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DECLARATION OF EASEMENTS, RESTRICTIONS AND COVENANTS OF BUCKHORN ESTATES

THIS DECLARATION OF EASEMENTS, RESTRICTIONS AND COVENANTS OF BUCKHORN ESTATES (hereinafter "Declaration"), made as of the 17th day of April, 2000, by Buckhorn Estates, L.L.C., an Indiana limited liability company, 4429 Blue Creek Drive, Carmel, Indiana 46033 (hereinafter "Buckhorn").

200000024960
Filed for Record in
HAMILTON COUNTY, INDIANA
MARY L CLARK
On 05-24-2000 At 09:31 am.
DEC COV RES 53.00

WITNESSETH:

WHEREAS, Buckhorn is the owner of the real estate located in Hamilton County, Indiana described on attached Exhibit A (hereinafter "Real Estate"), upon which Buckhorn intends to develop a residential subdivision to be known as Buckhorn Estates;

WHEREAS, Declarant desires to provide for the preservation and enhancement of the property values in Buckhorn Estates and for the maintenance of the Real Estate and the improvements thereon, and to this end desires to subject the Real Estate to the covenants, restrictions, easements, charges and liens hereinafter set forth, each of which is for the benefit of the future subdivision of Real Estate and the future owners thereof;

WHEREAS, Buckhorn believes it to be prudent to create an Indiana not for profit corporation (hereinafter "NP Corp.") to administer and enforce the terms of this Declaration.

NOW, THEREFORE, Buckhorn declares that the Real Estate as it now exists and as it shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, are subject to the following terms and conditions, all of which are declared to be in furtherance of a plan for the improvement and sale of the Real Estate and each future lot to be situated therein, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Real Estate as a whole and of each of the future lots and improvements to be constructed thereon. The terms and conditions of this Declaration shall run with the land and shall be binding upon Buckhorn, its respective successors and assigns, and upon the parties having or acquiring any interest in the Real Estate or any part or parts thereof subject to this Declaration. The terms and conditions of this Declaration shall inure to the benefit of Buckhorn and its respective successors in title to the Real Estate or any part or parts thereof:

1. Definitions. The following terms, as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

- (a) "Architectural Review Board" means that entity established pursuant to

Paragraph 11 of this Declaration for the purposes therein stated;

(b) "Articles" means the Articles of Incorporation of the NP Corp., as amended from time to time;

(c) "Assessments" means all sum lawfully assessed against the Members of the NP Corp., as amended from time to time;

(d) "Board of Directors" means the governing body of the NP Corp. elected by the Members in accordance with the By-Laws;

(e) "By-Laws" means the Code of By-Laws of the NP Corp. elected by the Members in accordance with the By-Laws;

(f) "Buckhorn Estates" means the name by which the Real Estate shall be known;

(g) "Community Area" means: (i) the Lake Control Structures; (ii) the Drainage System; (iii) the Lakes and the Lake Access Easements; (iv) the Roadways to the extent not maintained by public authority; and (v) any utility service lines or facilities not maintained by a public utility company or governmental agency that serve more than one Lot;

(h) "NP Corp." means Buckhorn Estates Association of Homeowners, Inc., an Indiana not-for-profit corporation, its successors and assigns;

(i) "Buckhorn" means Buckhorn Estates, L.L.C., an Indiana limited liability company, its successors and assigns to its interest in the Real Estate other than Owners purchasing Lots or Residences by deed from Buckhorn (unless the conveyance indicated or intends that the grantee assume the rights and obligations of Buckhorn);

(j) "Development Period" means the period of time commencing with the execution of this Declaration and ending when Buckhorn has completed the development and sale of, and no longer owns, any Lot or any other portion of the Real Estate;

(k) "Drainage Board" means the Hamilton County Drainage Board, Hamilton County, Indiana, its successors or assigns;

(l) "Drainage System" means the open drainage ditches and swales, the subsurface drainage tiles, pipes and structures, the dry and wet retention and/or detention areas, and the other structures, fixtures, properties, equipment and facilities (excluding the Lakes and the Lake Control Structures) located in the Real Estate and designed for the purpose of controlling, retaining or expediting the drainage of surface and subsurface waters from, over and across the Real Estate, including but not limited

to those shown or referred to on the Plat, all or part of which may be established as legal drains subject to the jurisdiction of the Drainage Board;

(m) "Lake" means any lake as depicted on the Plat;

(n) "Lake Maintenance Access Easement" means an area designated on the Plat as a means of access, for purposes of maintenance, to a Lake or a Lake Control Structure;

(o) "Lake Control Structures" means the structure, outfalls, pipes and appurtenances associated therewith or integral thereto, all or part of which may be established as a legal drain subject to the jurisdiction of the Drainage Board;

(p) "Lot" means a platted lot as shown on the Plat;

(q) "Lake Lot" means Lots 44 through 57 inclusive as depicted on the Plat;

(r) "Lot Development Plan" means: (i) a site plan prepared by a licensed engineer or architect; (ii) foundation plan and proposed finished floor elevations; (iii) building plans, including elevation and floors plan; (iv) material plans and specifications; (v) landscaping plan; and (vi) all other data or information that the Architectural Review Board may request with respect to the improvement or alteration of a Lot (including but not limited to the landscaping thereof) or the construction or alteration of a Residence or other structure or improvement thereon;

