurtenant to the fee simple title to each Lot and title to and ownership of the Membership for the Lot shall automatically pass with fee simple title to the Lot. Each Owner of a Lot shall automatically be entitled to the benefits and subject to the burdens relating to the Membership for his Lot. If fee simple title to a Lot is held by more than one person or entity, the membership appurtenant to that Lot shall be shared by all such persons or entities in the same proportionate interest and by the same type of ownership as fee simple title to the Lot is held. Memberships in the Association shall be limited to Owners of Lots in the Project.

5.3 Member Action. Unless otherwise herein provided, the Association shall make all decisions, take all actions, exercise all powers and fulfill all obligations required of it hereunder by Member Action, which shall consist of the affirmative vote of the Owners of not less than seventy-five percent (75%) of the Lots at any meeting called in accordance herewith, or, without a meeting, by the written approval of any particular action by the Owners of not less than three (3) of the Lots, provided that the Owners of all of the Lots are provided an opportunity to approve or disapprove any such action in writing. Any reference herein to any exercise of authority by or fulfillment of any obligations enjoined upon the Association, shall be undertaken by Member Action, whether or not specifically expressed in any particular provision hereof.

5.4 Voting of Owners. Each Owner shall have one vote. Voting by proxy shall be permitted. In the event of multiple Owners of the same Lot, the multiple Owners shall share the vote assigned to the Lot so owned in the same proportionate interest as fee simple title to the Lot is held. The right to vote may not be severed or separated from any Lot, and any sale, transfer or conveyance of any Lot to a new Owner or Owners shall operate to transfer the appurtenant voting rights without the requirement of any express reference thereto.

5.5 Manager. The Association by Member Action, from time to time and for a term to be specified in such action, shall appoint a Manager to perform the various functions and exercise the various powers herein delegated to or imposed upon the Manager. The Manager shall be one of the Owners, and shall be reasonably compensated by the Association for his services and reimbursed for his expenses incurred in performance of his duties.

5.6 Notices. Each Owner shall be entitled to notice of any meeting at which such Owner has the right to vote. Notices of meetings shall be in writing and shall state the date, time and place of the meeting and shall indicate each matter to be voted on at the meeting which is known to the Association at the time notice of the meeting is given. Such notices shall be given

not less than ten (10) nor more than fifty (50) days before the date for the meeting. Any notice shall be deemed given and any budget or other information or material shall be deemed furnished or delivered to a party at the time a copy thereof is deposited in the mail or at a telegraph office, postage or charges prepaid, addressed to the party, and in any event, when such party actually receives such notice, information or material. Any notice, information or material shall be deemed properly addressed to an Owner if it is addressed to the name and address shown on the most recent written notice of name and address, if any, furnished to the Association by such Owner or, if a name and address is not so furnished, if it is addressed "To The Owner" at the address of the Lot or such Owner.

5.7 Record Date. The Manager of the Association shall have the power to fix in advance a date as a record date for the purpose of determining Owners entitled to notice of or to vote at any meeting or to be furnished with any budget or other information or material, or in order to make a determination of Owners for any purpose. The Owners existing on any such record date shall be deemed the Owners for such notice, vote, meeting, furnishing of information or material or other purpose and for any supplementary notice, or information or material with respect to the same matter and for any adjournment of the same meeting. A record date shall not be more than fifty (50) days prior to the date on which the particular action requiring determination of Owners is proposed or expected to be taken or to occur. If no record date is established for a meeting the date on which notice of such meeting is first given to any Owner shall be deemed the record date for the meeting.

5.8 Quorums. The presence of Owners who hold votes equal to seventy-five percent (75%) of the total voting power of the Association, in person or by proxy, at a meeting to consider a matter shall constitute a quorum for consideration of that matter. If a quorum is established for consideration of that matter, except if a greater percentage of votes is required under a specific provision of this Declaration, a majority of the votes cast on the matter shall decide the matter.

5.9 Statement of Authority. If a Statement of Authority is required under the provisions of C.R.S. 7-30-105 it shall be prepared and filed by the Association simultaneous with conveyance of the first Lot and upon such filing of the Statement of Authority the Association shall come into being and exist for all purposes set forth herein.

