BUCKHORN CREEK

HOMEOWNERS ASSOCIATION CONFORMED DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS

CONFORMED
DECLARATION OF EASEMENTS,
COVENANTS, CONDITIONS, AND RESTRICTIONS REGARDING BUCKHORN CREEK

THIS DECLARATION, made this 21 day of November, 1973, by LaMONTE-SHIMBERG CORPORATION, a Delaware corporation, hereinafter called "Developer,"

W I T N E S S E T H :

WHEREAS, Developer is the sole owner of that certain parcel of real property situate in Hillsborough County, Florida, described in Exhibit "A" attached hereto and here incorporated by reference; and

WHEREAS, Developer desires to impose a common plan of development on said real property for the purpose of protecting the value and desirability thereof, and for the purpose of enhancing the marketability thereof;

NOW, THEREFORE, Developer hereby declares that all of the real property described in Exhibit "A" attached hereto and here incorporated by reference shall be held, sold, and conveyed subject to the following easements, conditions, covenants, and restrictions, which are for the purpose of protecting the value and desirability of, and which shall run with, said real property and be binding upon all parties

having any right, title, or interest therein, or any part thereof, their respective heirs, successors, and assigns; and which shall inure to the benefit of the Association and each Owner thereof, as said terms are hereinafter more particularly defined.

ARTICLE I

DEFINITIONS AND CONSTRUCTION

Section 1. "Association" means Buckhorn Creek, Inc., a corporation not for profit to be organized pursuant to Chapter 617, Florida Statutes (1973), its successors and assigns.

Section 2. "Owner" means the record Owner, whether one or more persons or entities, of the fee simple title to any lot which is part of the Properties, including contract sellers, but excluding any other party holding such fee simple title merely as security for the performance of an obligation.

Section 3. "Properties" means that certain parcel of real property described in Exhibit "A" attached hereto and here incorporated by reference, together with such additions thereto as may hereafter be annexed by amendment to this Declaration.

Section 4. "Common Area" means all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described

in Exhibit "B" attached hereto and here incorporated by reference.

Section 5. "Lot" means any plot of land shown upon any recorded subdivision map or plat of the Properties, together with all improvements thereon, with the exception of the Common Area.

Section 6. "Developer" means LaMonte-Shimberg Corporation, a Delaware corporation, and such of its successors and assigns as shall acquire more than one undeveloped Lot from LaMonte-Shimberg Corporation for the purpose of development.

Section 7. "Mortgage" means any mortgage, deed of trust, or other instrument transferring any interest in a Lot, or any portion thereof, as security for the performance of an obligation.

Section 8. "Mortgagee" shall mean any person named as the Mortgagee under any Mortgage under which the interest of any Owner is encumbered, or any successor to the interest of such person under such Mortgage.

Section 9. "FHA" shall mean the Federal Housing Administration.

Section 10. "VA" shall mean The Veterans Administration.

Section 11. "The Work" means the initial development of the Properties as a residential community by the construction and installation thereon of streets, buildings, and other improvements by Developer.

Section 12. Interpretation. Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including" shall mean "including, without limitation." This Declaration shall be liberally construed in favor of the party seeking to enforce the provisions hereof to effectuate the purpose of protecting and enhancing the value, marketability, and desirability of the Properties by providing a common plan for the development thereof. The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area.

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which

any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purpose and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded in the Public Records of Hillsborough County, Florida.

(d) The right of individual Owners to the exclusive use of parking spaces as hereinafter provided.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Area and facilities thereon to the members of his family, his tenants, or contract purchasers, provided the foregoing actually reside upon such Owner's Lot.

Section 3. Other Owners' Easements. Each Owner shall have an easement for pedestrian and vehicular ingress and egress over, upon, and across the Common Area for access to his Lot and shall have the right to lateral and subjacent

support of his Lot. Each Owner additionally shall have an exclusive right of use in respect to any portion of the Common Area abutting such Owner's Lot and constituting an enclosed or semi-enclosed patio constructed by Developer as part of the Work for the benefit of such Lot. There shall be reciprocal appurtenant easements for the maintenance, repair, and reconstruction of any party wall or walls, as hereinafter more particularly provided. All such rights and easements granted by this Declaration shall be appurtenant to, and pass with, the title to each Lot.

Section 4. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Lot and such portion or portions of the Common Area adjacent thereto, or as between adjacent Lots, or both, for the unwillful placement, settling, or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms hereof), to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Area or as between said adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, that in no event shall an easement for encroachment exist if such encroachment was caused by willful misconduct on the part of an Owner, Tenant, or the Association. There shall be reciprocal appurtenant easements for the maintenance and repair of a party wall or walls.

