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Brian Meltzer
MELTZER, PURTILL & STELLE
1515 East Woodfield Road
Suite 250
Schaumburg, Illinois 60173-5431
(847) 330-2400

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DECLARATION FOR TIMBER TRAILS

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Ryland Homes
1051 Perimeter Drive, Suite 400
Schaumburg, IL 60173 63

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DECLARATION FOR TIMBER TRAILS

This Declaration is made by The Ryland Group, Inc., a Maryland corporation, its successors and assigns ("Declarant").

RECITALS

Declarant holds title to a portion of, and may acquire title to additional portions of, the Development Area which is legally described in Exhibit A hereto. Some or all of the Development Area shall be the subject of a phased development called "Timber Trails" (the "Development").

The Declarant has formed the Association under the Illinois General Not-For-Profit Corporation Act. The Association shall be responsible for administering and maintaining the Community Area and certain Association Maintained Municipal Land and shall set budgets and fix assessments to pay the expenses incurred in connection therewith. Each Owner of a Dwelling Unit and each Owner of an Unbuilt Dwelling Unit shall be a member of the Association and shall be responsible for paying assessments with respect to each Dwelling Unit and/or Unbuilt Dwelling Unit owned by such Owner.

If all of the Community Area is dedicated or conveyed to governmental agencies and a governmental agency accepts responsibility for maintenance of the Community Area and Association Maintained Municipal Land, then the Association may be dissolved as provided in Section 5.09 hereof.

During the construction and marketing of the Development, the Declarant shall retain certain rights set forth in this Declaration, which rights shall include, without limitation, the right, prior to the Turnover Date, to appoint all members of the Board, as more fully described in Article Nine, the right to come upon the Premises in connection with Declarant's efforts to sell portions of the Premises and other rights reserved in Article Nine.

The Declarant shall retain the right to approve any and all proposed construction and landscaping on the Premises or any modifications thereto and shall retain the power to adopt rules and regulations concerning the maintenance of the Premises (both improved and unimproved), all more fully provided in Section 9.07.

NOW, THEREFORE, the Declarant hereby declares as follows:

ARTICLE ONE Definitions

For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

1.01 ASSESSMENT POINTS: Each Dwelling Unit shall have assigned to it "Assessment Points" depending upon whether the Dwelling Unit is a Detached Home, a Townhome, or a Condominium Unit. Each Unbuilt Dwelling Unit shall have assigned to it "Assessment Points" depending upon whether the Unbuilt Dwelling Unit is planned to be a Detached Home, a Townhome, or a Condominium Unit pursuant to Declarant's Development Plan. The Assessment Points shall be used to determine assessments payable with respect to each Dwelling Unit and Unbuilt Dwelling Unit. Assessment Points shall be as follows:

<u>Type of Dwelling Unit or Unbuilt Dwelling Unit</u>	<u>Assessment Points</u>
Detached Home	4
Townhome	2
Condominium Unit	2

1.02 ASSOCIATION: The Timber Trails Homeowners Association, an Illinois not-for-profit corporation, its successors and assigns.

1.03 ASSOCIATION MAINTAINED MUNICIPAL LAND: Those portions of the Development Area which are designated as Association Maintained Municipal Land in Part V of Exhibit B hereto, as Exhibit B may be amended from time to time, together with all improvements thereon. The Association Maintained Municipal Land shall generally include retention and detention areas, landscaped areas, monument sign areas, and bicycle or jogging paths located in dedicated rights of way which serve the Development and improvements thereto made by Declarant and/or the Association. Association Maintained Municipal Land specifically excludes roadways, curbs and sidewalks and any improvements installed by the Municipality which are not part of Declarant's Development Plan.

1.04 BOARD: The board of directors of the Association, as constituted at any time or from time to time, in accordance with the applicable provisions of Article Five.

1.05 BY-LAWS: The By-Laws of the Association.

1.06 CHARGES: The Community Assessment, any special assessment levied by the Association and/or any other charges or payments which an Owner is required to pay or for which an Owner is liable under this Declaration or the By-Laws.

1.07 COMMUNITY AREA: Those portions of the Premises, if any, which legally described in Part II of Exhibit B hereto, as Exhibit B may be supplemented or amended from time to time.

1.08 COMMUNITY ASSESSMENT: The amounts which the Association shall assess and collect from the Owners to pay the Community Expenses and accumulate reserves for such expenses, as more fully described in Article Six.

1.09 COMMUNITY EXPENSES: The expenses of administration (including management and professional services), operation, maintenance, repair, replacement and

landscaping of the Community Area and Association Maintained Municipal Land; the cost of insurance for the Community Area; the cost of general and special real estate taxes levied or assessed against the Community Area owned by the Association; the cost of, and the expenses incurred for, the maintenance, repair and replacement of personal property acquired and used by the Association in connection with the maintenance of the Community Area and Association Maintained Municipal Land; and any expenses designated as Community Expenses by this Declaration.

1.10 CONDOMINIUM UNIT: A residential unit which is designated on Exhibit B as a "Condominium Unit".

1.11 COUNTY: Kane County, Illinois or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the County as of the Recording of this Declaration.

1.12 DECLARANT: The Ryland Group, Inc., a Maryland corporation, its successors and assigns.

1.13 DECLARANT'S DEVELOPMENT PLAN: Declarant's current plan for the Development. Declarant's Development Plan shall be maintained by the Declarant at its principal place of business in Illinois and may be changed at any time or from time to time without notice.

1.14 DECLARATION: This instrument with all Exhibits hereto, as amended or supplemented from time to time.

1.15 DETACHED HOME: A Detached Home Lot which is improved with a Dwelling Unit which is a detached home.

1.16 DETACHED HOME LOT: A lot which is designated on Exhibit B as a "Detached Home Lot".

1.17 DEVELOPMENT AREA: The real estate described in Exhibit A hereto with all improvements thereon and rights appurtenant thereto, as Exhibit A may be amended as provided in Section 10.01. Exhibit A is attached hereto for informational purposes only and no covenants, conditions, restrictions, easements, liens or changes shall attach to any part of the real estate described therein, except to the extent that portions thereof are described in Exhibit B and expressly made subject to the provisions of this Declaration as part of the Premises. Any portions of the Premises which are not made subject to the provisions of this Declaration as part of the Premises may be developed and used for any purposes not prohibited by law, including, without limitation, as a residential development which is administered separate from the Development.