VI. ASSESSMENTS.

6.1 Assessments. Each Owner shall be obligated to, and shall, pay to the Association amounts as hereinafter provided, which amounts are herein called Assessments. Assessments shall include Regular and Supplementary Assessments.

Subject to the provisions hereof, the Association by Member Action, shall have the power and authority to determine all matters in connection with Assessments, including, without limitation, power and authority to determine where, when and how Assessments should be paid to the Association, and each Owner shall comply with all such determinations.

6.2 Determination of Budgets and Assessments. The fiscal year of the Association shall be determined by Member Action of the Association at its first meeting. Within thirty (30) days prior to the commencement of each fiscal year of the Association, the Members by Member Action shall determine the total amount to be raised by Regular Assessments during such fiscal year. The amount to be raised by Regular Assessments for any fiscal year shall be that amount necessary to cover the costs and expenses of fulfilling the functions and obligations of the Association in that fiscal year plus the amount necessary for the capital reserve fund for contingencies, exterior maintenance, construction or reconstruction, repair or replacement of the Project plus an amount sufficient to provide a reasonable carryover reserve for the next fiscal year. The amount to be raised by Regular Assessments shall include amounts necessary to cover obligations made in connection with, or contemplated under, any previously approved budget. The total amount required to be raised by Regular Assessments for any fiscal period less than a full fiscal year shall be the total amount required to be raised for the fiscal year determined as above multiplied by a fraction, the numerator of which is the number of days in the fiscal period and the denominator of which is the number of days in that fiscal year.

To determine the total amount required to be raised by Regular Assessments, the Manager shall prepare or cause to be prepared and the Members approve a budget for the fiscal year showing, in reasonable detail, the estimated costs and expenses which will be payable in that fiscal year, the amount necessary for the capital reserve and maintenance fund, if any, and for a reasonable carry-over reserve. The Members shall subtract from such estimated costs and expenses an amount equal to the anticipated surplus (exclusive of any reserve funds) attributable to Regular Assessments collected but not disbursed in the fiscal year immediately preceding the fiscal year for which such estimate has been prepared. The Manager shall furnish a copy of the budget to each Owner.

If the Members fail to determine or cause to be determined the total amount to be raised by Regular Assessments in any fiscal year, and/or fail to notify the Owners of the amount of such Regular Assessments for any fiscal year, then any funds held by or on behalf of the Association, including capital reserve and maintenance funds, may be used for the operation of the Project.

Except as emergencies may require, the Association shall make no commitment or expenditures in excess of the funds reasonably expected to be available to the Association.

In addition to Regular Assessments, the Members may levy Supplementary Assessments, payable over such period as the Board of Directors may determine: (a) for the purpose of defraying, in whole or in part, to the extent the amounts in the capital reserve fund are insufficient therefor, the cost of any construction or reconstruction, repair or replacement of the project or any part thereof; (b) for the purpose of defraying any other expense incurred or to be incurred as provided in this Declaration; of (c) to cover the deficiency, in the event that, for whatever reason, the amount received by the Association from Regular Assessments is less than the amount determined and assessed by the Association.

6.3 Apportionment of Assessments. The Assessments shall be made on a ratable basis, with the Owners of each Lot being assessed for one-fourth (1/4) of the total Assessment.

6.4 Time for Payments. The amount of any Assessment or other amount payable with respect to any Owner or Lot shall become due and payable as specified by the Manager of the Association and, in any event, thirty (30) days after any notice of the amount due as to such Assessment or other amount shall have been given by the Manager to such Owner, and any such amount shall bear interest from the date due and payable until paid at the rate established from time to time by Member Action.

