

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF BLACKTHORN RIDGE ESTATES AND ORGANIZATION OF BLACKTHORN
RIDGE ESTATES ASSOCIATION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
BLACKTHORN RIDGE ESTATES AND ORGANIZATION OF BLACKTHORN RIDGE
ESTATES PROPERTY OWNERS ASSOCIATION, is made this _____ day of _____
_____, 2002, by Blackthorn Partnership, ("the Declarant"), as the owner of all
that certain tract of land containing 56.869 acres, acres, more or less, situated in
Hampshire County, West Virginia, and is the same land described and set forth upon
the plat recorded in the Land Records Office of Hampshire County, West Virginia, at
Map Book No. 9, at Page 148, and known as Lot Nos. 1 through 21, inclusive,
Blackthorn Ridge Estates; and is the same tract or parcel of real estate conveyed
unto Blackthorn Partnership, a Partnership, by Deed of Clare Strickler dated July 24,
2001, duly recorded in the aforesaid Clerk's Office in Deed Book No. 407, at Page
677. The tract of land thus identified shall be referred to in this declaration as "the
Property".

NOW, Therefore, Declarant hereby declares that all of the Property described
above, Lot Nos. 1 through 21, inclusive, shall be subject to the Road Assessment
described hereafter, shall be held, sold and conveyed subject to the following
covenants, conditions, restrictions and easements, which shall be covenants running
with the Property and every lot and parcel contained therein, whether or not specific
reference is made to this Declaration in any Deed or other instrument transferring or
conveying any portion or all of such property. These covenants shall be binding on

all parties having any right, title or interest in the described Property or any part hereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

Blackthorn Ridge Estates is an unincorporated association organized under the West Virginia Uniform Common Interest Ownership Act (Sections 36B-1-10 et seq. of the West Virginia Code) (the "Act") for the following purposes: (a) to administer the covenants, conditions and restrictions of Blackthorn Ridge Estates in such a manner as to conserve and protect the value of all the Property; (b) to assess, collect and disburse the assessments authorized by Article II of this Declaration; (c) to promote the peace, health, comfort, safety and general welfare of its members; and to do all other things permitted to similar associations by the Act.

Every owner of a lot designated as such on the attached Plat(s) shall, upon accepting a deed to such lot, automatically become a member of Association by reason of which such ownership so long as he remains an owner of such lot. (One who owns an interest in a lot solely as security for the repayment of an obligation shall not be a member.) Members shall be personally liable, jointly and severally with all other owners of their lots, for complying with the provisions of this Declaration and the reasonable rules and regulations promulgated under it by the Executive Board of the Association, and for the payment of all assessments and charges imposed upon their lots during the period of their ownership. A member

may not escape his membership responsibilities by non-use of the Association facilities or abandonment of a lot.

The affairs of the Association shall be managed by an Executive Board consisting of not less than three members. The initial members of the Executive Board, consisting of one to three members, shall be appointed by Declarant, or their assigns. Except for Executive Board members appointed by the Declarant, a majority of the Executive Board members must be owners of lots within the Property. The Executive Board shall elect officers of the Association, which shall include at least a president, secretary and treasurer. The initial Executive Board shall adopt By-Laws for the Association prior to the conveyance of the first lot to an owner other than by the Declarant; such By-Laws may thereafter be amended by a majority vote of the owners of Lot Nos. 1 through 21, inclusive, at a meeting of owners called for that purpose, but during the period of Declarant control any by-laws may not be amended without the Declarant's consent.

Subject to the provisions of Section 36B-3-103 of the Act, the Declarant shall, during any period of Declarant control, have the right to appoint or remove any officer of the Association, or any director of the Association appointed by it. Unless the Declarant voluntarily surrenders it sooner, the period of Declarant control shall terminate sixty (60) days, after the Declarant has conveyed seventy-five percent (75%) of the lots to owners other than the Declarant.

The owner(s) of each lot, designated as a lot on the attached plat, shall be entitled to one vote for each lot owned in the election of the Executive Board.

members and on such other matters as may properly come before the membership. Voting shall be in accordance with Section 36B-3-110 of the Act.

The Executive Board of the Association shall have the powers necessary and appropriate for carrying out the purposes the Association except as may be specifically reserved by this Declaration to the members or to the Declarant.