Section 5. Antennas. In the event a master television and radio antenna system is installed on the Properties, no television or radio masts, towers, poles, antennas, aerials, or appurtenances thereto, shall be erected, constructed, or maintained on any Lot in such a manner as to be visible from the exterior of such Lot, except in accordance with rules and regulations adopted by the Association.

Section 6. Use of Units. Each Lot shall be used for single-family residential purposes only, and no trade or business of any kind may be carried on therein. Lease or rental of a Lot for single-family residential purposes shall not be construed as a violation of this covenant.

Section 7. Use of Common Area. There shall be no obstruction of the Common Area, nor shall anything be kept or stored on any part of the Common Area without the prior written consent of the Association except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Area except upon the prior written consent of the Association.

Section 8. Prohibition of Damage and Certain Activities. Nothing shall be done or kept in any Lot or in the Common Area or any part thereof to increase the rate of insurance on the Properties or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Association. Nothing shall

be done or kept in any Lot on in the Common Area, or any part thereof, which would be in violation of any Statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Area or any part thereof or of the exterior of the Properties and buildings shall be committed by any Owner or any Tenant, household member, or invitee of any Owner; and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his Tenants, household members, or invitees, to the Association or other Owners. No noxious, destructive or offensive activity shall be permitted on any Lot or in the Common Area or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any other person at any time lawfully residing on the Properties.

Section 9. Signs Prohibited. No sign of any kind shall be displayed to the public view on any Lot or the Common Area without the prior written consent of the Association, except customary name and address signs and a lawn sign of not more than five square feet in size advertising the property for sale or rent may be placed upon any Lot, provided the same are in accordance with rules and regulations adopted by the Association.

Section 10. Parking. The Association shall maintain upon the Common Area at least two (2) automobile parking spaces for each Lot; and the right to the exclusive use of two (2) such parking spaces and to their maintenance and designation by the Association shall be appurtenant to, and shall pass with, the title to each Lot, together with a right of vehicular ingress and egress thereto upon and over that portion of the Common Area as is improved and designated by the Association for such purpose. The Association shall permanently assign two (2) such parking spaces to each Lot, which shall be as near and convenient to each Lot as is reasonably practical. No Owner shall park, store, keep, repair, or restore any vehicle, boat, or trailer anywhere upon the Properties, including the parking spaces assigned to such Owner, except in accordance with rules and regulations adopted by the Association.

Section 11. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot or the Common Area, except that dogs, cats, and other household pets may be kept on Lots subject to rules and regulations adopted by the Association, provided that they are not kept, bred, or maintained for any commercial purpose.

Section 12. Rubbish. No rubbish, trash, garbage, or other waste material shall be kept or permitted

upon any Lot or Common Area except inside the residence on each Lot or in sanitary containers located within the patio area on each Lot and concealed from view, and in accordance with rules and regulations adopted by the Association.

Section 13. Provisions Inoperative As to Initial Construction. Nothing contained in this Declaration shall be interpreted or construed to prevent Developer, its transferees, or its or their contractors, or sub-contractors, from doing or performing on all or any part of the Properties owned or controlled by Developer, or its transferees, whatever they determine to be reasonably necessary or advisable in connection with the completion of the Work, including, without limitation:

(a) erecting, constructing, and maintaining thereon such structures as may be reasonably necessary for the conduct of Developer's business of completing the Work and establishing the Properties as a residential community and disposing of the same in parcels by sale, lease, or otherwise; or

(b) conducting thereon its or their business of completing the Work and establishing the Properties as a residential community and disposing of the Properties in parcels by

sale, lease, or otherwise; or

(c) maintaining such sign or signs thereon as may be reasonably necessary in connection with the sale, lease, or other transfer of the Properties in parcels.

As used in this Section and in sub-paragraphs, the term "its transferees" specifically does not include purchasers of Lots improved as completed residences.

Section 15. Rules and Regulations. No Owner shall violate the rules and regulations for the use of the Lots and the Common Area, as the same are from time to time adopted by the Association.