1.18 DWELLING UNIT: A portion of the Premises which is improved with a single family residential unit for which a temporary, conditional or final certificate of occupancy has been issued by the Municipality. A Dwelling Unit may be a Condominium Unit, a subdivided

lot which is improved with a Detached Home or a Townhome, or a portion of a subdivided lot which is improved with a Townhome.

1.19 MORTGAGEE: The holder of a bona fide first mortgage, first trust deed or equivalent security interest covering a Dwelling Unit or an Unbuilt Dwelling Unit.

1.20 MUNICIPALITY: The Village of Gilberts, Illinois or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the Municipality as of the Recording of this Declaration.

1.21 NON-OWNER: A person other than an Owner or a Resident.

1.22 OWNER: A Record owner, whether one or more persons, of fee simple title to a Dwelling Unit, an Unbuilt Dwelling Unit, Platted Area or Unplatted Area, as the context requires.

1.23 PERSON: A natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.24 PLATTED AREA: Those portions of the Premises which from time to time are subject to a Recorded Subdivision Plat, with all improvements thereon and rights appurtenant thereto.

1.25 PREMISES: The real estate which is legally described in Exhibit B hereto, as Exhibit B may be supplemented or amended from time to time.

1.26 RECORD: To record in the office of the Recorder of Deeds for the County.

1.27 RESIDENT: An individual who legally resides in a Dwelling Unit.

1.28 SPECIAL DEVELOPMENT RIGHTS AREA. A portion of the Premises which is subject to Special Development Rights granted by the Declarant to a Special Development Rights Holder.

1.29 SPECIAL DEVELOPMENT RIGHTS HOLDER. A Person which acquires title to a Special Development Rights Area and to which Declarant grants Special Development Rights with respect to such Special Development Rights Area.

1.30 SPECIAL DEVELOPMENT RIGHTS. Any one or more of the following rights which may be granted by Declarant to a Special Development Rights Holder with respect to a Special Development Rights Area, pursuant to Article Twelve hereof:

(a) The right to construct homes and to temporarily store construction equipment and materials on such Special Development Rights Area;

(b) The right to construct and maintain model homes, temporary sales or leasing offices, temporary parking areas, signs, lighting, banners and other promotional materials and facilities on such Special Development Rights Area; and

(c) The right to use the Community Area for the purpose of showing the Premises to prospective purchasers of residential units within the Special Development Rights Area.

1.31 SUBDIVISION PLAT. A plat of subdivision which subdivides a portion of the Premises into lots and/or outlots.

1.32 TOWNHOME: A Townhome Lot or a portion of a Townhome Lot which is improved with a Dwelling Unit which is a townhome style home.

1.33 TOWNHOME LOT: A Lot which is designated on Exhibit B as a "Townhome Lot".

1.34 TURNOVER DATE: The date on which the right and power of the Declarant to designate the members of the Board is terminated under Section 9.05.

1.35 UNBUILT DWELLING UNIT: A portion of the Premises which is intended to be improved with a residential unit but with respect to which a temporary, conditional or final certificate of occupancy has not been issued by the Municipality. An Unbuilt Dwelling Unit may consist of a subdivided lot upon which a Detached Home may be constructed, a subdivided lot (or a portion of a subdivided lot) upon which a Townhome may be constructed or a subdivided or unsubdivided portion of the Premises upon which Condominium Units may be constructed. For purposes hereof, each portion of the Premises which, pursuant to Declarant's Development Plan, may be improved with residential units with respect to which a temporary, conditional or final certificate of occupancy have not yet been issued, shall be deemed to include that number of Unbuilt Dwelling Units which is equal to the number of residential units which are planned to be constructed thereon pursuant to the Declarant's Development Plan.

1.36 UNPLATTED AREA: Those portions of the Premises which from time to time have not been made subject to a Recorded Subdivision Plat.

1.37 VOTING MEMBER: An individual who shall be entitled to vote in person or by proxy at meetings of the Owners, as more fully set forth in Article Five.

ARTICLE TWO Scope of Declaration

2.01 PROPERTY SUBJECT TO DECLARATION: Declarant, as the owner of fee simple title to the Premises, expressly intends to and by Recording this Declaration, does hereby subject the Premises to the provisions of this Declaration. Declarant reserves the right and power to add real estate to the terms of this Declaration, as more fully provided in Article Thirteen.

2.02 CONVEYANCES SUBJECT TO DECLARATION: All covenants, conditions, restrictions, easements, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant, running with the land and shall at all times inure to the benefit of and be binding on any Person having at any time any interest or estate in any part of the Premises. Any deed of conveyance, lease, mortgage, trust deed, other evidence of obligation, or other instrument affecting a portion of the Premises shall be sufficient to create and reserve all of the covenants, conditions, restrictions, easements, reservations, liens, charges, rights, benefits and privileges which are granted, created, reserved, or declared by this Declaration, as fully and completely as though they were set forth in their entirety in any such document.

2.03 DURATION: Except as otherwise specifically provided herein the covenants, conditions, restrictions, easements, reservations, liens, and charges, which are granted, created, reserved or declared by this Declaration shall be appurtenant to and shall run with and bind the land for a period of forty (40) years from the date of Recording of this Declaration and for successive periods of ten (10) years each unless revoked, changed or amended in whole or in part by a Recorded instrument executed by the Owner of not less than three-fourths (3/4) of the Dwelling Units and Unbuilt Dwelling Units.

ARTICLE THREE

Community Area/Association Maintained Municipal Land/Maintenance Responsibilities

3.01 IN GENERAL: The restrictions and limitations contained in this Article shall be subject to the rights of the Declarant set forth in Article Nine.

3.02 OWNERSHIP: Community Area, if any, which is not part of a Dwelling Unit shall be conveyed to the Association free and clear of any mortgage or trust deed whatsoever on or before the Turnover Date; provided, that, if Added Community Area is made subject to this Declaration after the Turnover Date, such Added Community Area shall be conveyed to the Association free and clear of any mortgage or trust deed whatsoever within ninety (90) days after such Added Community Area is made subject to this Declaration.

3.03 RIGHT OF ENJOYMENT: Each Owner shall have the non-exclusive right and easement to use and enjoy the Community Area. Such rights and easements shall run with the land, be appurtenant to and pass with title to every Dwelling Unit, and shall be subject to and governed by the provisions of this Declaration, the By-Laws, and the reasonable rules and regulations from time to time adopted by the Association.