ARTICLE II ASSESSMENTS

Each owner of each lot shown on the Plat agrees to pay, as his personal obligation, such assessments as are authorized by this Declaration and levied by the Executive Board. Every such assessment shall also be a continuing lien upon the lot against which the assessment is made. The sale of any lot pursuant to a foreclosure of a deed of trust on the lot (or deed in lieu of such foreclosure), shall extinguish the lien of such assessments as to payments which became due prior to such foreclosure sale or deed in lieu of foreclosure, but shall not extinguish the personal liability of the owner of such unpaid assessments which became due during his period of ownership. The lien provided for herein shall be subordinate to the lien of any first deed of trust, except for assessments which accrued prior to the date such deed of trust was recorded.

The Executive Board shall fix each year an annual assessment equally against each lot in an amount appropriate to and used exclusively to carry out the purposes of the Association described in Article 1, including the funding of reasonable reserved for construction, maintenance and repair of roadway, and the timely construction repair and replacement of capital improvements. The maximum annual assessment

for each lot, until changed by vote of the membership as hereafter described, shall be Ninety Five Dollars (\$95.00) per lot, indexed automatically for inflation as provided in Section 36B-1-114 of the Act. The Executive Board may, prior to the beginning of each year, set an annual assessment for such year which does not exceed this maximum, and if the Board should fail to fix an assessment for any year, the previous year's assessment shall apply. The maximum annual assessment may be modified or waived for one or more years with the approval of the Executive Board and a majority vote of the members, provided that during the period of Declarant control it may only be modified or waived with the unanimous consent of all owners.

The Executive Board may also levy a special assessment against some or all of the lots on the Property, applicable to not more than five years, for the purpose of defraying, in whole or in part, the cost of any acquisition or construction, reconstruction, repair or replacement of capital improvement, including fixtures and personal property thereon, provided that such special assessment is approved by a majority vote of the owners of those lots which would be subject to the proposed special assessment.

The Executive Board may also levy a maintenance assessment on any lot whose owner fails to maintain or restore the lot and improvements on it, as required by Article III of the Declaration. Such a maintenance assessment shall be limited to the amount necessary to meet the cost of the maintenance or restoration and other charges, if any, permitted under this Declaration, and may not be imposed until the

Board has given the owner at least thirty days notice of its intention to undertake such maintenance or restoration and afforded the owner an opportunity to be heard by the Board on the matter.

The Association may charge the owner: a) a late fee on overdue assessments, not to exceed ten percent of the assessment; b) the costs, including attorney's fees and court costs, for collection of assessments and of enforcing any of the provisions of this declaration; and c) interest on overdue sums, up to the maximum rate permitted by law. Any such charges shall be added to and become a part of the lienable assessment of the lot, and they may be awarded by a court as part of its judgment in any proceeding in law or in equity.

ARTICLE III USE RESTRICTIONS

The following restrictions shall apply to Lot Nos. 1 through 21 of the Property.

- a) Lots may be used for recreational or single family residential purposes and for purposes incidental or accessory thereto, including one guest house.
- b) New dwelling or other building shall not be erected less than twenty (20) feet from any road right-of-way line, and twenty (20) feet from the side or rear or other line of any lot; provided that side line setbacks shall not apply to a property line between lots in single ownership.
- c) All exterior construction must be completed and closed within nine (9) months of the commencement of the construction. No building of a

temporary nature shall be erected or placed on any of said lots except those customarily erected or placed on any of said lots, except those customarily erected in connection with building construction operations, and in such cases for a period not to exceed six (6) months.

- d) No owner shall erect or suffer to be erected any structure within, or otherwise obstruct, any easement across his lot, nor divert or otherwise interfere with the natural flow of surface water, except, that a pond which is approved by the proper authorities is permitted, nor obstruct any drainage ditch.
- e) As part of the development of any lot, the owner shall provide adequate off-street parking for himself and his guests.
- f) No sign of any kind larger than two square feet shall be displayed on any lot, except temporary signs in connection with the construction, lease or sale of buildings or lots, and except street names and directional signs.
- g) No mobile homes shall be allowed on Lots 1, 2, 3 and 11 through 21. Sectional and Modular Homes are allowed if built without a steel frame, and are ~~1500~~¹⁴⁰⁰ square feet of living space, excluding basement, garage, and porches. Any stick built homes must be at least 1400 square feet of living spaces, excluding basement, garage, or porches.
- h) No mobile homes shall be allowed on Lots 4 through 10. Sectional and Modular Homes are allowed if built without a steel frame, and are 1250

square feet of living space, excluding basement, garage, and porches. Any stick built homes must be at least 1250 square feet of living spaces, excluding basement, garage, or porches.