Section 16. Ownership Rights Limited to Those Enumerated. No transfer of title to any Lot shall pass to the Owner thereof any rights in and to the Common Area except as are expressly enumerated in this Declaration. In the event any Lot is shown or described as bounded by any stream, pond, or any other body of water situated in whole or in part upon the Common Area, all riparian rights therein shall be appurtenant to the Common Area and no attempted grant thereof to an Owner shall be effective as to the Association or the other Owners. In the event any Lot is shown or described as abutting a street, utility easement, or other area dedicated to public use, the under-

lying fee simple title to such area, if any, shall not pass as an appurtenance to such Lot, but shall be construed as part of the Common Area and pass as an appurtenance to the Common Area. No provision in any Deed or other instrument of conveyance of any interest in any Lot shall be construed as passing any right, title, and interest in and to the Common Area except as expressly provided in this Declaration. It is Developer's express intent that the fact that any Lot is shown or described as bounded by any artificial or natural monument on the Common Area shall not pass to the Owner of each Lot any rights therein, except as herein expressly provided, but that such monument shall be a part of the Common Area and all rights therein shall inure to the benefit of the Association and all Owners.

ARTICLE III

MEMBERHIP AND VOTING RIGHTS

Section 1. Membership. Every owner of a Lot subject to assessment shall be a member of the Association. If title to a Lot is held by more than one person, each of such persons shall be members. An Owner of more than one Lot shall be entitled to one membership for each Lot owned by him. Each such membership shall be appurtenant to the Lot upon which it is based and shall be transferred automatically by conveyance of that Lot. No person or entity other than an Owner or Developer may be a member of the Association, and a membership in the Association may not be

transferred except in connection with the transfer of title to a Lot; provided, however, the foregoing shall not be construed to prohibit the assignment of membership and voting rights by an Owner who is a contract seller to his vendee in possession.

Section 2. Voting. The Association shall have two classes of voting membership:

(a) Class A. Class A members shall be all Owners with the exception of the Developer and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine; but in no event shall more than one vote be cast with respect to any Lot. There shall be no split vote. Prior to the time of any meeting at which a vote is to be taken, each co-owner shall file the name of the voting co-owner with the Secretary of the Association in order to be entitled to a vote at such meeting, unless such co-owners have filed a general voting authority with the Secretary applicable to all votes until rescinded.

(b) Class B. The Class B member(s) shall be the Developer and shall be entitled to three votes for each Lot owned. 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:

(i) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(ii) on January 1, 1977.

Section 3. Amplification. The provisions of this Declaration are to be amplified by the Articles of Incorporation and the By-Laws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth herein. In the event of any conflict between this Declaration and the Articles of Incorporation or the By-Laws, this Declaration shall control.

ARTICLE IV

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. The Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair.

Section 2. Exterior Maintenance. In addition to maintenance on the Common Area, the Association shall provide

exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements, including patio fences. Such maintenance shall include the mowing and other care of any lawn area on any Lot, except that the Association shall have no duty of maintenance as to any landscaped grounds or lawn area within an enclosed or semi-enclosed patio area on any Lot, nor shall the Association's duty of exterior maintenance extend to glass surfaces, or replacement of exterior doors. Should an Owner neglect or fail to maintain any lawn area or landscaped area within an enclosed or semi-enclosed patio, or neglect to maintain or replace any glass surfaces or exterior doors, then the Association may maintain, repair, or replace the same, as the case may be, at such Owner's expense; and the cost thereof shall be added to and become a part of the assessment against that Owner's Lot. In the event that the need for maintenance or repair is caused by the willful or negligent act of any Owner, or any member of any Owner's family or household, or any Owner's guests, invitees, or tenants, then the cost of such maintenance or repairs shall be added to and become a part of the assessment against that Owner's Lot.

Section 3. 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 such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Properties, 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 Properties or the enforcement of this Declaration. The Association may arrange with others to furnish water, trash collection, sewer service and other common services to each Lot.

Section 4. Personal Property for Common Use. The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise, subject to such restrictions as may from time to time be provided in the Association's By-Laws.

Section 5. Rules and Regulations. The Association from time to time may adopt, alter, amend, and rescind reasonable rules and regulations governing the use of the Lots and of the Common Area, which rules and regulations shall be consistent with the rights and duties established in this Declaration.

Section 6. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, its Articles of Incorporation, or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege granted herein or

reasonably necessary to effectuate the exercise of any right or privilege granted herein.

Section 7. Restriction on Capital Improvements. Except for replacement or repair of those items installed by Developer as part of the Work, and except for personal property related to the maintenance of the Common Area, the Association may not authorize capital improvements to the Common Area without Developer's consent during a period of five (5) years from the date of this Declaration. At all times hereafter, all capital improvements to the Common Area, except for replacement or repair of those items installed by Developer as part of the Work and except for personal property related to the maintenance of the Common Area, shall require the approval of two-thirds (2/3) of the votes of each Class of voting members who are voting in person or by proxy at a meeting duly called for this purpose.