6.5 Lien for Assessments and Other Amounts. The Association shall have a lien against each Lot to secure payment of any Assessment or other amount due and owing to the Association with respect to the Owner of that Lot or with respect to such Owner's Guests or Lot, plus interest from the date due and payable, plus all costs and expenses of collecting the unpaid amount, including reasonable attorney's fees. The lien may be foreclosed in the manner for foreclosures of mortgages in the State of Colorado. If any Owner is deemed to be in default hereunder and fails to cure such default within thirty (30) days, the Association shall give written notification of such default to any First Mortgagee of the Lot owned by such Owner whose name and address is expressly provided in the recorded mortgage, deed of trust or other lien.

6.6 Estoppel Certificate. Upon the payment of a reasonable fee as the same shall be established from time to time by the Members and upon written request of any Owner or any person with any right, title or interest in a Lot or intending to acquire any right, title or interest in a Lot, the Association shall furnish a written statement setting forth the amount of any Assessments or charges, if any, due or accrued and then unpaid with respect to the Owner of the Lot and the amount of the Assessments for the current fiscal period of the Association payable with respect to the Lot, which statement shall, with respect to the party to whom it is issued, be conclusive against the Association that no greater or other amounts were then due or accrued and unpaid.

6.7 Liability of Owners, Purchasers and Encumbrances. The amount of any Assessment charge owing to the Association by any Owner under this Declaration shall be a personal obligation to the Association of such Owner and such Owner's heirs, personal representatives, successors and assigns. A party acquiring fee simple title to a Lot by means other than foreclosure of a first lien deed of trust or mortgage, shall be jointly and severally liable with the former Owner for all amounts which had accrued and which were payable at the time of the acquisition of fee simple title to the Lot by such party without prejudice to such party's right to recover any of said amounts paid from the former Owner. Each such amount, together with interest thereon, may be recovered by suit for a money judgment by the Association without foreclosing or waiving any lien securing the same.

VII. USE AND OTHER RESTRICTIONS

7.1 Lot Restrictions. Each Lot shall be used for residential purposes only. No Lot shall be used at any time for business or commercial activity except that the Owner may lease or rent his Lot for private residential purposes. Nothing herein shall preclude the use of a Lot for a Home Occupation as such term is defined and restricted in the Carbondale Municipal Code.

7.2 General Common Elements Restrictions. No Owner and no Owner's Guest shall obstruct, damage or commit waste to any of the General Common Elements. No Owner shall change, alter or repair, or store anything in or on, any of the General Common Elements without the prior written consent of the Association.

7.3 No Imperiling of Insurance. No Owner shall, without the prior written consent of the Association, do anything or cause anything to be kept in or on the Project which might result in an increase in the premiums for insurance obtained for the Project or which might cause cancellation of such insurance.

7.4 No Violation of Law. No Owner shall do anything or keep anything in or on the Project which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

7.5 No Noxious, Offensive, Hazardous or Annoying Activities. No noxious or offensive activity shall be carried on upon any part of the Project nor shall anything be done or placed on or in any part of the project which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. No activity shall be conducted, and no improvements shall be made or constructed, on any part of the Project which are or might be unsafe or hazardous to any person or property. No sound shall be emitted on any part of the Project which is unreasonably loud or annoying to others. No odor shall be emitted on any part of the Project which is noxious or offensive to others. No light shall be emitted from any part of the Project which is unreasonably bright or causes unreasonable glare.

7.6 No Unsightliness. No unsightliness shall be permitted on or in any part of the Project. Without limiting the generality of the foregoing, nothing shall be kept or stored on or in any of the General Common Elements, nothing shall be hung or placed upon any of the General Common Elements, and nothing shall be placed on or in windows or doors of Units which would or might create an unsightly appearance.

7.7 Restriction on Signs. No signs or advertising devices of any nature shall be erected or maintained on any part of the Project without the prior written consent of the Association. The Association shall permit the placing of at least one sign of reasonable size and dignified form to identify the Project and the Units therein. All signage shall comply with the Sign Code of the Town of Carbondale. Nothing herein contained shall prohibit or restrict in any way the Declarant's right to construct such promotional signs or other sales aids on or about any portion of the Project which he shall deem reasonably necessary in connection with his sale of the Lots.

7.8 Antennas. No radio, television or other type of antenna shall, without the written consent of the Association, be installed or maintained on the roof or exterior of the Building.