- i) It is the responsibility of all lot owners that have underground A T & T Telephone cables to contact Miss Utility at 800-245-4848 for utility notification and location. This is not the responsibility of the Developer or Surveyor.
- j) All lot owners shall place and bury underground utility service lines, including, but not limited to cable service, telephone, etc., to serve any structure, including, but not limited to residence, outbuildings, etc., located upon any lot.
- k) No noxious or offensive trade or activity shall be carried on upon any lot or right-of-way, nor shall anything be done thereon which may become an annoyance or nuisance to the community. Refuse containers (all refuse must be kept in closed sanitary containers at all times) must be thoroughly screened by appropriate methods.
- l) Each owner of a lot shall keep all improvements owned by him in good order and repair, such that the appearance of this Property is not detrimental to adjoining lots and Blackthorn Ridge Estates.
- m) No part of any lot may be sold or used as a road or right-of-way to any land outside the property without the advance, written permission of Declarant or the Association.

- n) The Declarant hereby creates a perpetual easement in favor of the Declarant and all lot owners on, over, under, and across the ingress and egress easement area and on, over, under and across a strip of land twenty (20) feet wide at any point along any road right of way line and along any other side, rear or front lines of any lot on the property, except along common property lines where adjoining lots are under single ownership, as an easement appurtenant to each lot in the property for the installation, use, maintenance, repair, and replacement of public and private utilities, including sewer, water, gas, electricity, cable television, telephone, and telegraph. Said easement areas are not dedicated to the public. Any person exercising the easement rights granted hereby shall repair any damage to an easement area caused by such person, including, but not limited to, backfilling of trenches, replacement of pavement, sod, fences, shrubbery, and landscaping, but not the placement of large trees, but including clean up of all cutting of any trees in right of way.
- o) The Declarant has entered into a Road Maintenance Agreement with the owners of Lot No. 1 through 21 of Blackthorn Ridge Estates. A copy of said Road Maintenance Agreement, identified as "Schedule A", is attached to this Declaration of Covenants, Conditions and Restrictions of Blackthorn Ridge Estates and Organization of Blackthorn Ridge

Estates Association, and is, by reference, textually made a part hereof for all proper and pertinent reasons.

- p) All sewage disposal systems constructed on said lots shall conform to the regulations of the West Virginia Department of Health and any other appropriate local, state or federal regulatory authorities. All sewage must be disposed of through an approved in-ground septic system. Out houses are not allowed.
- q) A minimum of not less than fifteen (15) inch diameter culvert must be used in all driveways leading from any roadway in any right of way or ingress-egress easement where a drainage ditch is crossed by such driveway.
- r) No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot for commercial purposes.
- s) No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other household waste of any type or nature, or for cars, appliances, commercial or construction refuse or rubbish of any type.
- t) After the initial conveyance of each parcel by the Declarant herein, no further subdivision or resubdivision of any lot shall be permitted under any circumstances, except that minor boundary line adjustments are permitted.
- u) No timber shall be harvested for commercial purposes.

- v) All right of ways as shown on the plat of the property shall be maintained as private roads by the Association. At such time as a majority of lot owners shall request that the State assume control of said right of way in the subdivision, and the State agrees to accept the road, each lot owner will execute any and all documents necessary to accomplish dedication of the roads to the State. This paragraph shall not be interpreted, however, as implying any obligation on the part of the Declarant to make any changes or improvements in the road, other than as required by Hampshire County for approval of the Subdivision plan.
- w) Any damage done to a roadway by any owner, or the family member, guest, or invitee of an owner, shall be the responsibility of such owner to repair. If an owner fails to make any repair required of him under this section within thirty (30) days of written notice from the Association, then the Association may make such repairs as the agent of the owner and the cost of such repairs shall constitute a maintenance assessment against such owner's lot. Such assessment shall bear interest and be collectible as provided for in Article III of this Declaration.
- x) Any detached building, whether garage, shop or storage building, must match style and exterior of main living house. Any variance must be

approved by Declarant or Property Owners Association, whomever is in control at time of requested variance.