ARTICLE V

COVENANT FOR ASSESSMENTS

Section 1. Creation of a Lien and Personal Obligation of Assessments. The Developer, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, which may consist of a general assessment and a main-

tenance assessment as hereinafter defined; and (2) special assessments for capital improvements, such assessments to be established and collected as herein provided; and (3) special assessments for property taxes levied and assessed against the Common Area, as hereinafter provided; and (4) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration; and (5) all excise taxes, if any, which may be imposed on all or any portion of the foregoing by law. All such assessments, together with interest and all costs and expenses of collection, including reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest and all costs and expenses of collection, including reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintencance of the Common Area, and of the exteriors of the buildings situated upon the Properties (as hereinabove provided), and such emergency repairs as the Association may deem neces-

sary. To effectuate the foregoing purposes, an annual general assessment shall be levied by the Association to provide and be used for the improvement and maintenance of the property, services, and facilities related to the use and enjoyment of the Common Area, including, but not limited to, the payment of taxes and insurance for the Common Area and repair, replacement, and additions thereto, and for the cost of labor, equipment, and materials, management and supervision thereof, and all other general operations of the Association except exterior maintenance upon each Lot which is subject to assessment hereunder. To further effectuate the foregoing purposes, the Association shall levy an annual maintenance assessment for the purpose of providing exterior maintenance upon each Lot which is subject to assessment hereunder, as such exterior maintenance is defined in Article IV, Section 2 hereof. The annual general assessment and annual maintenance assessment together shall comprise the "annual assessment" as such term is hereinafter used.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot by Developer to an Owner, the maximum annual assessment shall be $480 per Lot, consisting of an annual maintenance assessment of $148.80 per Lot and an annual general assessment of $331.20 per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot by

Developer to an Owner, the maximum annual assessment may be increased each year not more than four percent (4%) above the assessment for the previous year without vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above four percent (4%) by a vote of two-thirds (2/3) of each Class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the amounts set forth herein.

Section 4. Special Assessments for Common Area Taxes. In the event local real property taxes in any given year are assessed to the Association upon the Common Area in excess of the amount of $500.00, then the amount of such excess may be specially assessed by the Board of Directors, in its discretion, against all Lots in the following manner: The amount of such excess shall be divided by the number of Lots within the Properties, and the quotient thereof shall be the amount of such special assessment against each Lot. In the discretion of the Board of Directors, said special assessment may be payable in a lump sum within thirty (30) days after notice thereof, or the same may be amortized over such number of months as the Board of Directors deems

advisable. The Board of Directors shall determine whether such assessment shall be levied, and the amount thereof, within forty-five (45) days after receiving notice of the amount of taxes due. Such special assessment shall not be considered an increase in the annual assessment subject to the limitations of Section 3 of this Article.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or the Properties, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each Class of voting members who are voting in person or by proxy at a meeting duly called for this purpose and, during the first five (5) years from the date hereof, the same shall be limited as hereinabove set forth in Article IV, Section 7.

Section 6. Notice of Meetings. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or Section 5 of this Article shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of

membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Uniform Rate of Assessment. Both annual and special assessments shall be fixed at a uniform rate for all Lots within that portion of the Properties described in Exhibit "A" attached hereto and here incorporated by reference. In the event additional lands are annexed into the Properties as provided in Article IX hereof, then the portion of the Properties described in Exhibit "A" attached hereto and the lands included in each such annexation each shall be deemed a separate "section" of the Properties. The annual general assessment and any special assessment shall be uniform throughout all sections of the Properties; but the annual maintenance assessment may vary from section to section within the Properties to reflect actual or projected variance in maintenance costs in each section because of significant differences in design, construction, or materials, providing a reasonable basis for actual or projected maintenance costs. In the event the annual maintenance assessment as to any section of the Properties annexed is to vary from that established for the

section of the Properties described in Exhibit "A" attached hereto, then the instrument annexing such section shall set forth the maximum annual maintenance assessment against each Lot in such section, the maximum annual general assessment against all Lots within the Properties then in effect, and the corresponding total maximum annual assessment against each Lot in the section annexed, which total maximum assessment thereafter may be increased only within the limits hereinabove established by Section 3 of this Article. In the event a varying annual maintenance assessment is established pursuant to this paragraph, the same shall be allocated by the Association's Board of Directors to separate budgetary accounts for each section of the Properties; and the assessments thus allocated to a given section may not be used for purposes other than defraying actual or projected maintenance costs within that section without the written consent of two-thirds (2/3) of the Owners within that section. The requirement of uniformity hereby established shall not prevent assessments against specific Lots pursuant to any express provision of this Declaration.