7.9 Maintenance of Lot and Unit. Each Lot and Unit and all improvements, fixtures, furniture and equipment thereto and therein shall be kept and maintained by the Owner thereof

in a safe condition and in good repair. No structural alterations within any Unit shall be made without the prior written consent of the Association.

7.10 No Violation of Rules. No Owner's Guests shall violate the Rules and Regulations adopted from time to time by the Association whether relating to the use of Lots, the use of General Common Elements, or otherwise, and violations of the Rules and Regulations by any Owner's Guests shall be treated as a violation by such Owner and shall be enforceable in accordance with Article IV and Article X hereof.

7.11 Owner Caused Damages. If, due to the act or neglect of an Owner or such Owner's Guests, loss or damage shall be caused to any person or property, including the Building or any Unit therein or any General Common Element, such Owner shall be liable and responsible for the same except to the extent that such damage or loss is covered by insurance obtained by the Association and the insurer has waived its rights of subrogation against such Owner. The amount of such loss or damage may be collected by the Association from such Owner, and such amount shall be enforceable as an Assessment in accordance with Article VI hereof.

7.12 Animals. No animals shall be kept on any Lot except for not more than a total of three (3) domestic pets per Lot and consisting of cats or dogs or a combination thereof, provided no more than two (2) dogs may be kept on each Lot. Such animals shall not be permitted off their Owner's Lot except on a leash. Any such animals shall be kept and maintained in strict accordance with the ordinances and regulations of the Town of Carbondale, Colorado, and not be allowed to create a nuisance to the Owners of other Lots in the Project or to neighboring properties.

7.13 Vehicles/Equipment Storage and Parking. No motor vehicle may be parked or stored on any Lot except on or in those improvements or areas designated on the Plat for use as "Parking" or "Carport." No parking or storage of any recreational vehicle, all-terrain vehicle, camper, motorhome, trailer, boat or similar vehicles or any other equipment or property of whatever nature shall be permitted anywhere on a Lot and no motor vehicles shall be permitted to be parked on the areas and easements designated on the Plat as "Vehicular and Pedestrian Access Easements," and such areas shall be at all time free of any obstruction impeding their intended use, except for occasional and temporary parking of delivery vehicles or equipment being used to maintain the Project. For purposes of this provision, the term "motor vehicle" shall include SUVs and pickup trucks up to 3/4 tons.

VIII. INSURANCE

8.1 Insurance Requirements Generally. The Association shall obtain and maintain in full force and effect at all times certain casualty, liability and other insurance as hereinafter provided. All such insurance shall be obtained, to the extent possible, from responsible companies duly authorized to do insurance business in the State of Colorado. All such insurance shall name as insureds the Association, the Members and Managers of the Association, the Association's employees and agents and the Lot Owners, in their capacity as Owners. All such

insurance shall protect each of the insureds as if each were separately insured under separate policies. To the extent possible such casualty insurance shall: (a) provide for a waiver of subrogation by the insurer as to claims against Declarant, the Association, its Members, Managers, employees, and agents and against each owner and each Owner's employees and Guests; (b) provide that the insurance cannot be cancelled, invalidated or suspended on account of the conduct of the Association, its Members, Managers, employees and agents of any Owner or such Owner's employees or Guests; (c) provide that any "no other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by any Owner or Mortgagee and that insurance policy shall not be brought into contribution with insurance maintained by any Owner or Mortgagee; (d) contain a standard mortgage clause endorsement in favor of the Mortgagee of any Lot or part of the Project except a Mortgagee of a Lot or part of the Project who is covered by other and separate insurance; (e) provide that the policy of insurance shall not be terminated, cancelled or substantially modified without at least ten (10) days' prior written notice to the Association and to each Owner and to each Mortgagee covered by any standard mortgage clause endorsement; (f) be in the form of a single policy covering all of the improvements including General Common Elements in the entire Project, and (g) provide that the insurer shall not have the option to restore the Building if ownership of the Project is to be terminated in accordance with the terms of this Declaration or if the Building is to be sold in accordance with the destruction, condemnation and obsolescence provisions of this Declaration. To the extent possible, public liability and property damage insurance shall provide for coverage of any cross liability claims of Owners against the Association or other Owners and of the Association against Owners without right of subrogation. Any insurance policy may contain such deductible provisions as the Members of the Association deem consistent with good business practice.