(s) "Maintenance Costs" means all the costs necessary to keep the facilities to which the term applies operational and in good condition, including but not limited to the cost of all upkeep, maintenance, repair, replacement of all or any part of any such facility, payment of all insurance with respect thereto, all taxes imposed on the facility and on the underlying land, leasehold, easement or right-of-way, and any other expense related to the continuous maintenance, operation or improvement of the facility;

(t) "Manager" means the individuals (and/or any corporation such individuals own or control) identified in Buckhorn's Operating Agreement;

(u) "Member" means a Class A or Class B member of the NP Corp. and "Members" means Class A and Class B members of the NP Corp.;

(v) "Mortgagee" means the holder of a first mortgage on a Residence;

(w) "Owner" means a Person, including Buckhorn, who at the time has or is acquiring any interest in a Lot except a Person who has or is acquiring such an interest merely as security for the performance of an obligation;

(x) "Person" means an individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof;

(y) "Plat" means the final secondary plat of the Real Estate recorded in the Office of the Recorder of Hamilton County, Indiana;

(z) "Reserve for Replacements" means a fund established and maintained by the NP Corp. to meet the cost of periodic maintenance and repairs of the Lake Control Structures;

(aa) "Residence" means any structure intended exclusively for occupancy by a single family together with all appurtenances thereto, including private garage and outbuildings and recreational facilities usual and incidental to the usage of a single family residential lot;

(bb) "Restrictions" means the covenants, conditions, easements, charges, liens, restrictions, rules and regulations and all other provisions set forth in this Declaration and the Register of Regulations, as the same may from time to time be amended;

(cc) "Register of Regulations" means the document containing rules, regulations, policies, and procedures adopted by the Board of Directors or the Architectural Review Board, as the same may from time to time be amended;

(dd) "Roadway" means all or any part of a street, land or road (including the right-of-way) designated to provide access to one or more Lots which has not been accepted for maintenance by a public authority;

(ee) "Zoning Authority" with respect to any action means the Director of the Department of Community Development of the City of Carmel, Indiana or, where he lacks the capacity to take action, or fails to take such action, the governmental body or bodies, administrative or judicial, in which authority is vested under applicable law to hear appeals, or review action, or the failure to act.

2. **Declaration.** Buckhorn hereby expressly declares that the Real Estate shall be held, transferred, used, and occupied subject to the Restrictions. The Owner of any Lot subject to these Restrictions by: (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Buckhorn or a subsequent Owner of such Lot; or (ii) by the act of occupancy or use of any Lot, shall accept such deed and execute such contract subject to each Restriction and agreement herein contained. By acceptance of such deed or execution of such contract, each Owner acknowledges the rights and powers of Buckhorn and of the NP Corp., and the Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such restrictions and agreements.

3. The Lake. Buckhorn shall convey title to the Lake to the NP Corp. The NP Corp. shall be responsible for maintaining the Lake. Each Owner of a Lot which abuts the Lake shall be responsible at all times for maintaining so much of the bank of the Lake above the pool level as constitutes a part of, or abuts, his Lot and shall keep that portion of a Lake abutting his Lot free of debris and otherwise in reasonably clean condition. No Owner shall pump water out of the Lake. No boats shall be permitted upon any part of the Lake and no dock, pier, wall or other structure may be extended into a Lake without the prior written consent of the Architectural Review Board and such governmental authority as may have jurisdiction. No swimming or ice skating will be permitted in the Lake except if and to the extent authorized by the Board of Directors. Each Owner of a Lot abutting a Lake shall indemnify and hold harmless Buckhorn, the NP Corp. and each other Owner against all loss or damage incurred as a result of injury to any Person or damage to any property, or as a result of any other cause or thing, arising from or related to use of, or access to the Lake by any Person who gains access thereto from over or across such Owner's Lot. Buckhorn shall have no liability to any Person with respect to the Lake, the use thereof or access thereof, or with respect to any damage to any Lot resulting from the Lake or the proximity of a Lot thereto, including loss or damage from erosion.

4. The Lake Control Structures. Buckhorn shall convey title to the Lake Control Structures to the NP Corp. The NP Corp. shall be responsible for maintaining the Lake Control Structures to the extent not maintained by the Drainage Board, and the Maintenance Costs thereof shall be assessed as a General Assessment against all Lots.

5. Drainage System. Buckhorn shall maintain the Drainage System in good condition satisfactory for the purpose for which it was constructed until the earlier of June 30, 2001, or the date the Drainage System is accepted as a legal drain by the Drainage Board. After the earlier of such dates, the NP Corp. shall maintain the Drainage System to the extent not maintained by the Drainage Board and the Maintenance Costs thereof shall be assessed against all Lots. Each Owner shall be individually liable for the cost of maintenance of any drainage system located entirely upon his Lot which is devoted exclusively to drainage of his Lot and is not maintained by the Drainage Board.

6. Roadways. Buckhorn shall maintain each Roadway in good condition satisfactory for the purpose for which it was constructed until the Roadway has been accepted as a public roadway.