Section 8. Developer's Assessment. Notwithstanding the foregoing requirement of uniformity, or any other provision of this Declaration, or the Association's Articles of Incorporation or By-Laws, to the contrary, the annual assessment against any Lot in which Developer owns any interest shall, as long as there is Class "B" membership in the Association, be fixed by the Board of Directors annually in an amount not less than

twenty five percent (25%), nor more than one hundred percent (100%), of the amount hereinabove established against Lots owned by the Class "A" members of the Association. Upon termination of the Class "B" membership in the Association, as hereinabove provided, the annual assessment against any Lot in which Developer owns any interest shall be twenty five percent (25%) of the amount hereinabove established against Lots owned by Class "A" members of the Association, other than Developer. Upon transfer of title of a Developer-owned Lot, such Lot shall be assessed in the amount established against Lots owned by the Class "A" members of the Association, prorated as of, and commencing with, the month following the date of transfer of title. Notwithstanding the foregoing, those Lots from which Developer derives any rental income, or holds an interest as mortgagee or contract seller, shall be assessed at the same amount as is hereinabove established for Lots owned by Class "A" members of the Association, prorated as of, and commencing with, the month following the execution of the rental agreement or mortgage, or the contract purchaser's entry into possession, as the case may be.

Section 9. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all Lots within that portion of the Properties described in Exhibit "A" attached hereto on the first

day of the month following the recording of the conveyance of the Common Area described in Exhibit "B" attached hereto to the Association by Developer. The annual assessments within any addition to the Properties created by annexation shall commence as to all Lots included within each such annexation on the first day of the month following the conveyance of the common area included within that annexation to the Association. The first annual assessment against any Lot shall be prorated according to the number of months then remaining in the calendar year. Both annual and special assessments may be collected on a monthly basis, in the discretion of the Board of Directors of the Association, which shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto; and the due date shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish to any interested party a certificate signed by an officer of the Association setting forth whether the assessments on a specific Lot have been paid.

Section 10. Lien for Assessments. All sums assessed to any Lot pursuant to this Article, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, shall be secured by a lien on such Lot in

favor of the Association. Such liens shall be subject and inferior to the lien for all sums secured by a first mortgage encumbering such Lot. Except for liens for all sums secured by a first mortgage, all other lienors acquiring liens on any Lot after the recordation of this Declaration in the public records of Hillsborough County, Florida, shall be deemed to consent that such liens shall be inferior to liens for assessments, as provided herein, whether or not such consent is specifically set forth in the instruments creating such liens. The recordation of this Declaration in the Public Records of Hillsborough County, Florida, shall constitute constructive notice to all subsequent purchasers and creditors, or either, of the existence of the lien hereby created in favor of the Association and the priority thereof.

Section 11. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. A suit to recover a money judgment for unpaid assessments hereunder shall be maintainable without foreclosing or waiving the lien securing the same.

Section 12. Foreclosure. The lien for sums assessed pursuant to this Declaration may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Florida. In any such foreclosure, the Owner shall be required to pay all costs and expenses of foreclosure, including reasonable attorney's fees. All such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Lot which shall become due during the period of foreclosure, and the same shall be secured by the lien foreclosed and accounted for as of the date the Owner's title is divested by foreclosure. The Association shall have the right and power to bid at the foreclosure or other legal sale to acquire the Lot foreclosed, and thereafter to hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof for the purposes of resale only. In the event the foreclosure sale results in a deficiency, the Court ordering the same may, in its discretion, enter a personal judgment against the Owner thereof for such deficiency, in the same manner as is provided for foreclosure of Mortgages in the State of Florida.

Section 13. Homesteads. By acceptance of a deed thereto, the Owner of each Lot shall be deemed to acknowledge conclusively that the obligations evidenced by the assessments provided for in this Declaration are for the improving and maintenance of

any homestead maintained by such Owner on such Owner's Lot.