**ARTICLE IV
DECLARATIONS REQUIRED UNDER THE ACT**

IN ACCORDANCE WITH Section 36B-2-105 of the West Virginia Code (as amended), and other provisions of the West Virginia Common Interest Ownership Act, the party of the first part does hereby declare, in addition to the other matters set forth in this declaration:

1. The name of the common interest community shall be Blackthorn Ridge Estates and it is a "planned community" within the meaning of the aforesaid Act;
2. The community is located entirely within Hampshire County;
3. The real Estates included in the community is described in Schedule "A";
4. The Declarant reserves 50' right of way from Route 29 to present Saville owned tracts. Declarant reserves right to develop this property, and to add any additional lots to Blackthorn Ridge Estates. This addition would be called Blackthorn Ridge Estates, Section II, with same road maintenance requirements as Blackthorn Ridge Estates. This reservation is reserved by Declarant only, with the right to transfer same 50' right of way at any time, now or in the future.
5. The boundaries of each lot are shown on the plat;

6. The Declarant reserves the following: "special Declarant rights" within the meaning of Section 36Bd-1-103(29) of the said Act; to maintain one sales office and a reasonable number of signs advertising the community until the last lot owned by Declarant is sold and conveyed; to use easements through the Property for the purpose of making improvements within the community, until the last lot owned by the Declarant is sold and conveyed; and to appoint or remove officers or Executive Board members of the Blackthorn Ridge Estates Association, during the period and under the circumstances described in Article I of this Declaration;
7. The annual assessments for the common expenses of the community shall be levied equally against each lot, and each lot shall be entitled to one vote in the Blackthorn Ridge Estates Association;
8. The restrictions on use of the lots shall be as set forth in this Declaration. There are no restrictions on occupancy of the lots. There are no restrictions on alienation of the lots, nor on the amount for which lots may be sold;
9. Easements and rights of way not of record presently used by other appurtenant to or included in the community are shown on the herein referenced plat.
10. The record data on easements and licenses appurtenant to or included in the community are shown on the herein referenced plat.

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**ARTICLE V
GENERAL PROVISIONS**

The protective covenants and restrictions contained in this Declaration shall continue in full force and effect until a termination of the Declaration is executed and acknowledged by the owners of Eighty Percent (80%) of the lots and recorded among the land records of Hampshire County. This Declaration may be amended only by vote or agreement of the owners of Sixty-Seven Percent (67%) of all the lots, at a meeting duly called for that purpose. So long as the Declarant owns any lot or lots on the Property, no such termination or amendment shall be effective without his consent.

The Association and any owner(s) of a lot shall have a right to enforce all provisions of this Declaration by any proceeding in law or equity. The Association shall have the right to record among the land records of Hampshire County a notice of violation of any provision of this Declaration and to charge the offending owner with the reasonable attorney fees, and the costs of recording and removing the same. Failure to enforce any provision of the Declaration shall in no event be deemed a waiver of the right to do so thereafter, nor shall any liability attached to the Associated or to any other person for failure to enforce such provision.

In construing this Declaration, the use of the gender or number shall imply the use of any other gender or number as the context may require; the requirement for a percentage approval by the lot owners of any amendment to the Declaration, the By-Laws or to conduct any business of the Association must be approved by the percentage of lot owners required to approve any amendment to the Declaration, the

By-Laws or any business of the Association, said vote of each lot owner may be in person, or by proxy if not present, at the meeting called for such purpose, as set forth in 36B-3-110 of the West Virginia Code (as amended).

The determination by any court that any provision of this deed is unenforceable, invalid or void shall not affect the enforceability or validity of any other provisions.

This Declaration shall be liberally construed in favor of the party seeking to enforce the provisions hereof to effectuate the purposes of protecting and enhancing the value, marketability and desirability of the Property. The Executive Board shall have the right to interpret all provisions of this Declaration so as to advance the said purposes.

IN WITNESS WHEREOF, the Declarant has caused this Declaration of Covenants, Conditions and Restrictions of Blackthorn Ridge Estates and Organization of Blackthorn Ridge Estates Association, to be executed this 3rd day of March, 2002.

BLACKTHORN PARTNERSHIP

BY: *Ronald C. Miller*
ITS PARTNER

BY: *B. Steadman*
ITS PARTNER

BY: *John Deason*
ITS PARTNER

BY: *Robert Miller*
ITS PARTNER

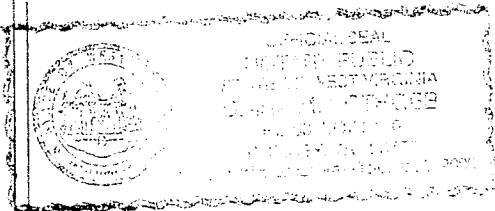
STATE OF West Virginia

COUNTY OF Hampshire, TO WIT;

The foregoing instrument was acknowledged before me this 30th day of April, 2002, by B. Steven Denney, partner of Blackthorn Partnership.