7. Construction of Residences.

(a) Land Use. Lots may be used only for single-family residential purposes. Only one Residence shall be constructed on a Lot. Such Residence shall not exceed the maximum height permitted by and measured pursuant to the Zoning Ordinance of the City of Carmel, Indiana. No portion of any Lot may be sold or subdivided such

that there will be thereby a greater number of Residences in Buckhorn Estates than the number of Lots depicted on the Plat. Notwithstanding any provision in the applicable zoning ordinance to the contrary, no Lot may be used for any "Special Use" that is not clearly incidental and necessary to single family dwellings. No home occupation shall be conducted or maintained on any Lot other than one which does not constitute a "special use" and which is incidental to a business, profession or occupation of the Owner or occupant of such Lot and which is generally or regularly conducted at another location which is away from such Lot. No signs of any nature, kind or description shall be erected, placed, or permitted to remain on any Lot advertising a permitted home occupation;

(b) Size of Residence. Except as otherwise provided herein, no residence may be constructed on any Lot unless such Residence, exclusive of open porches, attached garages and basements, shall have a ground floor area of 3,000 square feet if a one-story structure, or 3,600 square feet if a multi-story structure. In the case of multi-story structure, at least 2,000 square feet must be included in the ground floor of such Residence;

(c) Temporary Structures. No trailer, shack, tent, boat, basement, garage or other outbuilding may be used at any time as a dwelling, temporary or permanent, nor may any structure of a temporary character be used as a dwelling;

(d) Building Location and Finished Floor Elevation. No building may be erected between the building line shown on the Plat and the front Lot line, and no structure or part thereof may be built or erected nearer than ten (10) feet to any side Lot line or nearer than twenty (20) feet to any rear Lot line. The side yards of each Lot must aggregate thirty (30) feet. No accessory building may be erected in front of a main building or in the required front yard on the side of a corner lot unless the accessory building is attached to the main building by a common wall. All ground floor elevations must be supplied to the Architectural Review Board. Demonstration of adequate storm water drainage in conformity with both on-Lot and overall project drainage plans shall be a pre-requisite for finished floor elevations. The Architectural Review Board shall approve, in writing, such elevations. Before construction commences, the finished floor elevation shall be physically checked on the Lot and certified by a licensed professional engineer or a licensed land surveyor;

(e) Driveways. All driveways shall be paved asphalt or poured concrete and maintained dust free;

(f) Yard Lights. Each Residence on each Lot shall include a yard light on such Lot at a location, having a height and of a type, style and manufacture approved by the Architectural Review Board. Each such light fixture shall also have a bulb of a maximum wattage approved by Architectural Review Board to insure uniform illumination on each Lot and shall be equipped with a photo electric cell or similar device to insure automatic illumination from dusk to dawn each day. The yard light

thereafter shall be maintained in proper working order by the Lot Owner;

(g) Fire Place Chase. All fireplace chases shall be of masonry veneer, dryvit, or a material which is equal to or better than masonry veneer or dryvit in quality and appearance. No fireplace chase shall be constructed of stucco board;

(h) Storage Tanks. All above or below ground storage tanks, with the exception of gas storage tanks (not to exceed 10 gallons) used solely in connection with gas grills for the purpose of grilling or cooking food, shall be and thereby are prohibited;

(i) Construction and Landscaping. All construction upon, landscaping of and other improvements to a Lot shall be completed strictly in accordance with the Lot Development Plan approved by the Architectural Review Board. Landscaping shall include a minimum of shrubs, evergreens and trees as further described and specified on attached Exhibit B. All landscaping specified on the landscaping plan approved by the Architectural Review Board shall be installed on the Lot strictly in accordance with such approved plan within thirty (30) days following substantial completion of the Residence unless the Board agrees to a later landscaping completion date. In the event the actual construction of the Residence fails to fully comply with all the details and specifications of the Lot Development Plan, Buckhorn and/or NP Corp. shall have the right (but not the obligation) to file suit in a court of appropriate jurisdiction. Such suit shall seek specific performance of the provisions of the Lot Development Plan. In addition to the remedy of specific performance, Buckhorn and/or NP Corp. shall be entitled to recover all costs of such litigation, including but not limited to, reasonable attorney fees, court costs, expert witness fees, deposition costs, etc.;

(j) Mailboxes. All mailboxes installed upon Lots must be purchased from Buckhorn. Such mailboxes shall be approved by the Architectural Review Board;

(k) Septic Systems. No septic tank, absorption field or any other on-site sewage disposal system (other than a lateral main connected to a sanitary sewage collection system operated by the Clay Township Regional Waste District or a successor public agency or public utility) shall be installed or maintained on any Lot;

(l) Water Systems. Each Owner must connect to a water line maintained by a public water utility to provide water for domestic use on the Lot and shall pay all connection, availability or other charges lawfully established with respect to connections thereto. Notwithstanding the foregoing, an Owner may establish, maintain and use an irrigation water well on his Lot;

(m) Drainage. In the event storm water drainage from any Lot or Lots flows across another Lot, provision shall be made by the Owner of such Lot to permit such drainage to continue, without restriction or reduction, across the downstream Lot and into the natural drainage channel or course, although no specific drainage easement

for such flow of water is provided on the Plat. To the extent not maintained by the Drainage Board, "Drainage Easements" reserved as drainage swales shall be maintained by the Owner of the Lot upon which such easements are located such that water from any adjacent Lot shall have adequate drainage along such swale. Lots within Buckhorn Estates may be included in a legal drain established by the Drainage Board. In such event, each Lot in Buckhorn Estates will be subject to assessment by the Drainage Board for the costs of maintenance of the portion of the Drainage System and the Lake Control Structures included in such legal drain, which assessment will be a lien against the Lot. The elevation of a Lot shall not be changed so as to affect materially the surface elevation or grade of surrounding Lots. Perimeter foundation drains, sump pump drains, downspouts and water softeners, shall be connected whenever feasible into a subsurface drainage tile. Downspouts and drains shall be designed to disperse runoff for overland flow to street or swale collection systems. Each Owner shall maintain the subsurface drains and tiles located on his Lot and shall be liable for the cost of all repairs thereto or replacements thereof. During the course of construction, appropriate silt fencing shall be maintained to prevent any silt runoff;