Section 14. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of any such first mortgage, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for assessments thereafter becoming due or from the lien thereof. The Association shall, upon written request, report to any encumbrancer of a Lot any unpaid assessments remaining unpaid for a period longer than thirty (30) days after the same shall have become due and shall give such encumbrancer a period of thirty (30) days in which to cure such delinquency before instituting foreclosure proceedings against the Lot; provided, however, that such encumbrancer first shall have furnished to the Association written notice of the existence of the encumbrance, which notice shall designate the Lot encumbered by a proper legal description and shall state the address to which notices pursuant to this section shall be given to the encumbrancer. Any encumbrancer holding a lien on a Lot may pay, but shall not be required to pay, any amounts secured by the lien created by this Section; and, upon such payment, such encumbrancer shall be subrogated to all rights of the Association with respect to such lien, including priority.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee. The Board of Directors of the Association shall appoint as a standing committee an Architectural Control Committee, which shall be composed of three (3) or more persons appointed by the Board of Directors, or, in the Board's discretion, the Board may constitute itself the Architectural Control Committee. No member of the Committee shall be entitled to compensation for services performed; but the Committee may employ independent professional advisors and allow reasonable compensation to such advisors from Association funds. The Architectural Control Committee shall have full power to regulate all exterior changes to the Properties in the manner hereinafter provided.

Section 2. Committee Authority. The Committee shall have full authority to regulate the use and appearance of the exterior of the Properties to assure harmony of external design and location in relation to surrounding buildings and topography and to protect and conserve the value and desirability of the Properties as a residential community. The power to regulate shall include the power to prohibit those exterior uses or activities deemed inconsistent with the provisions of this Declaration, or contrary to the best interests of the Association in maintaining the value and desirability of the Properties as a

residential community, or both. The Committee shall have authority to adopt, promulgate, rescind, amend, and revise rules and regulations in connection with the foregoing; provided, however, such rules and regulations shall be consistent with the provisions of this Declaration and, in the event the Board of Directors of this Association has not constituted itself as the Committee, such rules and regulations shall be approved by the Board of Directors prior to the same taking effect. Violations of the Committee's rules and regulations shall be enforced by the Board of Directors, unless such enforcement authority is delegated to the Committee by resolution of the Board of Directors.

Section 3. Committee Approval. Without limitation of the foregoing, no changes, alterations, additions, replacements, reconstruction, or attachments of any nature whatsoever shall be made to the exterior of any Lot, including that portion of any Lot not actually occupied by the improvements thereon, except such as are installed, improved, or made by Developer in connection with the Work, until the plans and specifications showing the nature, kind, shape, height, materials, locations, color, and approximate cost of the same shall have been submitted to, and approved by, the Architectural Control Committee in writing. The Committee's approval

shall not be required of any changes or alterations within a completely enclosed patio area, provided the same are not visible from the Common Area or any adjoining Lot, it being expressly intended that any landscaping within an enclosed patio area which is capable of attaining a height in excess of the patio fence installed by Developer shall be subject to Committee approval. No owner shall undertake any exterior maintenance of his Lot which is the duty of the Association, as hereinabove provided, without the prior approval of the Committee. No exterior door or glass surface shall be replaced by any Owner without the Committee's prior approval, unless the replacement is identical to that utilized by Developer in connection with the Work. Nothing shall be kept, placed, stored, or maintained upon the exterior of any Lot, including any portion of any Lot not enclosed by the improvements thereon, or upon the Common Area, without the Committee's prior approval. All applications to the Committee for approval of any of the foregoing shall be accompanied by plans and specifications or such other drawings or documentation as the Committee may require. In the event the Committee fails to approve or disapprove of an application within thirty (30) days after the same has been submitted to it, the Committee's approval shall be deemed to have been given. In all other events, the Committee's approval shall be in writing. If no application has been made to the Architectural Control Committee,

suit to enjoin or remove any structure, activity, use, change, alteration, or addition in violation of the prohibitions contained in this section may be instituted at any time, and the Association or any Owner may resort immediately to any other lawful remedy for such violation.

Section 4. Procedure. The Committee may, from time to time, adopt, promulgate, rescind, amend, and revise rules and regulations governing procedure in all matters within its jurisdiction. In the event the Board of Directors of the Association does not constitute itself the Architectural Control Committee, then the Board of Directors, in its discretion, may provide by resolution for appeal of decisions of the Architectural Control Committee to the Board of Directors, subject to such limitations and procedures as the Board deems advisable. The Board of Directors of the Association, or the Architectural Control Committee, may appoint one or more persons to make preliminary review of all applications to the Architectural Control Committee and report such applications to the Committee with such person's recommendations for Committee action thereon. Such preliminary review shall be subject to such regulations and limitations as the Board of Directors or the Architectural Control Committee deems advisable.