3.04 DELEGATION OF USE: Subject to the provisions of this Declaration, the By-Laws, and the reasonable rules and regulations from time to time adopted by the Association, any Owner may delegate his right to use and enjoy the Community Area and the Owner's Dwelling Unit to Residents of his Dwelling Unit. An Owner shall delegate such rights to tenants and contract purchasers of the Dwelling Unit who are Residents.

3.05 MAINTENANCE, REPAIR AND REPLACEMENT: The following maintenance, repairs and replacements shall be furnished by the Association as a Community Expense:

(a) added planting, replanting, care and maintenance of trees, shrubs, flowers, grass and all other landscaping on the Community Area and Association Maintained Municipal Land, including, without limitation, retention and detention areas located on the Association Maintained Municipal Land and landscaping located on cul de sacs in dedicated rights of way within the Development, but excluding any landscaping installed by the Municipality which is not part of Declarant's Development Plan;

(b) maintain community signage, bicycle paths and jogging paths located on Association Maintained Municipal Land, but excluding any improvements installed by the Municipality which are not part of Declarant's Development Plan;

(c) maintenance of the landscaping on those portions of Dwelling Units which are designated on a Subdivision Plat as a "Landscape Easement Area";

(d) maintenance, repair and replacement of all improvements from time to time located on the Community Area and Association Maintained Municipal Land, including, without limitation, storm water management facilities, gazebos, playsets, bicycle paths, jogging paths, monumentation and signage, but excluding any improvements installed by the Municipality which are not part of Declarant's Development Plan;

(e) maintenance of portions of the Community Area and Association Maintained Municipal Land, if any, which are designated as "wetlands" by the U.S. Army Corps of Engineers, which maintenance shall follow guidelines, if any, and the terms and conditions of any permits from time to time issued by the U.S. Army Corps of Engineers or any other governmental authority which has jurisdiction over maintenance of wetlands; and

(f) the Board, at its option, may cause the Association to maintain real estate other than Community Area, or Association Maintained Municipal Land and improvements thereto if the Board determines that such maintenance is necessary or advisable and the cost thereof shall be a Community Expense hereunder.

3.06 ALTERATIONS, ADDITIONS OR IMPROVEMENTS: Subject to the provisions of Article Nine and Article Twelve, no alterations, additions or improvements shall be made by any party, including the Municipality, to the Community Area, Association Maintained Municipal Land or Landscape Easement Areas without the prior approval of the Board and, if required under applicable Municipal ordinances, the approval of the Municipality. The Association may cause alterations, additions or improvements to be made to the Community Area or Association Maintained Municipal Land, and the cost thereof shall be paid from a special assessment, as more fully described in Section 6.05; except, that, any such alteration, addition or improvement which shall cost more than two (2) months assessments then in effect under the then current budget shall be approved in advance at a special meeting of the Owners.

3.07 BACKUP SSA: The Municipality may establish a Special Service Area, as what is commonly referred to as a "Backup Special Service Area", to give the Municipality the power to levy taxes to pay the cost of maintaining the Community Area, Association Maintained Municipal Land and improvements thereto, which are the primary responsibility of the

Association to maintain as provided in Section 3.05 above, if the Association fails to do so and the Municipality chooses to furnish such services.

ARTICLE FOUR
Insurance/Condemnation

4.01 COMMUNITY AREA INSURANCE:

(a) The Association shall have the authority to and shall obtain fire and all risk coverage insurance covering the improvements, if any, to the Community Area (based on current replacement cost for the full insurable replacement value) of such improvements.

(b) The Association shall have the authority to and shall obtain comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and workmen's compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Association, its directors and officers, the Declarant, the managing agent, if any, the Municipality and their respective employees and agents, as their interests may appear, from liability resulting from an occurrence on or in connection with, the Community Area or Association Maintained Municipal Land. The Board may, in its discretion, obtain any other insurance which it deems advisable including, without limitation, insurance covering the directors and officers from liability for good faith actions beyond the scope of their respective authorities and covering the indemnity set forth in Section 5.06. Such insurance coverage shall include cross liability claims of one or more insured parties.

(c) Fidelity bonds indemnifying the Association, the Board and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or of any other person handling funds of the Association may be obtained by the Association in such amounts as the Board may deem desirable.

(d) The premiums for any insurance obtained under this Section shall be Community Expenses.

4.02 CONDEMNATION: In the case of a taking or condemnation by competent authority of any part of the Community Area owned by the Association, the proceeds awarded in such condemnation shall be paid to the Association and such proceeds, together with any Community Area Capital Reserve being held for such part of the Community Area, shall, in the discretion of the Board, either (i) be applied to pay the Community Expenses, (ii) be distributed to the Owners and their respective Mortgagees, as their interests may appear, in equal shares, or (iii) be used to acquire additional real estate to be used and maintained for the mutual benefit of all Owners, as Community Area under this Declaration. Any acquisition by the Association pursuant to this Section of real estate which shall become Community Area hereunder shall not become effective unless and until a supplement to this Declaration, which refers to this Section and legally describes the real estate affected, is executed by the President of the Association and Recorded.

ARTICLE FIVE
The Association

5.01 **IN GENERAL**: Declarant has caused the Association to be incorporated as a not-for-profit corporation under Illinois law. The Association shall be the governing body for all of the Owners for the limited purposes of the administration, operation, maintenance, repair and replacement of the Community Area, Association Maintained Municipal Land, and Landscape Easement Areas, as provided herein, or to exercise any powers transferred to the Association by Declarant under Section 9.07.

5.02 **MEMBERSHIP** Each Owner shall be a member of the Association. There shall be one membership per Dwelling Unit and one membership per Unbuilt Dwelling Unit. Membership shall be appurtenant to and may not be separated from ownership of a Dwelling Unit or an Unbuilt Dwelling Unit. Ownership of a Dwelling Unit or an Unbuilt Dwelling Unit shall be the sole qualification for membership. The Association shall be given written notice of the change of ownership of a Dwelling Unit or an Unbuilt Dwelling Unit within ten (10) days after such change.