(n) Vacant Lots. It shall be the duty and obligation of the Owner of a vacant Lot to maintain such Lot and mow the lawn thereof. Buckhorn and the NP Corp. shall have the right, but not the obligation, to mow the lawn and maintain vacant Lots;

(o) Sheds, Out Buildings. Out buildings, tree houses, playhouses and sheds are specifically prohibited except that Buckhorn or the NP Corp. may allow them on a case by case basis.

8. Maintenance of Lots.

(a) Vehicle Parking. No camper, motor home, truck, trailer, boat, disabled vehicle, or vehicle without a properly issued license plate, may be parked or stored overnight or longer on any Lot in open public view;

(b) Signs. Except for such signs as Buckhorn may in its absolute discretion display in connection with the identification or development of Buckhorn Estates and the sale of Lots therein, no sign of any kind shall be displayed to the public view on any Lot except that two (2) signs of not more than four (4) square feet may be displayed at any time for the purpose of advertising the Lot for sale, or may be displayed by a builder to advertise the Lot during construction and sale. A builder shall display a "sold" sign on the Lot when he has sold the property;

(c) Fencing. No fence, wall, hedge or shrub planting higher than eighteen (18) inches shall be permitted between the front property line and the front building set-back line except where such planting is part of Residence landscaping and the prime root thereof is within four (4) feet of the Residence. Corner Lots shall be deemed to have two (2) front yards. Trees shall not be deemed "shrubs" unless

planted in such a manner as to constitute a "hedge". No chain link fence shall be erected upon a Lot. All fencing shall be uniform in height, style and color and substantially similar material. All fences on Lake Lots shall be wrought iron or similar material. No fence may be erected on a Lot without the prior approval of the Architectural Review Board, which may establish further restrictions with respect to fences, including limitations on (or prohibition of) the installation of fences in the rear yard of a Lot abutting a Lake and design standards for fences. All fences shall be kept in good repair. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting points 25 feet from the intersection of said street lines, or in the case of a street line with the edge of a driveway pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

(1) Fencing along 141st Street. Any fencing along 141st Street shall be constructed of the same material, and be the same height, the same color and the same design and the same appearance and shall be constructed only with the approval of the Architectural Review Board;

(d) Vegetation. An Owner shall not permit the growth of weeds and volunteer trees and bushes on his Lot, and shall keep his Lot reasonably clear from such unsightly growth at all times. If an Owner fails to comply with this restriction, the Architectural Review Board may (but shall not be obligated to) cause the weeds to be cut and the Lot cleared of such growth at the expense of the Owner thereof and the Architectural Review Board shall have a lien against the cleared Lot for the expense thereof;

(e) Nuisances. No noxious or offensive activity shall be carried on or upon any Lot nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood. Barking dogs shall constitute a nuisance;

(f) Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage or other waste shall be kept in sanitary containers out of public view. All equipment for storage or disposal of such materials shall be kept clean and sanitary;

(g) Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose. The Owners of such permitted pets shall confine them to their respective Lots such that they will not be a nuisance. Owners of dogs shall so control or confine them so as to avoid barking which will annoy or disturb adjoining Owners;

(h) Outside Burning. No trash, leaves, or other material shall be burned upon a Lot if smoke therefrom would blow upon any other Lot and, then, only in acceptable incinerators and in compliance with all applicable requirements;

(i) Antennas and Receivers. No antenna, satellite dish, or other device for the transmission or reception of radio, television, or satellite signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors and above ground, whether attached to a building or otherwise, on any Lot without the written approval of the Architectural Review Board, which approval shall not be unreasonably withheld; provided, however, that any such device may be installed and maintained on any Lot without the necessity of such written approval if: (a) it is not visible from neighboring Lots or streets; or (b) the Owner, prior to installation, has received the written consent of the Owners of all Lots who would have views of the device from their Lots; or (c) the device is virtually indistinguishable from structures, devices or improvements such as heat pumps, air conditioning units, barbecue grills, patio furniture, and garden equipment, which are not prohibited by these covenants;

(j) Exterior Lights. No exterior lights shall be erected or maintained between the building line and rear lot line so as to shine or reflect directly upon another Lot;

(k) Electric Bug Killers. Electric bug killers, "zappers", and other similar devices shall not be installed at a location or locations which will result in the operation thereof becoming a nuisance or annoyance to other Owners, and shall be operated only when outside activities require the use thereof and not continuously;

(l) Tennis Courts. No tennis courts shall be installed or maintained on any Lake Lot;

(m) Swimming Pools. No swimming pool or equipment or building related thereto shall be constructed without the prior approval of the Architectural Review Board. No swimming pool shall be located on a Lake Lot abutting within 35 feet from the water's edge of the Lake at normal pool elevation as established on the engineering design plans for the Lake filed with the Zoning Authority. If a variance permitting installation of a mechanical pool cover in lieu of fencing has been or may be obtained from the Zoning Authority, then the Architectural Review board may require, as a condition to the location of a swimming pool on a Lot, that the Owner install a mechanical pool cover. If the Architectural Review Board imposes such requirement, then a mechanical pool cover of a type and manufacture approved by the Architectural Review Board shall be installed by the Owner in compliance with all applicable legal requirements established by the Zoning Authority as a condition to such variance, and all requirements established by the Architectural Review Board.