My commission expires: October 29, 2009

Diana M. Rothgeb
NOTARY PUBLIC



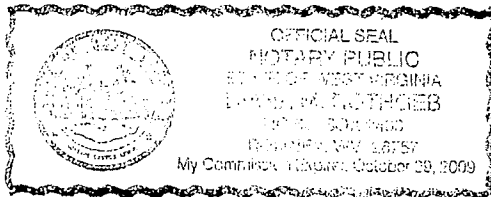
STATE OF WEST VIRGINIA,

COUNTY OF HAMPSHIRE, TO WIT;

The foregoing instrument was acknowledged before me this 27th day of March, 2002, by Randal C. Miller, partner of Blackthorn Partnership.

My commission expires: October 29, 2009.

Diana M. Rothgeb
NOTARY PUBLIC



STATE OF WEST VIRGINIA,

COUNTY OF HAMPSHIRE, TO WIT;

The foregoing instrument was acknowledged before me this 3rd day of April, 2002, by Jeffrey G. Miller, partner of Blackthorn Partnership.

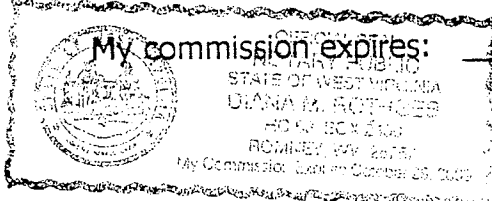
My commission expires: 10/29/09

Diana M. Romney
NOTARY PUBLIC

STATE OF West Virginia,

COUNTY OF Hampshire, TO WIT;

The foregoing instrument was acknowledged before me this 3rd day of April, 2002, by Jeffrey S. Denney, partner of Blackthorn Partnership.



Diana M. Romney
NOTARY PUBLIC

THIS INSTRUMENT
WAS PREPARED BY:

LOUDOUN L. THOMPSON
THOMPSON & WEATHERHOLT
ATTORNEYS AT LAW
PO BOX 884
ROMNEY, WV 26757

THOMPSON & WEATHERHOLT
ATTORNEYS AT LAW
P.O. BOX 884
ROMNEY, WEST VIRGINIA
(304) 822-3322

ROAD MAINTENANCE AGREEMENT

THIS ROAD MAINTENANCE AGREEMENT, made and entered into this _____ day of _____, 2002, by and between _____, Purchaser of Lot No. _____ of Blackthorn Ridge Estates hereinafter called "Purchaser", and Blackthorn Partnership, hereinafter called "Seller".

WHEREAS, Purchaser has purchased Lot No. _____ as shown upon the Plat of Survey of Blackthorn Ridge Estates, Lots 1 through Lot 21 duly recorded in the Office of the Clerk of the County Commission of Hampshire County, West Virginia, in Map Book No. _____, at Page _____, and

WHEREAS, as a means of ingress and egress to Lot No. _____ from the public road, Seller, has granted and conveyed unto Purchaser a non-exclusive 50 foot right of way to Lot No. _____, beginning as West Virginia Route 29 as shown upon the aforesaid plat, to be used as a means of ingress and egress from West Virginia Route 29 to said Lot No. _____, and

WHEREAS, the section of said right of way granted unto Purchaser by Seller, as a means of ingress and egress to Lot No. _____, beginning at West Virginia Route 29, and extending to the 50 x 100 turn around is located within Blackthorn Ridge Estates, and used by the owners of Lot Nos. 1 through 21 of Blackthorn Ridge Estates for ingress and egress to the various lots in Blackthorn Ridge Estates. The members and owners of Lot Nos. 1 through 21 of Blackthorn Ridge Estates jointly maintain and keep in repair the 50 foot road and right of way, and

WHEREAS, the Purchaser now agrees to contribute to and pay unto the Blackthorn Ridge Estates Property Owners Association an annual road maintenance fee upon the following terms and conditions:

NOW, THEREFORE, WITNESSETH: That Purchaser agrees and will pay unto the Seller an annual road maintenance fee assessment of Ninety Five (\$95.00) upon execution of this Agreement, subject to the following conditions.

- 1) An annual road assessment fee, as levied by the Blackthorn Ridge Estates Property Owners Association upon the owner of each lot in Blackthorn Ridge Estates, will be paid by Purchaser to the Blackthorn Ridge Estates Property Owners Association. The annual road fee is due and payable unto the Blackthorn Ridge Estates Property Owners Association on or before January 1 of each calendar year.
- 2) It is further understood and agreed that Purchaser is subject to the covenants, restrictions, and any and all amendments or changes thereto, including any penalty for failure to pay the annual road maintenance fee when due, adopted by the Blackthorn Ridge Estates Property Owners Association for the use, maintenance and repair of the aforesaid 50 foot right of way beginning at West Virginia Route 29 and extending to the 50 x 100 turn around.
- 3) This Agreement shall be binding and inure to the benefit of the parties hereto, their respective heirs, successors and assigns.