The Association shall obtain an independent appraisal of the Building every three years; provided, however, that said appraisal may be performed by an appraiser employed by an insurance company.

Certificates of insurance coverage or copies of insurance policies shall be issued to each Owner and each Mortgagee who makes written request to the Association for any such certificate or copy of an insurance policy.

The cost and expense of all insurance obtained by the Association, except insurance covering the structures depicted as "Carports" on the Plat and any additions, alterations or improvements made to a Lot or Unit by an Owner or other insurance obtained at the request of and specifically benefiting any particular Owner, shall be an expense of the Association, for which the Association shall levy and collect an Assessment in accordance with the provisions of Article VI.

8.2 Casualty Insurance. The Association shall obtain and maintain casualty insurance covering the Building and each Unit covering loss or damage by fire and such other hazards as are covered under standard extended coverage policies, with vandalism and malicious mischief endorsements, and, if available and if deemed appropriate by the Association, war risk, for the full insurable replacement cost of the Building, including each Unit. At the option of the

Association such insurance may also cover the aforesaid Carports and additions, alterations or improvements to a Lot or Unit made by an Owner if the Owner reimburses the Association for any additional premiums attributable to such coverage. The Association shall not be obligated to apply any insurance proceeds to restore a Lot or Unit to a condition better than the conditions existing prior to the making of additions, alterations or improvements by an Owner in the absence of insurance covering such additions, alterations or improvements as aforesaid.

8.3 Public Liability and Property Damage Insurance. The Association shall obtain and maintain comprehensive public liability and property damage insurance covering personal liability, property damage liability and automobile personal and property damage liability of the Association, its Members, Manager, employees and agents and of each owner and each Owner's employees and Guests, arising in connection with ownership, operation, maintenance, occupancy or use of the Building or of any Lot or Unit in the Building with limits of not less than \$1,000,000 for each occurrence involving bodily injury liability and/or property damage liability.

8.4 Insurance by Owners. Except to the extent coverage therefor may be obtained by the Association and be satisfactory to an Owner, each Owner shall be responsible for obtaining insurance he deems desirable including, without limitation, casualty insurance covering furnishings and personal property belonging to that Owner and insurance covering personal liability of that Owner and that Owner's employees and Guests. Any insurance policy obtained by an Owner shall be such that it will not diminish or adversely affect or invalidate any insurance or insurance recovery under policies carried by the Association and shall, to the extent possible, contain a waiver of the right of subrogation by the insurer as to any claim against the Association, its Members, Manager, agents and employees and against other Owners and their employees and Guests. A copy of any insurance policy obtained by an Owner shall be furnished to the Association.

8.5 Receipt and Application of Insurance Proceeds. Except as some particular person has legal right to receive insurance proceeds directly, all insurance proceeds and recoveries shall be paid to and received by the Association. All insurance proceeds or recoveries received by the Association shall be applied by the Association: first, as expressly provided elsewhere in this Declaration; second, to the Owner's or persons whom the Association may determine are legally or equitably entitled thereto; and third, the balance, if any, to Owners of Lots in accordance with each such Owner's interest in the General Common Elements appurtenant to his Unit, such interest being a proportionate one-fourth (1/4th) interest in the General Common Elements.

8.6 Other Insurance by Association. The Association shall have the power or authority to obtain and maintain other and additional insurance coverage, including casualty insurance covering personal property of the Association, fidelity bonds or insurance covering employees and agents of the Association and insurance indemnifying Members, Manager, employees and agents of the Association.

8.7 Owner-Increased Premiums. In the event that, as a consequence of the hazardous use of any Lot, or of any Owner-installed improvements to any Lot or Unit, the premiums of any

policy of insurance purchased by the Association are increased, or a special policy is required, the cost of such increase or special policy shall be payable by the Owner of such Lot.