9. Buckhorn Estates Association of Homeowners.

(a) Membership. Each Owner shall automatically be a Member of the NP

Corp. and shall enjoy the privileges and be bound by the obligations contained in the Articles and By-Laws. If a Person would realize upon his security and become an Owner, he shall then be subject to all the requirements and limitations imposed by this Declaration on other Owners, including those provisions with respect to the payment of Assessments;

(b) Powers. The NP Corp. shall have such powers as are set forth in this Declaration and in the Articles and By-Laws, together with all other powers that belong to it by law;

(c) Classes of Membership and Voting Rights. The Association shall have the following two (2) classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of Buckhorn and the Managers of Buckhorn. Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Class A Members. The vote for each Lot shall be exercised as the Members holding an interest in such Lot determine among themselves, but in no event shall more than one vote be cast with respect to any Lot;

Class B. Class B Members shall be Buckhorn and its Managers. Buckhorn and its Managers shall be entitled to five (5) votes for each Lot owned by them. For purposes of this calculation, it shall be assumed that Buckhorn owns all Lots, which number shall be reduced as Lots are conveyed by Buckhorn to a Person other than Buckhorn or its Managers. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier: (a) when the total number of votes outstanding in the Class A membership are greater than the total number of votes outstanding in the Class B membership; or, (b) December 31, 2012;

(d) Reserve for Replacements. The Board of Directors shall establish and maintain the Reserve for Replacements by the allocation and payment to such reserve fund of an amount determined annually by the Board to be sufficient to meet the cost of periodic maintenance, repairs and renewal of the Community Area. In determining the amount, the Board shall take into consideration the expected useful life of the Community Area. The Reserve for Replacements shall be deposited in a special account with a lending institution, the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Board, be invested in obligations of, or fully guaranteed as to principal by, the United States of America;

(e) Mergers. Upon a merger or consolidation of another corporation with the NP Corp., its properties, rights and obligations may, as provided in its articles of

incorporation or by operation of law be transferred to another surviving or consolidated corporation or, alternatively, the properties, rights and obligations of another corporation may by operation of law be added to the properties, rights and obligations of the NP Corp. as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established by this Declaration within the Real Estate together with the covenants and restrictions established upon any other properties as one scheme. No other merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within the Real Estate except as hereinafter provided;

(f) Termination of Class B Membership. Wherever in this Declaration the consent, approval or vote of the Class B Member is required, such requirement shall cease at such time as the Class B Membership terminates, but no such termination shall affect the rights and powers of Buckhorn set forth in Paragraph 14 (b);

(g) Board of Directors. During the Development Period, Buckhorn shall appoint all directors, shall fill all vacancies in the Board of Directors, and shall have the right to remove any Director at any time, with or without cause. After the Development Period, the Owners shall elect a Board of Directors of the NP Corp. as prescribed by the NP Corp.'s Articles and By-Laws. The Board of Directors shall manage the affairs of the NP Corp. Directors must be members of the NP Corp. after the termination of the Development Period.

10. Assessments.

(a) Creation of the Lien and Personal Obligation of Assessments. Buckhorn hereby covenants, and each Owner of any Lot by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the NP Corp. the following: (1) General Assessments; (2) Special Assessments, to be established and collected as hereinafter provided.

All Assessments, together with interest thereon and costs of collection thereof, shall be a charge on the Lots and shall be a continuing lien upon the Lot against which each Assessment is made until paid in full. Each Assessment, together with interest thereon and costs of collection thereof, shall also be the personal obligation of the Person who was the Owner of the Lot at the time when the Assessment became due;

(b) General Assessment.

(1) Purpose of Assessment. The General Assessment levied by the NP Corp. shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners of Lots and for the improvement, maintenance and operation of the Lake. The General Assessment shall also be levied for the payment of real estate taxes allocable to the Lake, which real estate taxes shall

be paid by the NP Corp. from the date hereof, notwithstanding that Buckhorn may indefinitely retain title to all or part of the Lake. It shall further be the obligation of the NP Corp. to: (i) maintain and pay all costs of maintenance of all public lighting installed and existing in any right-of-way; (ii) pay the costs of all electricity and energy usage attributable to public lighting installed and existing any right-of-way; and (iii) pay the costs of maintenance of any sidewalks which abut a right-of-way but are not within the right-of-way, and the General Assessment shall also be levied by the NP Corp. to comply and pay for with the foregoing maintenance requirements and obligations;

(2) Basis for Assessment.