5.03 **VOTING MEMBERS**: Subject to the provisions of Section 5.05, voting rights of the members of the Association shall be vested exclusively in the Voting Members. One individual shall be designated as the "Voting Member" for each Dwelling Unit and each Unbuilt Dwelling Unit. The Voting Member or his proxy shall be the individual who shall be entitled to vote at meetings of the Owners. If the Record ownership of a Dwelling Unit or an Unbuilt Dwelling Unit shall be in more than one person, or if an Owner is a trustee, corporation, partnership or other legal entity, then the Voting Member for the Dwelling Unit or the Unbuilt Dwelling Unit shall be designated by such Owner or Owners in writing to the Board and if in the case of multiple individual Owners no designation is given, then the Board at its election may recognize an individual Owner of the Dwelling Unit or the Unbuilt Dwelling Unit as the Voting Member for such Dwelling Unit.

5.04 **BOARD**: Subject to the rights retained by the Declarant under Section 9.05, the Board shall consist of that number of members provided for in the By-Laws, each of whom shall be an Owner or Voting Member.

5.05 **VOTING RIGHTS**: Prior to the Turnover Date, all of the voting rights at each meeting of the Association shall be vested exclusively in the Declarant and the Owners (other than Declarant) shall have no voting rights. From and after the Turnover Date, all of the voting rights at any meeting of the Association shall be vested in the Voting Members and each Voting Member shall have one vote for each Dwelling Unit and each Unbuilt Dwelling Unit which the Voting Member represents. From and after the Turnover Date any action may be taken by the Voting Members at any meeting at which a quorum is present (as provided in the By-Laws) upon the affirmative vote of a majority of the votes held by the Voting Members present at such meeting, except as otherwise provided herein or in the By-Laws.

5.06 **DIRECTOR AND OFFICER LIABILITY**: Neither the directors nor the officers of the Association shall be personally liable to the Owners for any mistake of judgment or for any

other acts or omissions of any nature whatsoever as such directors and officers except for any acts or omissions found by a court to constitute criminal conduct, gross negligence or fraud. The Association shall indemnify and hold harmless each of the directors and officers, and his or her heirs, executors or administrators, against all contractual and other liabilities to others arising out of contracts made by or other acts of the directors and officers on behalf of the Owners or the Association or arising out of their status as directors or officers unless any such contract or act shall have been made criminally, fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other in which any such director may be involved by virtue of such person being or having been such director or officer; provided, however, that such indemnity shall not be operative with respect to (i) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for criminal conduct, gross negligence or fraud in the performance of his duties as such director or officer, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such person being adjudged liable for criminal conduct, gross negligence or fraud in the performance of his duties as such director or officer.

5.07 MANAGING AGENT: An independent managing agent may be engaged by the Association to act as the managing agent for the Association and as managing agent shall be paid a reasonable fee for its services as fixed by a written agreement between the Association and managing agent. Any management agreement entered into by the Association prior to the Turnover Date shall have a term of not more than two years and shall be terminable by the Association without payment of a termination fee on ninety (90) days written notice.

5.08 LITIGATION: No judicial or administrative proceedings shall be commenced or prosecuted by the Association without first holding a special meeting of the members and obtaining the affirmative vote of Voting Members representing at least seventy-five percent (75%) of the total votes to the commencement and prosecution of the proposed action. This Section shall not apply to (a) actions brought by the Association to enforce the provisions of this Declaration, the By-Laws or rules and regulations adopted by the Board (including, without limitation, an action to recover Charges or to foreclose a lien for unpaid Charges) or (b) counterclaims brought by the Association in proceedings instituted against it.

5.09 DISSOLUTION: Although it is currently anticipated that the Association will own and maintain the Community Area, and maintain the Association Maintained Municipal Land, it is possible that a governmental agency may accept a dedication or conveyance of all of the Community Area and accept responsibility for maintenance of the Community Area and Association Maintained Municipal Land. If that occurs and the Association has no maintenance responsibilities, then at the option of the Declarant (which may be exercised at any time prior to the Turnover Date) or at the option of the members of the Association (which may be exercised by action of the members after the Turnover Date), the Association shall be dissolved and liquidated and thereafter the provisions of this Declaration which deal with the powers and duties of the Association shall be null and void and of no further force and effect. Any distribution of

assets of the Association shall be made to the Owners of Dwelling Units and Unbuilt Dwelling Units in the same proportions as assessments are then payable hereunder.

5.10 ATTENDANCE AT BOARD MEETINGS BY OWNERS: Owners may attend meetings of the Board only if, and to the extent, permitted by the Board in its discretion. It is not the intention that Owners shall have the right to attend meetings of the Board in the same manner as provided for members of condominium associations under the Illinois Condominium Property Act. Without limiting the foregoing, if requested by the Municipality, notice shall be given to the Municipality of meetings of the Board and a representative of the Municipality may attend any meeting of the Board (other than executive sessions).

ARTICLE SIX Assessments

6.01 PURPOSE OF ASSESSMENTS: The assessments levied by the Association shall be limited to the purposes of maintaining the Community Area and Association Maintained Municipal Land, administering the affairs of the Association, paying the Community Expenses, and accumulating reserves for any such expenses.

6.02 COMMUNITY ASSESSMENT: Each year on or before December 1, the Board shall adopt and furnish each Owner with a budget for the ensuing calendar year, which shall show the following with reasonable explanations and itemizations:

- (1) The estimated Community Expenses;
- (2) The amount to be added to the Capital Reserve;
- (3) The estimated net available cash receipts from sources other than assessments, plus estimated excess funds, if any, from the current year's assessments;
- (4) The amount of the "Community Assessment" payable by the Owners, which is hereby defined as the amount determined in (1) above, plus the amount determined in (2) above, minus the amount determined in (3) above;
- (5) That portion of the Community Assessment which shall be payable with respect to the ensuing calendar year by the Owner of each Dwelling Unit and each Unbuilt Dwelling Unit which is subject to assessment hereunder, which shall be equal to the Community Assessment multiplied by a fraction, the numerator of which shall be the Assessment Points assigned to the Dwelling Unit or Unbuilt Dwelling Unit in question and the denominator of which shall be the total number of Assessment Points assigned to all Dwelling Units and Unbuilt Dwelling Units then subject to assessment hereunder.