IX. DESTRUCTION, CONDEMNATION, OBSOLESCENCE, AND RESTORATION OR SALE OF THE BUILDING.

9.1 Certain Definitions. The following terms shall have the following definitions:

(a) Substantial and Partial Destruction. "Substantial Destruction" shall exist whenever, as a result of any damage or destruction to the Building, the excess of Estimated Costs of Restoration (as hereinafter defined) over Available Funds (as hereinafter defined) is fifty percent (50%) or more of the estimated Restored Value (as hereinafter defined) of the Building and Limited Common Elements. "Partial Destruction" shall mean any other damage of the Building or any part thereof.

(b) Substantial and Partial Condemnation. "Substantial Condemnation" shall exist whenever a complete taking of the Lots or a part thereof has occurred under eminent domain or by grant or conveyance in lieu of condemnation has occurred, and the excess of the Estimated Costs of Restoration over Available Funds is fifty percent (50%) or more of the estimated Restored Value of the Building. "Partial Condemnation" shall mean any other such taking by eminent domain or grant or conveyance in lieu of eminent domain.

(c) Substantial and Partial Obsolescence. "Substantial Obsolescence" shall exist whenever seventy-five percent (75%) of the Owners of the Building determine, by vote, that Substantial Obsolescence exists or whenever the Building or any part thereof has reached such a state of obsolescence or disrepair that the excess of Estimated Costs or Restoration over Available Funds is fifty percent (50%) or more of the estimated Restored Value of the Building. "Partial Obsolescence" shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.

(d) Restoration. "Restoration", in the case of any damage or destruction, shall mean restoration of the Building to a condition the same or substantially the same as the condition in which it existed prior to the damage or destruction; in the case of condemnation, shall mean Restoration of the remaining portion of the Building to an attractive, sound and desirable condition; and, in the case of obsolescence, shall mean restoration of the Building to an attractive, sound and desirable condition.

(e) Restored Value. "Restored Value" shall mean the value of the Building after Restoration as estimated by the Members of the Association.

(f) Estimated Costs of Restoration. "Estimated Costs of Restoration" shall mean the estimated costs of Restoration, as determined by the Members of the Association.

(g) Available Funds. "Available Funds" shall mean any proceeds of insurance or condemnation awards or payments in lieu of condemnation attributable to the Building plus a

percentage of any uncommitted income or funds of the Association including funds from the capital reserve fund and the carry-over reserve fund of the Building. Available Funds shall not include that portion of insurance proceeds legally required to be paid to any party other than the Association, including a Mortgagee, or that portion of any condemnation award or payment in lieu of condemnation payable to the Owner of a Lot for the condemnation or taking of that Owner's Lot.

9.2 Determination by the Members. Upon the occurrence of any damage or destruction to the Building or any part thereof, or upon a complete or partial taking of the Building under eminent domain or by grant or conveyance in lieu of condemnation, the Members shall make a determination as to whether the excess of Estimated Costs of Restoration over Available Funds is fifty percent (50%) or more of the estimated Restored Value of the Building. In addition, the Members shall, from time to time, review the condition of the Building to determine whether Substantial Obsolescence exists.

9.3 Restoration of the Building. Restoration of the Building shall be undertaken by the Association without a vote of Owners in the event of Partial Destruction, Partial Condemnation or Partial Obsolescence but shall be undertaken in the event of Substantial Destruction, Substantial Condemnation or Substantial Obsolescence only with the consent of the Owners of seventy-five percent (75%) of the Lots and the consent of the First Mortgagees who hold security interests in those Lots. In the event the insurance proceeds actually received exceed the cost of Restoration when such Restoration is undertaken pursuant to this Article, the excess shall be paid and distributed to all of the Owners of Lots, a ratable one-fourth (1/4th) share to each Lot Owner.

