

**AMENDMENT TO DECLARATION OF COVENANTS  
AND RESTRICTIONS FOR TIMBERLAND SUBDIVISION**

**THIS AMENDMENT** is made this \_\_\_ day of October, 2006 by the Timberland Development, LLC (“Developer”).

**WITNESSETH:**

**WHEREAS**, the Developer has submitted certain real property developed as Timberland Subdivision (“Subdivision”) to a Declaration of Covenants and Restrictions for Timberland Subdivision dated the 3rd day of January, 2006, which was recorded on the 4th day of January, 2006 as Document Number 2006-000176 in the Office of the Recorder of Porter County, Indiana (“Original Declaration”); and

**WHEREAS**, pursuant to Article X, Section 6 of the Original Declaration, the Original Declaration may be amended, modified, or terminated at any time and from time to time upon the execution and recordation of an instrument executed by Owners holding not less than 2/3rds of the voting interests in the subdivision and further provided that so long as Developer is the Owner, as defined therein, of any Lot or property affected by the Original Declaration, no amendment is effective without the Developer’s express joinder and consent; and

**WHEREAS**, the Developer is the owner more than 2/3rds of the Lots in the Subdivision and represents more than 2/3rds of the voting interests in the membership of the Subdivision; and

**WHEREAS**, the Developer desires to amend to the Original Declaration and to reaffirm said submission and intent that the Owners, mortgagees, occupants, and other persons or entities acquiring any interest in the property described in Article II, Section 1 of the Original Declaration shall hold their interest subject to the rights, easements, privileges, and restrictions hereinafter set forth and contained in the Original Declaration.

**NOW THEREFORE**, this Amendment is executed and placed of record in the Office of the Recorder of Porter County, Indiana to amend and modify the Original Declaration.

1. **Amendment of Article VII, Section 2.** The Developer does hereby amend the Original Declaration by deleting Article VII, Section 2 of the Original Declaration in its entirety and replacing the same with the following new Article VII, Section 2:

**Section 2. Temporary Buildings and Accessory Structures.** No tents, trailers, vans, shacks, tanks or temporary or accessory buildings or structures (“Accessory Structures”) shall be erected or permitted to remain on any Lot or in the Common Area without the written consent of the Committee. All approved Accessory Structures shall have siding, fascia doors and roofing materials and colors used in substantially the same proportion as utilized on the primary dwelling structure constructed on the Lot, to ensure that the appearance of the Accessory Structure is substantially similar to the primary dwelling. All Accessory Structures shall be located on a concrete pad with a minimum thickness of four (4) inches. Prior to the commencement of any construction or placement of any Accessory Structure on the Lot, the Owner or its agent shall submit detailed plans for the same to the Committee for its review consistent with the provisions of Article VII of the Declaration.

2. **Amendment of Article VII, Section 4.** The Developer does hereby amend the Original Declaration by deleting Article VII, Section 4 of the Original Declaration in its entirety and replacing the same with the following new Article VII, Section 4:

**Section 4. Trees.** Each Lot must have at least two (2) trees a two (2) inch diameter or greater growing upon said Lot in the front yard and at least two (2) trees a two (2) inch diameter or greater growing upon the parkway or right-of-way adjacent to the front yard of said Lot at the time an occupancy permit for the dwelling on such Lot is issued. Prior to the planting of any tree on a Lot, the Owner or its agent shall sufficiently detailed landscaping plans to the Committee for its review consistent with the provisions of Article VII of the Declaration. No tree shall be planted without the prior written consent of the Committee. Each Owner is solely responsible to contact all utility companies or service providers prior to planting trees or shrubs on the Lot. No tree or shrub, the trunk of which exceeds four (4) inches in diameter, shall be cut down or otherwise destroyed without the prior express written consent of the Committee. Tree diameter shall be measure at a point three (3) feet above grade adjoining the tree.

3. **Amendment of Article VII, Section 13.** The Developer does hereby amend the Original Declaration by deleting Article VII, Section 13 of the Original Declaration in its entirety and replacing the same with the following new Article VII, Section 13:

**Section 13. Free-Standing Yard Lights, Mailboxes and House Address Block.** The Developer or Committee shall designate, from time to time, a standard exterior free-standing light fixture to be located on all Lots within the Subdivision five (5) feet from the driveway and five (5) feet from the sidewalk. Each

dimension shall be measured on the same side of the driveway as the front door of the dwelling. Each Owner of a Lot in the Subdivision shall install the designated light fixture with a dusk to dawn photo cell on the Lot when the dwelling or house is constructed upon said Lot. The Owner shall maintain said light fixture at all times. The Developer or Committee shall designate, from time to time, standard mailbox to be located on all Lots within the Subdivision. All mailboxes shall be installed in accordance with the post office/post masters requirements for the Subdivision. The Owner of a Lot shall install and maintain as part of the original construction of the dwelling an address block dimensioned 16" x 8" which shall be located on the front exterior wall of the garage or the front wall of the dwelling immediately adjacent to the front door. The address block shall require the approval of the Committee prior to installation.