Anything herein to the contrary notwithstanding the following provisions shall apply with respect to the period prior to the Turnover Date. Any budget ("Built Out Budget") prepared and Community Assessments determined thereunder by the Board prior to the Turnover Date shall be based on the assumptions that (i) the Development has been fully constructed in accordance with Declarant's Development Plan and (ii) all proposed dwelling units have been constructed in

accordance with Declarant's Development Plan, are sold and are occupied. Prior to the Turnover Date, each Owner of a Dwelling Unit or Unbuilt Dwelling Unit (other than the Declarant) shall pay as the Owner's share of the Community Assessment each year the amount determined under (5) above pursuant to the Built Out Budget for such year. Declarant shall not be obligated to pay any Community Assessments to the Association with respect to the period prior to the Turnover Date. However, if with respect to the period commencing on the date of the Recording of this Declaration and ending on the Turnover Date, the amount of Community Assessments and working capital payments under Section 6.07 payable by Owners (other than Declarant) less the portions thereof, if any, which are to be added to the Capital Reserves or deposited in the Association Special Reserve Account (referred to in Section 6.07 below) is less than the Community Expenses actually incurred with respect to such period, then the Declarant shall pay the difference to the Association. From time to time prior to the Turnover Date, the Declarant shall deposit with the Association amounts which reasonably approximate Declarant's obligation hereunder, as estimated by the Declarant. A final accounting and settlement of the amount, if any, owed by Declarant to the Association shall be made as soon as practicable after the Turnover Date.

6.03 PAYMENT OF COMMUNITY ASSESSMENT: Each Owner of a Dwelling Unit or Unbuilt Dwelling Unit which is subject to assessment shall pay to the Association, or as the Board may direct, that portion of the Community Assessment which is payable by each Owner of a Dwelling Unit or Unbuilt Dwelling Unit under Section 6.02, at such times as the Board shall determine from time to time. For purposes hereof, a Dwelling Unit shall not be subject to assessment hereunder unless and until a temporary, conditional or final certificate of occupancy is issued with respect thereto by the Municipality.

6.04 REVISED ASSESSMENT: If after the Turnover Date the Community Assessment proves inadequate for any reason (including nonpayment of any Owner's assessment) or proves to exceed funds reasonably needed, then the Board may increase or decrease the assessment payable under Section 6.02 by giving written notice thereof (together with a revised budget and explanation for the adjustment) to each Owner not less than ten (10) days prior to the effective date of the revised assessment.

6.05 SPECIAL ASSESSMENT: The Board may levy a special assessment as provided in this Section (i) to pay (or build up reserves to pay) expenses other than Community Expenses incurred (or to be incurred) by the Association from time to time for a specific purpose including, without limitation, to make alterations, additions or improvements to the Community Area, Association Maintained Municipal Land, or any other property owned or maintained by the Association; or (ii) to cover an unanticipated deficit under the prior year's budget. Any special assessment shall be levied against all of Dwelling Units and Unbuilt Dwelling Units in using the procedure provided for in Section 6.02. No special assessment shall be adopted without the affirmative vote of Voting Members representing at least two-thirds (2/3) of the votes cast on the question. The Board shall serve notice of a special assessment on all Owners by a statement in writing giving the specific purpose and reasons therefor in reasonable detail, and the special assessment shall be payable in such manner and on such terms as shall be fixed by the Board. Any assessments collected pursuant to this Section (other than those to cover an unanticipated deficit under the prior year's budget) shall be segregated in a special account and used only for the specific purpose set forth in the notice of assessment.

6.06 CAPITAL RESERVE: The Association shall segregate and maintain special reserve accounts to be used solely for making capital expenditures in connection with the Community Area, Association Maintained Municipal Land and other property owned or maintained by the Association (the "Capital Reserve"). The Board shall determine the appropriate level of the Capital Reserve based on a periodic review of the useful life of improvements to the Community Area, Association Maintained Municipal Land and other property owned or maintained by the Association and periodic projections of the cost of anticipated major repairs or replacements to such property and the purchase of other property to be used by the Association in connection with its duties hereunder. The Association may from time to time use funds in the Capital Reserves to make capital expenditures as and when required.

6.07 INITIAL CONTRIBUTION: Upon the closing of the first sale of a Dwelling Unit or an Unbuilt Dwelling Unit by the Declarant to a purchaser for value, the purchasing Owner shall pay to the Association in an amount equal to the greater of (i) \$240.00 or (ii) one-fourth (three months) of the annual Community Assessment at the rate which shall become effective with respect to the Dwelling Unit or Unbuilt Dwelling Unit as of the closing. Fifty dollars (\$50.00) of such amount shall be deposited into a special account at a federally insured bank which shall be maintained in the name of the Association, to be known as the "Association Special Reserve Account." Withdrawals from the Association Special Reserve Account shall only be permitted upon the joint signature of the Treasurer of the Municipality and the President of the Association; provided that if the Municipality declares a default in the maintenance of the Community Area and/or Association Maintained Municipal Land and declares its intention to levy a tax for the Special Service Area described in paragraph 3.07 hereof, and so certifies to the bank, the Municipality shall have the right to withdraw funds from the Association Special Reserve Account for the sole purpose of paying for services deemed reasonably necessary by the Municipality to cure such failure. The Association Special Reserve Account may be terminated at any time by agreement of the Municipality and the Association; and thereupon the funds in the account shall be deposited in the Association's Capital Reserve Account. The balance of the payment made upon the closing of the first sale of a Dwelling Unit under this Section 6.07 shall be held and used by the Association for its working capital needs.

6.08 PAYMENT OF ASSESSMENTS: Assessments levied by the Association shall be collected from each Owner by the Association and shall be a lien on the Owner's Dwelling Unit or Unbuilt Dwelling Unit and also shall be a personal obligation of the Owner in favor of the Association, all as more fully set forth in Article Seven.

ARTICLE SEVEN

Collection of Charges and Remedies for Breach or Violation

7.01 CREATION OF LIEN AND PERSONAL OBLIGATION: The Declarant hereby covenants, and each Owner of a Dwelling Unit or Unbuilt Dwelling Unit by acceptance of a deed therefor (whether or not it shall be so expressed in any such deed or other conveyance), shall be and is deemed to covenant and hereby agrees to pay to the Association all Charges made with respect to the Owner on the Owner's Dwelling Unit and/or Unbuilt Dwelling Units, as applicable. Each Charge, together with interest thereon and reasonable costs of collection, if any, as

hereinafter provided, shall be a continuing lien upon the Dwelling Unit or Unbuilt Area against which such Charge is made and also shall be the personal obligation of the Owner of the Dwelling Unit or Unbuilt Dwelling Unit at the time when the Charge becomes due. The lien or personal obligation created under this Section shall be in favor of and shall be enforceable by the Association.