9.4 Sale of the Building. The Building shall be sold in the event of Substantial Destruction, Substantial Condemnation or Substantial Obsolescence unless consent to Restoration has been obtained from the Owners of seventy-five percent (75%) of the Lots and from the First Mortgagees who hold security interests in those Lots. In the event of such sale, ownership of the Building under this Declaration shall terminate and the proceeds of sale and any insurance proceeds, condemnation awards or payment in lieu of condemnation shall be distributed by the Association to the Owners of Lots on the basis of a one-fourth (1/4th) share to the Owner of each of the Lots. Payments to be made to Owners hereunder shall be made jointly to Mortgagees as to Lots which are mortgaged at the time of such payment.

9.5 Authority of Association to Restore or Sell. The Association, as attorney-in-fact for each Owner, shall have full power and authority to restore or to sell the Building and each Lot whenever Restoration or sale, as the case may be, is undertaken as hereinabove provided. Such authority shall include the right and power to enter into any contracts, deeds or other instruments which may be necessary or appropriate for Restoration or sale, as the case may be.

9.6 Payment of Proceeds. All insurance proceeds or proceeds of sale shall be paid to the Association as trustee for all of the Owners and all Mortgagees, as the interest of such Owners and such Mortgagees may appear, subject to the obligation of the Association to restore the Building as provided herein.

9.7 Supplementary Assessments for Restoration. Whenever Restoration is to be undertaken, the Association may levy and collect Supplementary Assessments from each Owner of a Lot to cover the costs and expenses of Restoration to the extent not covered by Available Funds. Such Supplementary Assessments shall be apportioned a one-fourth (1/4th) share of the total Supplementary Assessment to the Owner of each Lot. Such Supplementary Assessment shall be payable over such period as the Association may determine, and shall be secured by a lien on the Lot of each such Owner as in the case of Regular Assessments. Notwithstanding any other provisions in this Declaration to the contrary, in the case of Substantial Destruction, Substantial Condemnation or Substantial Obsolescence, any such Supplementary Assessment shall not be a personal obligation of any such Owner who did not consent to Restoration, but, if not paid, may be recovered only by foreclosure of the lien against the Lot of such Owner.

9.8 Receipt and Application of Condemnation Funds. All compensation, damages or other proceeds constituting awards for a complete taking of the Building or a taking of part of the Building under eminent domain or by grant or conveyance in lieu of condemnation shall be payable to the Association. The amount thereof allocable to compensation for the taking of or injury to the Lot of an Owner therein shall be apportioned to the Owner of that Lot. The balance of the award shall be applied to costs and expenses of Restoration, if undertaken, and, to the extent not so applied, shall be allocated as follows: first, any portion of the award allocable to the taking of or injury to General Common Elements shall be apportioned among all Owners of Lots, a one-fourth (1/4th) share to the Owner of each Lot; second, the amounts allocable to severance damages with respect to condemnation of a portion of the Building shall be apportioned among Owners with Units in the Building which was not taken or condemned on a ratable basis; and third, the amounts allocated to consequential damages or for other purposes shall be apportioned as the Association determines to be equitable under the circumstances.

9.9 Reorganization in the Event of a Condemnation. In the event all of a Lot is taken in condemnation that Lot shall cease to be part of the Project, the Owner thereof shall cease to be a Member of the Association, and any interest in General Common Elements appurtenant to that Lot shall automatically become vested in the Owners of the remaining Lots on a ratable basis.

9.10 Voting. Except as is provided in this Article IX, the votes of all Owners of all Lots shall be considered one hundred percent for such voting purposes.

X. MISCELLANEOUS

10.1 Duration of Declaration. Any provision contained in this Declaration which is subject to the laws or rules sometimes referred to as the rule against perpetuities or the rule prohibiting unreasonable restraints on alienation shall continue and remain in full force and effect for a period of twenty-one years following the death of the last to die of Edward Buchman or any member of his immediate family as presently constituted or until this Declaration is terminated as hereinafter provided, whichever first occurs. All other provisions contained in this

Declaration shall continue and remain in full force and effect until ownership of the Project and this Declaration is terminated or revoked as hereinafter provided.