Section 5. Standards. No approval shall be given by the Association's Board of Directors or Architectural Control Committee pursuant to the provisions of this Article unless the

Board or Committee, as the case may be, determines that such approval shall: (a) assure harmony of external design, materials, and location in relation to surrounding buildings and topography within the properties; and (b) shall protect and conserve the value and desirability of the properties as a residential community; and (c) shall be consistent with the provisions of this Declaration; and (d) shall be in the best interests of the Association in maintaining the value and desirability of the Properties as a residential community.

Section 6. Developer Consent. So long as Developer is a Class "B" member of the Association, any and all actions of the Architectural Control Committee shall have the written approval of Developer unless such approval is waived in writing by Developer's authorized representative.

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the buildings upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or wilful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall

be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty and it is not covered by insurance, any Owner who has used the wall may restore it, and shall contribute to the cost of restoration thereof in proportion to their use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

(ARTICLE VIII DELETED)

ARTICLE IX

STAGE DEVELOPMENTS AND ANNEXATION

Section 1. Annexation without Association Approval. The additional lands described in Exhibit "C" attached hereto may

be annexed, in whole or in part, by Developer, and made subject to the governing provisions of this Declaration without the consent of the Class "A" members of the Association within five (5) years from the date of this instrument provided that, if an application for FHA mortgage insurance or VA mortgage guarantees has been made and not withdrawn, the FHA and VA determine that the annexation is in accord with the general plan for the properties approved by them.

Section 2. When Association Approval Required. If, within five (5) years from the date of this Declaration, an application for FHA mortgage insurance or VA mortgage guarantees has been made and not withdrawn, and the FHA or VA determines that Developers' detailed plan for the annexed property is not in accordance with the general plan on file with such agency, the annexation of all or any portion of the additional lands described in Exhibit "C" attached hereto must have the assent of two-thirds (2/3) of the Class "A" members of the Association who are present and voting in person or by proxy at a meeting duly called for such purpose, written notice of which is to be sent to all members not less than sixty (60) days nor more than ninety (90) days in advance of such meeting, setting forth

the purpose thereof. At this meeting, the presence of members or proxies entitled to cast at least sixty percent (60%) of all the votes of the Class A membership shall constitute a quorum. If the required quorum is not forthcoming at such meeting, another meeting may be called subject to the notice requirement hereinabove set forth; and the required quorum at any such subsequent meeting shall be members or proxies entitled to cast thirty percent (30%) of the votes of each class of membership. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. Developer retains the right to apply or not to apply, or to withdraw application, for either FHA mortgage insurance or VA mortgage guarantees at any time hereafter. Any annexation approved by the Class A members pursuant to the provisions of this Section shall be approved by the FHA or VA, or both, prior to the same becoming effective if, within five (5) years from the date of this Declaration, an application for FHA mortgage insurance or VA mortgage guarantees has been made and not withdrawn.

Section 3. Other Annexations. Annexations of any lands other than those described in Exhibit "C" attached hereto must have the approval of the Association, and the FHA and VA, if applicable and the procedures set forth in Section 2 of this Article shall apply to such annexations. The same shall become effective upon recording of an appropriate amendment to this Declaration in the Public Records of Hillsborough County, Florida, executed by the Association and the Owners of all interests in the lands annexed.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by, or pursuant to, the provisions of this Declaration; and the party enforcing the same shall have the right to recover all costs and expenses incurred, including reasonable attorney's fees. In the event the Association enforces the provisions hereof against any Owner, the costs and expenses of such enforcement, including reasonable attorney's fees, may be assessed against such Owner's Lot as a special assessment pursuant to the provisions hereof. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so at any time. If these restrictions are enforced by appropriate proceedings by any such Owner or Owners, such Owner or Owners may be reimbursed by the Association for all or any part of the costs and expenses incurred, including reasonable attorney's fees, in the discretion of the Board of Directors of the Association.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded in the Public Records of Hillsborough County, Florida, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first thirty (30) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy five percent (75%) of the Lot Owners, except as provided herein for annexation. Any amendment must be properly recorded in the Public Records of Hillsborough County, Florida.

Section 4. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration if application for FHA mortgage insurance or VA mortgage guarantees has been made and not withdrawn: Annexation of additional Properties, dedication of Common Area, and amendment of this Declaration.

Section 5. Effect of Recording. Any Lot situated within the real property described in Exhibit "A" attached hereto shall be deemed to be "subject to assessment," as such term is used in this Declaration, or in the Association's Articles of Incorporation or By-Laws, upon recording of this Declaration in the Public Records of Hillsborough County, Florida; and any Lot annexed pursuant to the provisions hereof shall be deemed "subject to assessment" upon recording of the Amendment to this Declaration in said Public Records annexing the same.