4. **Amendment of Article VII, Section 19.** The Developer does hereby amend the Original Declaration by deleting Article VII, Section 19 of the Original Declaration in its entirety and replacing the same with the following new Article VII, Section 19:

**Section 19. Diligence in Construction and Installation of Yard.** Every dwelling, house or other structure whose construction or placement on any Lot in the Subdivision is begun shall be completed within nine (9) months after the commencement of construction and the Lot sodded or seeded within one (1) year after commencement of construction. Commencement of construction shall mean the first date of excavation. All front yards and side yards shall be sodded and the rear yard shall be sodded or seeded. No improvement which has partially or totally been destroyed by fire, windstorm or other casualty shall be allowed to remain in such state for more than three (3) months from time of such destruction or damage.

5. **Amendment of Article VII, Section 25.** The Developer does hereby amend the Original Declaration by deleting Article VII, Section 25 of the Original Declaration in its entirety and replacing the same with the following new Article VII, Section 25:

**Section 25. Swimming Pools and Fences.** No swimming pool, fence or wall shall be permitted on any Lot without the same having first received the written approval from the Committee, the approval of which will be granted in the sole discretion of the Committee. All fencing shall be of a standard type designated by the Developer. In addition to submittal of plans and other review by the Committee, the Committee may establish standards and specifications for pools, fences and walls, which standards may be amended from time to time by the Committee. Notwithstanding the foregoing, no pool or fence shall be located in the front or side yard of any Lot and no fence shall be permitted which encloses only the area immediately surrounding a pool. All swimming pools must meet all

requirements of the local governmental authority with jurisdiction over the Subdivision.

6. **Amendment of Article X, Section 9.** The Developer does hereby amend the Original Declaration by deleting Article X, Section 9 of the Original Declaration in its entirety and replacing the same with the following new Article X, Section 9:

**Section 9. Erosion Control, Damage and Landscaping Deposit.** At closing on the acquisition of a Lot from the Developer or prior to the commencement of construction on the Lot, as determined by the Developer, the Owner of such Lot shall deposit Five Hundred Dollars (\$500.00) ("Compliance Deposit") for the Lot with the Developer to insure that erosion control required by the Developer is in place at all times, any damage to streets, parkways, entry or island, debris cleanup, mud removal from streets or other damage by the Owner or the Owner's builder or builder's subcontractors or suppliers shall be re-paved, repaired, replaced or cleaned up, and to ensure that landscaping as required by the covenants for the subdivision is completed. The Compliance Deposit shall only be refunded at the time the Developer determines the construction on the Lot, including landscaping, is complete less deductions equal to an amount incurred by the Developer or Association to correct damages or to satisfy costs incurred for erosion control measures, clean up and/or landscaping. If the costs to repair, replace or remove debris, install landscaping, maintain erosion control, and other matters related thereto, etc. exceed the Compliance Deposit, the amount in excess of the Compliance Deposit shall become a lien against the Lot which lien is enforceable in the same manner as a mechanic's lien.

7. **Scope and Effective Date.** This Amendment to Declaration of Covenants and Restrictions for Timberland Subdivision shall be effective as of the date of recording in the Office of the Recorder of Porter County, Indiana. Except as to those terms expressly modified by this Amendment to Declaration of Covenants and Restrictions for Timberland Subdivision, the Original Declaration shall remain in full force and effect.

**IN WITNESS WHEREOF**, the Developer has caused this Amendment to Declaration of Covenants and Restrictions for Timberland Subdivision to be executed on the date first written above.

Developer:

Timberland Development, LLC

By: \_\_\_\_\_

John C. Barko  
Member and Agent of Manager

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, the undersigned, a Notary Public for said County and State, personally appeared John C. Barko, Member and Agent of Manager of Timberland Development, LLC, and acknowledged the execution of the foregoing instrument to be his free and voluntary act. Signed and sealed this \_\_\_ day of October, 2006.

My Commission Expires:

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
County of Residence:  
\_\_\_\_\_

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.

\_\_\_\_\_  
William A. Ferngren

This Instrument Prepared By:  
William A. Ferngren  
Hoepfner Wagner & Evans LLP  
103 E. Lincolnway  
P.O. Box 2357  
Valparaiso, Indiana 46384  
(219) 464-4961

H:\HWE\14396 Madej\Timberland\covenants\_amendment\_2006-10-25.wpd