10.2 Amendment and Termination. Any provision contained in this Declaration may be amended, or additional provisions may be added to this Declaration, or this Declaration and ownership of the Project may be terminated or revoked, by the recording of a written instrument or instruments specifying the amendment or addition or the fact of termination and revocation, executed by seventy-five percent (75%) of all Owners and of all Mortgagees of the Lots owned by those same Owners, as shown by the records in the office of the County Clerk and Recorder of Garfield County, Colorado.

10.3 Effect of Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, and any necessary exception or reservation or grant of title, estate, right or interest to effectuate any provision of this Declaration: (a) shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any Lot is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument; (b) shall, by virtue of acceptance of any right, title or interest in any Lot by an Owner, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner, and, as a personal covenant, shall be binding on such Owner and such Owner's heirs, personal representative, successors and assigns and, as a personal covenant of an Owner, shall be deemed a personal covenant to, with and for the benefit of the Association but not to, with or for the benefit of any other Owner; (c) shall be deemed a real covenant by Declarant, for himself, his personal representatives, heirs, successors and assigns, and also an equitable servitude, running, in each case, as a burden with and upon the title to each Lot and, as a real covenant and also as an equitable servitude, shall be deemed a covenant and servitude for the benefit of each Lot; and (d) shall be deemed a covenant, obligation and restriction secured by a lien in favor of the Association, burdening and encumbering the title to each Lot in favor of the Association.

10.4 Enforcement and Remedies. In addition to any other remedies herein provided, each provision of this Declaration with respect to an Owner or the Lot or Unit of an Owner shall be enforceable by the Association by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or both. If any court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover from the losing party its costs and expenses in connection therewith, including reasonable attorney's fees.

10.5 Protection of Encumbrancer. No violation or breach of, or failure to comply with, any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any First Mortgage or Deed of Trust on any Lot taken in good faith and for value and perfected by recording in the Office of the County Clerk and Recorder of Garfield County, Colorado prior to the time of recording in said office of an instrument describing the Lot and listing the name or names of the Owner or Owners of fee simple title to the Lot and giving notice of such violation, breach or failure to comply; nor shall such violation, breach, failure to comply or action to enforce affect, defeat, render invalid or impair the title or

interest of the holder of any such First Mortgage or Deed of Trust or the title or interest acquired by any purchaser upon foreclosure of any such mortgage or deed of trust or by deed in lieu of foreclosure or result in any liability, personal or otherwise, of any such holder or purchaser. Any such purchaser on foreclosure or by deed in lieu of foreclosure shall, however, take subject to this Declaration except only (a) violations or breaches of, or failures to comply with, any provisions of this Declaration which occurred prior to the vesting of fee simple title in such purchaser shall not be deemed breaches or violations hereto or failures to comply herewith with respect to such purchaser, his heirs, personal representatives, successors or assigns and (b) such purchaser shall take the property free of any claims for unpaid Assessments or other amounts against or applicable to the encumbered Unit.

10.6 Limited Liability. Neither Declarant, the Association, the Members and Manager of the Association, nor any agent or employee of any of the same shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice.

10.7 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the Association, and each Owner and the heirs, personal representatives, successors and assigns of each.

10.8 Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provisions or any valid and enforceable part of a provision of this Declaration.

10.9 Captions. The captions and headings in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration.

10.10 No Waiver. Failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration.

10.11 Further Assurances. The Association and each Owner hereby agree to do such further acts and execute and deliver such further instruments as may reasonably be required to effectuate the intent of this Declaration.

10.12 Word Usage. The use of the masculine gender herein shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, whenever the text so requires.

10.13 Statute. The provisions of this Declaration shall be exempt from operation of the provisions of the Colorado Common Interest Ownership Act except to the limited extent that such Act provides otherwise.



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IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first
above written.

119 GARFIELD, LLP

By: Michelle Buchman
~~Edward Buchman~~ Michelle Buchman
Its General Partner

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me this 4th day of April, 2003 by
~~Edward Buchman~~ as General Partner of 119 Garfield, LLP.
Michelle Buchman

Witness my hand and official seal.

My commission expires 02-14-2004



Jean M. Alberico
Notary Public