7.02 COLLECTION OF CHARGES: The Association shall collect from each Owner all Charges payable by such Owner under this Declaration.

7.03 NON-PAYMENT OF CHARGES: Any Charge which is not paid to the Association when due shall be deemed delinquent. Any Charge which is delinquent for thirty (30) days or more shall bear interest at the rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less, from the due date to the date when paid. The Association may (i) bring an action against the Owner personally obligated to pay the Charge to recover the Charge (together with interest, costs and reasonable attorney's fees for any such action, which shall be added to the amount of the Charge and included in any judgment rendered in such action), and (ii) enforce and foreclose any lien which it has or which may exist for its benefit. In addition, the Board may add a reasonable late fee to any installment of an assessment which is not paid within thirty (30) days of its due date. No Owner may waive or otherwise escape personal liability for the Charges hereunder by nonuse of the Community Area or by abandonment or transfer of his Dwelling Unit or portion of the Premises which includes Unbuilt Dwelling Units.

7.04 LIEN FOR CHARGES SUBORDINATED TO MORTGAGES: The lien for Charges, provided for in Section 7.01, shall be subordinate to the Mortgagee's mortgage on the Dwelling Unit or Unbuilt Dwelling Unit which was Recorded prior to the date that any such Charge became due. Except as hereinafter provided, the lien for Charges, provided for in Section 7.01, shall not be affected by any sale or transfer of a Dwelling Unit or Unbuilt Dwelling Unit. Where title to a Dwelling Unit or Unbuilt Dwelling Unit is transferred pursuant to a decree of foreclosure of the Mortgagee's mortgage or by deed or assignment in lieu of foreclosure of the Mortgagee's mortgage, such transfer of title shall extinguish the lien for unpaid Charges which became due prior to the date of the transfer of title. However, the transferee of the Dwelling Unit or Unbuilt Dwelling Unit shall be personally liable for his share of the Charges with respect to which a lien against his Dwelling Unit or Unbuilt Dwelling Unit has been extinguished pursuant to the preceding sentence where such Charges are reallocated among all the Owners pursuant to a subsequently adopted annual or revised Community Assessment or special assessment, and non-payment thereof shall result in a lien against the transferee's Dwelling Unit, as provided in this Article.

7.05 SELF-HELP BY BOARD: In the event of a violation or breach by an Owner of the provisions, covenants or restrictions of the Declaration, the By-Laws, or rules or regulations of the Board, where such violation or breach may be cured or abated by affirmative action, then the Board, upon not less than ten (10) days' prior written notice to the Owner, shall have the right to enter upon that part of the Premises where the violation or breach exists to remove or rectify the violation or breach; provided, that, if the violation or breach exists within a Dwelling Unit, judicial proceedings must be instituted before any items of construction can be altered or demolished.

7.06 OTHER REMEDIES OF THE BOARD: In addition to or in conjunction with the remedies set forth above, to enforce any of the provisions contained in this Declaration or any rules and regulations adopted hereunder the Board may levy a fine or the Board may bring an action at law or in equity by the Association against any person or persons violating or attempting to violate any such provision, either to restrain such violation, require performance thereof, to recover sums due or payable or to recover damages or fines, and against the land to enforce any lien created hereunder; and failure by the Association or any Owner to enforce any provision shall in no event be deemed a waiver of the right to do so thereafter.

7.07 COSTS AND EXPENSES: All costs and expenses incurred by the Board in connection with any action, proceedings or self-help in connection with exercise of its rights and remedies under this Article, including, without limitation, court costs, attorneys' fees and all other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less, until paid, shall be charged to and assessed against the defaulting Owner, and the Association shall have a lien for all the same, upon his Dwelling Unit or Unbuilt Dwelling Unit as provided in Section 7.01.

7.08 ENFORCEMENT BY OWNERS: Enforcement of the provisions contained in this Declaration and the rules and regulations adopted hereunder may be by any proceeding at law or in equity by any aggrieved Owner against any person or persons violating or attempting to violate any such provisions, either to restrain such violation or to recover damages, and against a Dwelling Unit or Unbuilt Dwelling Unit to enforce any lien created hereunder.

ARTICLE EIGHT

Restrictions

8.01 RESTRICTIONS: No industry, business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Community Area. Each Dwelling Unit shall be used only for residential purposes, as a private residence, and no professional, business or commercial use shall be made of the same or any portion thereof, nor shall any resident's use of a Dwelling endanger the health or disturb the reasonable enjoyment of any other Owner or Resident, except that professional and quasi-professional persons may use their Dwelling Unit as an ancillary or secondary facility to an office elsewhere. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a resident from: (a) maintaining his personal professional library; (b) keeping his personal business or professional records or accounts; or (c) handling his personal business or professional telephone calls or correspondence. Such uses are expressly declared customarily incident to the principal residential use and not in violation of said restrictions.

8.02 SIGNS: Subject to the provisions of Article Nine, no sign of any kind shall be maintained or permitted on any part of the Premises, except as permitted by the Board.

8.03 OBSTRUCTIONS: Except as permitted under Article Nine, there shall be no obstruction of the Community Area. No Owner shall store any items or materials in the Community Area without the prior written consent of the Board.

8.04 PETS: No animal of any kind shall be raised, bred or kept in any part of the Premises; provided that common household pets shall be permitted in Dwelling Units subject to rules and regulations adopted from time to time by the Board. The Board may from time to time adopt rules and regulations governing the use of the Community Area by pets. Any pet causing or creating a nuisance or unreasonable disturbance to an Owner shall be permanently removed from the Premises upon three (3) days written notice from the Board to the Owner of the Dwelling Unit containing such pet and the decision of the Board shall be final.

8.05 PROSCRIBED ACTIVITIES: No noxious or offensive activity shall be carried on in the Premises nor shall anything be done therein, either willfully or negligently, which may be or become an unreasonable annoyance or nuisance to the Residents. There shall be no swimming, fishing, boating, ice skating or use of personal flotation devices in or on any lake or detention area on the Community Area, it being intended that such areas shall be aesthetic amenities only and shall not be used for active recreational purposes.

8.06 PROHIBITED USES AND STRUCTURES: Unless permitted by the Board, no clothes, sheets, blankets, laundry of any kind or other articles shall be hung out on any portion of the Premises. Except as specifically provided in Section 8.08 hereof, no antennae or satellite dish shall be constructed or erected on any portion of the Premises outside of a building without the prior written approval of the Board. The Premises shall be kept free and clear of all rubbish, debris and other unsightly materials and no waste shall be committed thereon. All rubbish shall be deposited in such areas and such receptacles as shall be designated by the Board. Except for garbage pick up days, all garbage cans shall be kept inside garages or other structures approved by the Board.