(i) Lots Generally. Each Lot owned by a Person other than Buckhorn or its Managers shall be assessed at a uniform rate without regard to whether a Residence has been constructed upon the Lot;

(ii) Lots Owned by Buckhorn or its Managers. No Lot owned by Buckhorn or its Managers shall be assessed by the NP Corp.;

(iii) Change in Basis. The basis for assessment may be changed with the assent of the Class B Members and of: (1) two-thirds (2/3) of the Class A Members (excluding Buckhorn or its Managers); or (2) two-thirds (2/3) of the Mortgagees (based on one vote for each first mortgage owned) who are voting in person or by proxy by a meeting of such Members duly called for this purpose;

(3) Method of Assessment. By a vote of a majority of the Directors, the Board of Directors shall fix the General Assessment for each assessment year of the NP Corp. at an amount sufficient to meet the obligations imposed by this Declaration upon the NP Corp. The Board of Directors shall establish the date(s) the General Assessment shall become due, and the manner in which it shall be paid;

(c) Special Assessment. The NP Corp. may levy in any fiscal year a special assessment applicable to that year and not more than the next four (4) succeeding fiscal years for the purpose of defraying, in whole or in part, the cost of any construction, repair, or replacement of a capital improvement upon or constituting a part of the Lake, provided that any such Assessment shall have the assent of all of the Class B Members and of a majority of the votes of the Class A Members who are voting in person or by proxy at a meeting of such members duly called for this purpose;

(d) Date of Commencement of Assessments. The General Assessment shall commence with respect to assessable Lots on the first day of the month following conveyance of the first Lot to an Owner who is not Buckhorn or its Managers. The

initial Assessment on any assessable Lot shall be adjusted according to the number of whole months remaining in the assessment year;

(e) Effect of Nonpayment of Assessments; Remedies of the NP Corp. Any Assessment not paid within thirty (30) days after the due date may upon resolution of the Board of Directors bear interest from the due date at a percentage rate of 12% per annum. The NP Corp. shall be entitled to institute in any court of competent jurisdiction any lawful action to collect the delinquent Assessment plus any expenses or costs, including attorneys' fees, incurred by the NP Corp. in collecting such Assessment. If the NP Corp. has provided for collection of any Assessment in installments, upon default in the payment of any one or more installments, the NP Corp. may accelerate payment and declare the entire balance of said Assessment due and payable in full. No Owner may waive or otherwise escape liability for the Assessments provided for herein by abandonment of his Lot;

(f) Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein against a Lot shall be subordinate to the lien of any recorded first mortgage covering such Lot and to any valid tax or special assessment lien on such Lot in favor of any governmental taxing or assessing authority. Sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall, however, extinguish the lien of Assessments as to payments which became due more than twelve (12) months prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof;

(g) Certificates. The NP Corp. shall, upon demand by an Owner, at any time, furnish a certificate in writing signed by an officer of the NP Corp. that the Assessments on a Lot have been paid or that certain Assessments remain unpaid, as the case may be;

(h) Exempt Property. The following property subject to this Declaration shall be exempt from the Assessments, charge and lien created herein:

(1) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; and

(2) the Lake.

(i) Annual Budget. By a majority vote of the Directors, the Board of Directors shall adopt an annual budget for the subsequent fiscal year, which shall provide for allocation of expenses in such a manner that the obligations imposed by the Declaration will be met;

11. Architectural Control.

(a) The Architectural Review Board. Until the end of the Development Period, an Architectural Review Board consisting of four (4) Persons shall be appointed by Buckhorn. After the expiration of the Development Period, the Architectural Review Board shall be appointed by the Board of Directors;

(b) Purposes. The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Property and of improvements thereon in such manner as to preserve values and to maintain a harmonious relationship among structures, improvements and the natural vegetation and topography;

(c) Change in Conditions. Except as otherwise expressly provided in this Declaration, no improvements, alterations, repairs, change of colors, excavations, changes in grade, planting or other work that in any way alters any Lot or the exterior of the improvements located thereon from its natural or improved state existing on the date such Lot was first conveyed in fee by the Buckhorn to an Owner shall be made or done without the prior approval by the Architectural Review Board of a Lot Development Plan therefor. Prior to the commencement by an Owner other than Buckhorn of:

(1) construction, erection or alteration of any Residence, building, fence, wall, swimming pool, tennis court, patio, pier, dock, recreational equipment, or other structure on a Lot; or

(2) any plantings on a Lot, a Lot Development Plan with respect thereto shall be submitted to the Architectural Review Board, and no building, fence, wall, Residence, or other structure shall be commenced, erected, maintained, improved, altered, made or done, or any plantings made, by any Person other than Buckhorn without the prior written approval by the Architectural Review Board of a Lot Development Plan relating to such construction, erection, alteration or plantings. Such approval shall be in addition to, and not in lieu of, all approvals, consents, permits and/or variances required by law from governmental authorities having jurisdiction over Buckhorn Estates, and no Owner shall undertake any construction activity within Buckhorn Estates unless legal requirements have been satisfied. Each Owner shall complete all improvements to a Lot strictly in accordance with the Lot Development Plan approved by the Architectural Review Board. As used in this subparagraph (c), "plantings" do not include flowers, bushes, shrubs or other plants having a height of less than 18 inches;

(d) Procedures. In the event of the Architectural Review Board fails to approve, modify or disapprove in writing a Lot Development Plan within thirty (30) days after such plan has been duly filed with the Architectural Review Board in accordance with procedures established by Buckhorn or, if Buckhorn is no longer a Class B member, this approval will be deemed granted. If Buckhorn is no longer a

Class B member, a decision of the Architectural Review Board may be appealed to the Board of Directors which may reverse or modify such decision by a two-thirds (2/3) vote of the Directors then serving;

(e) Guidelines and Standards. The Architectural Review Board shall have the power to establish such architectural and landscaping design guidelines and standards as it may deem appropriate to achieve the purpose set forth in subparagraph (b) to the extent that such design guidelines and standards are not in conflict with the specific provisions of this Declaration. If Buckhorn is no longer a Class B member, any such guideline or standard may be appealed to the Board of Directors which may terminate or modify such guideline or standard by a two-thirds (2/3) vote of the Directors then serving.