Section 6. Utility Service. Developer hereby dedicates those portions of the Common Area through which easements are hereinafter granted for use by all utilities for the construction and maintenance of their respective facilities servicing the lands described in Exhibit "C" attached hereto and here incorporated by reference; and Developer hereby grants to such utilities, jointly and severally, easements for such purpose. The location and extent of such easements shall be as shown on any recorded subdivision plat of the properties; and, in the absence of such designation by plat, such easements shall be located and extend 7.5 feet on either side of the centerline of all facilities respectively installed by each utility within the Common Area as part of the Work prior to the conveyance of the Common Area, or any portion thereof, by Developer to the Association; provided, however, no portion of the Common Area occupied by any building installed by Developer as part of the Work shall be included within any easement area. Subsequent to such conveyance,

additional easements may be granted by the Association for utility purposes in accordance with the requirements of Article II, Section 1(c) and Article X, Section 4, of this Declaration.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed this 21 day of November, 1973.

ATTEST:

(CORPORATE SEAL)

S/ William R. Garrett
Secretary

LaMONTE-SHIMBERG CORPORATION

By: S/ Glen Cross
Vice-President

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 21 day of November, 1973, by Glen Cross and William R. Garrett, respectively the Vice President and _____ Secretary of LaMONTE-SHIMBERG CORPORATION, a Delaware corporation, on behalf of the corporation.

My Commission Expires:

12/1/75

S/ Joseph Castello
NOTARY PUBLIC
(Affix Notarial Seal)

EXHIBIT "A"

All of BUCKHORN CREEK UNIT NO. 1, as per map or plat thereof recorded in Plat Book 45, Page 70, Public Records of Hillsborough County, Florida.

EXHIBIT "B"

Lots A, B, and C, BUCKHORN CREEK UNIT NO. 1, as per map or plat thereof recorded in Plat Book 45, Page 70, Public Records of Hillsborough County, Florida.

EXHIBIT "C"

The South 70 feet of the Northeast quarter of the Southwest quarter of Section 3, Township 30 South, Range 20 East, Hillsborough County, Florida, LESS the East 50 feet thereof;

AND

The East five-eighths of the South one-fourth of the West one-half of Section 3, Township 30 South, Range 20 East, Hillsborough County, Florida, LESS the West 225 feet of the East 275 feet of the North 170 feet of the South 200 feet thereof, ALSO LESS the North 90 feet of the South 290 feet of the West 135 feet of the East 185 feet thereof, ALSO LESS the South 50 feet thereof, ALSO LESS the East 50 feet thereof.

LESS AND EXCEPT

That portion of the above described property platted as BUCKHORN CREEK UNIT NO. 1, as per map or plat thereof recorded at Plat Book 45, Page 70, Public Records of Hillsborough County, Florida;

LESS AND EXCEPT

That portion of the above described property described as follows, to wit: from the Southeast corner of the West one-half of Section 3, Township 30 South, Range 20 East, Hillsborough County, Florida, run South 89° 45' 00" West 274.78 feet along the South boundary of said Section 3; thence North 00° 15' 00" West, 50.00 feet to the point of beginning; thence South 89° 45' 00" West, 1090.65 feet along a line 50.00 feet North of, and parallel to, the South boundary of said Section 3; thence North 42° 37' 59" East, 133.83 feet; thence North 06° 36' 06" East, 278.35 feet; thence North 39° 24' 02" East, 36.24 feet; thence North 63° 58' 36" East, 189.18 feet; thence North 36° 02' 43" East, 77.24 feet; thence South 53° 57' 17" East, 61.48 feet to the Westernmost corner of the above described plat of BUCKHORN CREEK UNIT NO. 1; lying on the Northwesterly right-of-way of Buckhorn Creek Road as shown on said plat; thence South 53° 57' 17" East, 60.00 feet; thence Northeasterly, 126.66 feet along the arc of a curve concave to the Southeast, and having a radius of 150.00 feet (chord bearing North 60° 14' 09" East, 122.93 feet); thence North 84° 25' 34" East, 223.86 feet; thence South 00° 40' 17" East, 239.76 feet; thence South 88° 40' 29" East, 389.10 feet; thence South, 155.80 feet; thence South 89° 45' 00" West, 90.00 feet; thence South, 150.00 feet to the Point of beginning.