8.07 PARKING: No boats, trailers, trucks (which have "D" or equivalent plates, more than two (2) axles, more than four (4) tires and/or a gross weight when fully loaded in excess of 8,000 pounds), recreational vehicles or similar vehicles shall be stored or parked overnight on any portion of the Premises (other than inside a garage) except as permitted under rules and regulations adopted by the Board. Except for emergencies, no repair or body work to a vehicle shall be performed except within the confines of a garage.

8.08 ANTENNAE: Subject to applicable federal, state and local laws, ordinances and regulations, no communication antenna, receiving dish or similar devices shall be installed on the exterior of a Dwelling Unit; however, one (1) satellite dish of not more than eighteen (18) inches in diameter may be installed on the exterior of a Detached Home, a Condominium Unit or a Townhome, provided that it is not visible from the street, and, with respect to a Townhome or Condominium Unit, the Owner and such satellite dish comply with the terms and conditions, if any, set forth in any declaration of Record with respect to such Townhome or Condominium Unit and the rules and regulations promulgated thereunder.

8.09 CONSTRUCTION STANDARDS AND RESTRICTIONS/DETACHED HOME LOTS: Without limiting the rights and powers provided for in Section 9.07, the following construction standards shall apply to Detached Home Lots:

(a) No structure commonly known as an "above ground swimming pool" shall be constructed on any Detached Home Lot; provided, that, this restriction shall not apply to a structure commonly known as a "hot tub" or "jacuzzi" which is built into a deck and is not visible from the front of the home or from homes located on adjacent Detached Home Lots, provided, that any such structure is approved, in advance, by the holder, if any, of rights under Section 9.07 or, if there is no such holder, the Board.

(b) No temporary or permanent outbuilding, accessory building or other structure, including, without limitation, a storage shed, greenhouse, non-wood play set, fountain, or trailer shall be constructed, installed or maintained on a Detached Home Lot; provided, that, a deck, gazebo, wood playset or fence (other than a fence which is specifically permitted under (c) below) may be constructed on a Detached Home Lot with the approval, in advance, of the holder, if any, of the rights under Section 9.07 or, if there is not such holder, the Board.

(c) Those Detached Home Lots which have either rear or side lot lines adjacent to (i) Timber Trails Boulevard, (ii) landscape outlots or easements which are adjacent to Timber Trails Boulevard or (iii) landscape outlots or easements adjacent to Big Timber Road may be improved with a fence which is consistent in design, color and material to those fences utilized in the landscape outlots adjacent to Big Timber Road, subject to the approval, in advance, of the holder of rights under Section 9.07 or, if there is no such holder, the Board. Any other Detached Home Lot may be improved with a fence on that portion of the Detached Home Lot which is between the rear lot line and the back of the home provided that the fence conforms to the following specifications:

- (i) Western Red Cedar, board on board (shadow box) fence;
- (ii) Height to comply with municipal codes, but not exceeding five (5) feet in height from the finished grade of the lot as approved by the Municipality;
- (iii) 1 x 6 boards, spaces edge-to-edge and back-to-back to comply with percent open and closed per municipal ordinance;
- (iv) 4 x 4 posts with wood (cedar) cap, set 42" into ground and 8 feet +/- on center, with concrete footings;
- (v) Two 2 x 4 back rails (1-1/2" wide); one at the top of the boards and one 12" up from bottom of the boards; and
- (vi) 1 x 4 top cap, centered on boards.

ARTICLE NINE
Declarant's Reserved Rights and
Special Provisions Covering Development Period

9.01 IN GENERAL: In addition to any rights or powers reserved to the Declarant under the provisions of this Declaration or the By-Laws, the Declarant shall have the rights and powers

set forth in this Article. Anything in this Declaration or the By-Laws to the contrary notwithstanding, the provisions set forth in this Article shall govern. If not sooner terminated as provided in this Article, the provisions of this Article shall terminate and be of no further force and effect from and after such time as Declarant is no longer vested with or controls title to any portion of the Development Area.

9.02 PROMOTION OF PROJECT: In connection with the promotion, sale or rental of any improvements upon the Premises or other developments being developed by Declarant, the Declarant shall have the right and power, within its sole discretion, (i) to construct such temporary or permanent improvements, or to do such acts or other things in, on, or to the Premises as the Declarant may, from time to time, determine to be necessary or advisable, including, without limitation, the right to construct and maintain model Dwelling Units, sales or leasing offices, parking areas, advertising signs, lighting and banners, or other promotional facilities at such locations and in such forms as the Declarant may deem advisable or (ii) to the extent not prohibited by law, to come upon any portion of the Premises for the purpose of showing the property to prospective purchasers or lessees of Dwelling Units within the Development Area or at other locations in the general area which are being offered for sale by Declarant or any of its affiliates, all without the payment of any fee or charge whatsoever other than the assessments payable by the Declarant with respect to Dwelling Units owned by the Declarant. The Declarant shall have a non-exclusive access easement over and across the roads and walkways located within the on the Premises for ingress and egress to and from those portions of the Development Area which have not been made subject to this Declaration in order to exercise the rights reserved under this Article.

9.03 CONSTRUCTION ON PREMISES: In connection with the construction of improvements to any part of the Premises, the Declarant, its agents and contractors, shall have the right, at the Declarant's own expense, (but shall not be obligated) to make such alterations, additions or improvements to any part of the Premises including, without limitation, the construction, reconstruction or alteration of any temporary or permanent improvements to any structure which shall contain Dwelling Units, the Community Area, and Association Maintained Municipal Land which the Declarant deems, in its sole discretion, to be necessary or advisable, and the landscaping, sodding or planting and replanting of any unimproved portions of the Premises and Association Maintained Municipal Land. In connection with the rights provided in the preceding sentence, the Declarant, its agents and contractors, shall have the right of ingress, egress and parking on the Premises and the right to store construction equipment and materials on the Premises without the payment of any fee or charge whatsoever.