12. Easements.

(a) Plat Easements. In addition to such easements as are created elsewhere in this Declaration and as may be created by Buckhorn pursuant to written instruments recorded in the Office of the Recorder of Hamilton County, Indiana, Lots are subject to drainage easements, sewer easements, utility easements and lake maintenance access easements, either separately or in any combination thereof, as shown on the Plat, which are reserved for the use of Owners, public utilities companies and governmental agencies as follows:

(1) Drainage Easements. (DE) are created to provide paths and courses for area and local storm drainage, either overland or in adequate underground conduit, to serve the needs of Buckhorn Estates and adjoining ground and/or public drainage systems; and it shall be the individual responsibility of each Owner to main the drainage across his own Lot. Under no circumstances shall said easement be blocked in any manner by the construction or reconstruction of any improvement, nor shall any grading restrict, in any manner, the water flow. Said areas are subject to construction or reconstruction to any extent necessary to obtain adequate drainage at any time by any governmental authority having jurisdiction over drainage, by Buckhorn, and by the Architectural Review Board, but neither Buckhorn nor the Architectural Review Board shall have any duty to undertake any such construction or reconstruction. In the event Buckhorn or the Architectural Review Board undertakes any such construction or reconstruction, its obligations to restore the affected real estate after any such construction or reconstruction shall be limited to regrading and reseeding. Under no circumstances shall Buckhorn be liable for any damage or destruction to any fences, structures, or other improvements which are damaged, destroyed or remodeled by Buckhorn, or its agents or employees as a result of such construction or reconstruction. Said easements are for the mutual use and benefit of the Owners;

(2) Sewer Easements. (SE) are created for the use of the local government agency having jurisdiction over any storm and sanitary waste disposal system which may be designed to serve Buckhorn Estates for the purpose of installation and maintenance of sewers that are a part of said system;

(3) Utility Easements. (UE) are created for the use of Buckhorn, the NP Corp. and all public utility companies, not including transportation companies, for the installation and maintenance of mains, ducts, poles, lines and wires, as well as for all uses specified in the case of sewer easements;

(4) Lake Maintenance Access Easements. (LMAE) are created for the use of Buckhorn, the NP Corp., the Drainage Board and the Clay Township Regional Waste District for the purpose of gaining access to the Lake, the Lake Control Structures, the Drainage System in the course of maintenance, repair or replacement of any thereof.

13. Enforcement. The NP Corp., any Owner or Buckhorn shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, but neither Buckhorn nor the NP Corp. shall be liable for damage or any kind to any Person for failure either to abide by, enforce or carry out any of the Restrictions. No delay or failure by any Person to enforce any of the Restrictions or to invoke any available remedy with respect to a violation or violations thereof shall under any circumstances be deemed or held to be a waiver by that Person of the right to do so thereafter, or an estoppel of that Person to assert any right available to him upon the occurrence, recurrence or continuation of any violation or violations of the Restrictions. In any action by Buckhorn, the NP Corp. or an Owner to enforce this Declaration, such party shall be entitled to recover all costs of enforcement, including attorneys' fees, if it substantially prevails in such action.

14. Amendments.

(a) Generally. This Declaration may be amended at any time by an instrument signed by both:

(1) the appropriate officers of the NP Corp. acting pursuant to the authority granted by not less than two-thirds (2/3) of the votes of the Class A members cast at a meeting duly called for the purpose of amending this Declaration; and

(2) Buckhorn, so long as Buckhorn still owns at least one (1) Lot;

(b) By Declarant. Buckhorn hereby reserves the right unilaterally to amend and revise the standards, covenants and restrictions contained in this Declaration

during the period prior to its sale of all the Lots. Such amendments shall be in writing, executed by Buckhorn, and recorded with the Recorder of Hamilton County, Indiana. Buckhorn shall give notice in writing to such Owners and Mortgagees of any amendments. Buckhorn shall not have the right at any time by amendment of this Declaration to grant or establish any easement through, across or over any Lot which Buckhorn has previously conveyed without the consent of the Owner of such Lot;

(c) Effective Date. Any amendment shall become effective upon its recordation in the office of the Recorder of Hamilton County, Indiana.

15. Interpretation. The underlined titles preceding the various paragraphs and subparagraphs of this Declaration are for convenience of reference only, and none of them shall be used as an aid to the construction of any provision of this Declaration. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

16. Duration. The foregoing covenants and restrictions are for the mutual benefit and protection of the present and future Owners, the NP Corp., and Buckhorn, and shall run with the land and be binding on all parties and all Persons claiming under them until 2025, at which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless changed in whole or in part by vote of those Persons who are then the Owners of a majority of the Lots in the Real Estate.

17. Severability. Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

18. Non-Liability of Buckhorn. Buckhorn shall not have any liability to an Owner or to any other Person with respect to drainage on, over or under a Lot or with respect to the completion of the Residence in accordance with the Lot Development Plan's specifications. Such drainage shall be the responsibility of the Owner of the Lot upon which a Residence is constructed and of the builder of such Residence, and an Owner, by an acceptance of a deed to a Lot, shall be deemed to agree to indemnify and hold Buckhorn free and harmless from and against any and all liability arising from, related to, or in connection with drainage on, over and under the Lot described in such deed. Buckhorn shall have no duties, obligations or liabilities hereunder except such as are expressly assumed by Buckhorn, and no duty of, or warranty by, Buckhorn shall be implied by or inferred from any term or provision of this Declaration.