WITNESS the following signatures and seals:

BLACKTHORN PARTNERSHIP

BY: [Signature]
ITS PARTNER

BY: [Signature]
ITS PARTNER

BY: [Signature]
ITS PARTNER

BY: [Signature]
ITS PARTNER

PURCHASER

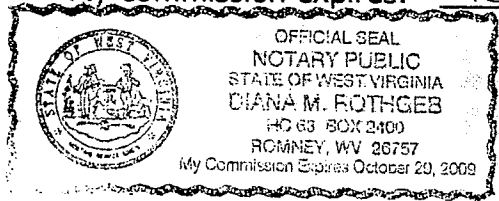
PURCHASER

STATE OF West Virginia,

COUNTY OF Hampshire, TO WIT;

The foregoing instrument was acknowledged before me this 3rd day of April, 2002, by B. Steven Denney, Partner of Blackthorn Partnership.

My commission expires: 10/29/02.



[Signature]
NOTARY PUBLIC

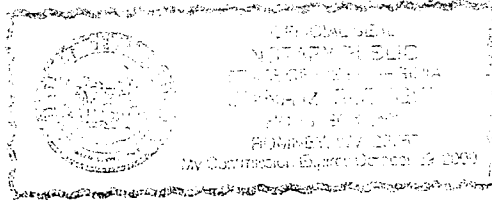
THOMPSON & WEATHERHOLT
ATTORNEYS AT LAW
P.O. Box 884
ROMNEY, WEST VIRGINIA
(304) 822-3322

STATE OF WEST VIRGINIA,
COUNTY OF HAMPSHIRE, TO WIT;

The foregoing instrument was acknowledged before me this 27th day of
March, 2002, by Randal C. Miller, partner of Blackthorn Partnership.

My commission expires: October 29, 2009.

Diana M. Rothleb
NOTARY PUBLIC

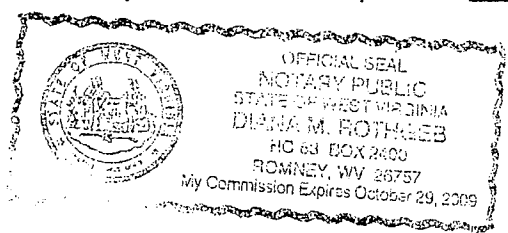


STATE OF WEST VIRGINIA,
COUNTY OF HAMPSHIRE, TO WIT;

The foregoing instrument was acknowledged before me this 3rd day of
April, 2002, by Jeffrey G. Miller, partner of Blackthorn Partnership.

My commission expires: 10/29/09.

Diana M. Rothleb
NOTARY PUBLIC

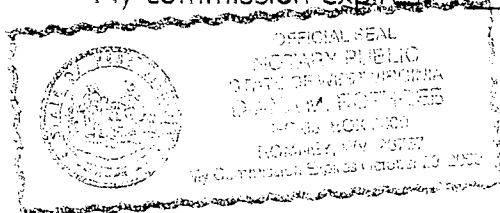


STATE OF West Virginia

COUNTY OF Hampshire, TO WIT;

The foregoing instrument was acknowledged before me this 3rd day of April, 2002, by Jeffrey S. Denney, partner, of Blackthorn Partnership

My commission expires: 10/29/09



Wanda M. Roth
NOTARY PUBLIC

STATE OF _____,

COUNTY OF _____, TO WIT:

The foregoing instrument was acknowledged before me this _____ day of _____, 2002, by _____

My commission expires: _____

NOTARY PUBLIC

THOMPSON & WEATHERHOLT
ATTORNEYS AT LAW
P.O. Box 884
ROMNEY, WEST VIRGINIA
(304) 822-3322

STATE OF _____

COUNTY OF _____, TO WIT:

The foregoing instrument was acknowledged before me this _____ day
of _____, 2002, by _____

My commission expires: _____

NOTARY PUBLIC

This instrument was prepared by:
LOUDOUN L. THOMPSON
THOMPSON AND WEATHERHOLT
ATTORNEYS AT LAW
P. O. BOX 884
ROMNEY, WEST VIRGINIA 26757

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