19. Delay in Construction of Residence. Unless a delay is caused by strikes, war, court injunction, or acts of God, the Owner of any Lot (which on the date of purchase is not improved with a Residence) shall commence construction of a Residence upon the Lot within two (2) years from the date the Owner acquired title thereto and shall complete construction of such Residence within one (1) year after the date of commencement of the building process, but in no event later than three (3) years after the date the Owner acquired title to the Lot unless such Lot is adjacent to a Lot upon which the Owner has constructed a Residence in which such Owner permanently resides. If the Owner fails to commence or complete construction of a Residence within the time periods specified herein, or if the Owner should, without Buckhorn's written approval, sell, contract to sell, convey, or otherwise dispose of, or attempt to sell, convey or otherwise dispose of the Lot before completion of construction of a Residence on the Lot, then, in any of such events, Buckhorn may:

(i) re-enter the Lot and divest the Owner of title thereto by tendering to the Owner or to the Clerk of the Circuit Court of Hamilton County the lesser of (a) the same net dollar amount as was received by Buckhorn from such Owner as consideration for the conveyance by Buckhorn of the Lot, together with such actual costs, if any, as the Owner may prove to have been incurred in connection with the commencement of construction of a Residence on the Lot or (b) the then fair market value of the Lot, as determined by averaging two (2) appraisals made by two (2) qualified appraisers appointed by the Judge of the Circuit or Superior Court of Hamilton County, Indiana;

(ii) obtain injunctive relief to force the Owner to proceed with construction of a Residence per the terms of a Lot Development Plan which has been approved by the Architectural Review Board upon application by such Owner; or

(iii) pursue such other remedies at law or in equity that may be available to Buckhorn.

The failure of the Owner of a Lot to apply for approval of, or receive approval from, the Architectural Review Board of a Lot Development Plan shall not relieve such Owner from his obligation to commence and complete construction of a Residence upon the Lot within the time periods specified herein. For the purposes of this paragraph (19), construction of a Residence will be deemed "completed" when the exterior of the Residence (including but not limited to the foundation, walls, roof, windows, entry doors, gutters, downspouts, exterior trim, paved driveway and landscaping) has been completed in conformity with the Lot Development Plan.

IN TESTIMONY WHEREOF, witness the signature of Buckhorn as of the date set forth above.

BUCKHORN ESTATES, L.L.C.

By: Mark O'Hara
Its Manager: Mark O'Hara

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared Mark O'Hara, Manager of Buckhorn Estates, L.L.C., and he acknowledges that the facts alleged in the foregoing instrument are true.

Witness my hand and Notarial Seal this 17th day of April, 2000.

Rachel D. Shelton
Rachel D. Shelton, Notary Public



My Commission Expires: October 4, 2001 County of Residence: Hamilton

This instrument prepared by Michael S. Walsh, attorney at law, 11350 North Meridian Street, Suite 420, Carmel, Indiana 46032.

04/17/00

EXHIBIT A - LEGAL DESCRIPTION

The Northeast Quarter of the Southwest Quarter of Section 22,
Township 18 North, Range 3 East in Clay Township, Hamilton
County, Indiana, containing 40 acres more or less.

LANDSCAPING ALLOWANCE AND SELECTION GUIDE LARGE

Allowance

10 (ten)	Plants from Group A
12 (twelve)	Plants from Group B
9 (nine)	Plants from Group C
10 (ten)	Plants from Group D
1 (one)	Plants from Group E
2 (two)	Plants from Group F
2 (two)	Plants from Group G

Selection Guide

<u>QTY</u>	<u>DISCRIPTION</u>
Group A:	EVERGREEN AND SEMI-EVERGREEN SHRUBS
—	Azaleas
—	Yews
—	PJM Rhododendron
—	Mugho Pine
—	Boxwood
—	Holly
Group B:	DECIDUOUS SHRUBS (small)
—	Barberry
—	Cottoneaster
—	Spiraea
—	Flowering Quince
—	Dwarf Forsythia
—	Burning Bush
—	Dwarf Lilac
—	Hydrangea
—	Potentilla
Group C:	DECIDUOUS SHRUBS (large)
—	Red Osier Dogwood
—	Weigela
—	Forsythia
—	Common Lilac
—	Viburnums
—	Purple Leaf Plums
Group D:	JUNIPERS 15" TO 18"
—	Blue Chip
—	Andorra
—	Broadmoor
—	Procumbens

Group E: SHADE TREES 2" Caliper

- ___ Maple
- ___ Oak
- ___ Linden
- ___ Sweet Gum
- ___ Locust
- ___ Tulip
- ___ Ash

Group F: ORNAMENTAL TREES 2" Caliper

- ___ Dogwood
- ___ Hawthorn
- ___ Magnolia
- ___ Serviceberry
- ___ Pear
- ___ Redbud
- ___ Crabapple

Group G: CONIFERS 6' TO 7'

- ___ White Pine
- ___ Douglas Fir
- ___ Colorado Spruce (Green/Blue)
- ___ Austrian Pine
- ___ Hemlock