9.04 GRANT OF EASEMENTS AND DEDICATIONS: Declarant shall have the right to dedicate portions of the Premises to the County, the Municipality or any other governmental authority which has jurisdiction over such portions. Declarant shall also have the right to reserve or grant easements over the Premises to any governmental authority, public utility or private utility for the installation and maintenance of electrical and telephone conduit and lines, gas, sewer or water lines, or any other utility services serving any Dwelling Unit provided, that any easement granted or reserved shall not result in the reduction of the number of homes which may be built on any portion of the Unplatted Area which is not owned by Declarant.

9.05 DECLARANT CONTROL OF ASSOCIATION: The first and all subsequent Boards shall consist solely of three (3) persons from time to time designated by the Declarant, which persons may, but need not, be members under Section 5.02. Declarant's rights under this Section to designate the members of the Board shall terminate on the first to occur of (i) such time as Declarant no longer holds or controls title to any part of the Premises, (ii) the giving of written notice by Declarant to the Association of Declarant's election to terminate such rights, or (iii) fifteen (15) years from the date of Recording hereof. The date on which the Declarant's rights under this Section shall terminate shall be referred to as the "Turnover Date". From and after the Turnover Date, the Board shall be constituted and elected as provided in the By-Laws. Prior to the Turnover Date all of the voting rights at each meeting of the Owners shall be vested exclusively in the Declarant and the Owners shall have no voting rights.

9.06 OTHER RIGHTS: The Declarant shall have the right and power to execute all documents and do all other acts and things affecting the Premises which, in Declarant's opinion, are necessary or desirable in connection with the rights of Declarant under this Declaration.

9.07 DESIGN AND MAINTENANCE CONTROLS:

(a) The Declarant shall have the right and power from time to time to adopt reasonable rules, regulations, guidelines, and standards governing the design and exterior finish (including color) of all improvements or landscaping from time to time constructed, installed or proposed to be constructed, installed or modified on the Premises. Without limiting the foregoing, no earthmoving, filling, dredging, grading, excavating, installation of landscaping, alteration of landscaping, construction of a building, driveway, walkway, fence, signs or other advertising or promotional devices or any other temporary or permanent improvement to any portion of the Premises or any modification, alteration, renovation, addition or removal of any of the foregoing, including change of exterior color ("Regulated Work") shall be commenced or maintained with respect to any portion of the Premises without the prior written consent of the Declarant to the plans therefor, which consent may be granted or withheld in Declarant's sole and absolute discretion. The Declarant reserves the right and power to promulgate and amend from time to time standards, policies, procedures and guidelines in order to implement the foregoing. If any Regulated Work which requires Declarant approval as provided above is commenced without obtaining the required written consent of the Declarant, then the Declarant may seek any remedy or take any action provided for herein or permitted at law or in equity in order to enforce the provisions hereof, including injunctive relief to stop work and/or restore the portion of the Premises to its condition prior to the commencement of the work.

(b) The Declarant shall have the right and power from time to time to adopt rules, regulations, guidelines, and standards governing the maintenance and upkeep of portions of the Premises, including without limitation, improvements thereto, signs, advertising and landscaping thereon. Without limiting the foregoing, those portions of the Premises on which construction of improvements has not yet commenced shall at all times be maintained in a neat and clean condition and all weeds shall be periodically cut. If in the sole judgment of the Declarant a portion of the Premises is not being maintained in good condition and repair or the appearance of any such portion of the Premises is not of the character and quality of that of other portions of the Premises or is not in compliance with rules, regulations, guidelines, and standards adopted from time to time by the Declarant, then without limiting any rights or remedies available to the

Declarant hereunder, at law or in equity, Declarant shall have the right to enter upon any such portion of the Premises and perform any maintenance or repair work which it deems necessary or appropriate. The cost of any such work shall be charged to the Owner or party responsible for maintenance of such portion of the Premises if different from the Owner, and shall be payable to the Declarant upon demand. In the event that the party charged for such work fails to make prompt payment of any such amount within thirty (30) days after demand, such amount shall become and continue to be a lien upon the portion of the Premises owned by such party until such time as payment is made in full; provided, that any such lien shall be subordinate to the lien of any First Mortgage on a Dwelling Unit or Unbuilt Dwelling Unit Recorded prior to the date on which any such amount becomes a lien against a Dwelling Unit or Unbuilt Dwelling Unit as provided above.

(c) Any one or more of the rights and powers of the Declarant under this Section may be delegated to one or more individuals or entities designated from time to time by the Declarant.

(d) Subject as hereinafter provided, from time to time, the Declarant may enter into an agreement ("Transfer Agreement") with the Association whereby the Declarant assigns and transfers to the Association some or all of its rights and powers under Subsections (a) and (b). Any Transfer Agreement shall be executed by both the Declarant and the Association and shall be recorded; provided, that the execution of the Transfer Agreement by the Association shall be approved in advance by action of the Voting Members at an annual meeting or special meeting of the Voting Members. A Transfer Agreement may include such terms as are agreed upon between the Declarant and the Association. From and after the recording of a Transfer Agreement, the rights and powers of the Declarant under Subsections (a) and (b) which are transferred to the Association pursuant to the Transfer Agreement, shall be administered as provided in the Transfer Agreement. Any rights and powers of the Declarant under Subsections (a) and (b) which are not transferred to the Association pursuant to a Transfer Agreement shall expire and terminate at such time as (i) the Development has been fully developed and improved per Declarant's Development Plan and (ii) the Declarant no longer holds or controls title to any portion of the Development Area.

ARTICLE TEN Amendment

10.01 SPECIAL AMENDMENTS: Anything herein to the contrary notwithstanding, Declarant reserves the right and power to Record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of Fannie Mae, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, guarantee or otherwise deal with first mortgages covering Dwelling Units, (iii) to correct errors, omissions, ambiguities or inconsistencies in the Declaration or any Exhibit, (iv) to bring the Declaration into compliance with applicable laws, ordinances or governmental regulations, (v) to add to Exhibit A real estate which is adjacent to the Development Area (prior to the amendment of Exhibit A) or (vi) to amend Exhibit B to add previously unsubdivided portions of the Premises to Section II of

Exhibit B to reflect the subdivision thereof or to add newly created Condominium Units to Section III of Exhibit B to reflect the recording of a condominium declaration or a supplement to a condominium declaration. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to a Special Amendment on behalf of each Owner. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to make, execute and Record Special Amendments. The right and power to make Special Amendments hereunder shall terminate at such time as (i) the Development has been fully developed and improved per Declarant's Development Plan, and (ii) Declarant no longer holds or controls title to any portion of the Development Area.

10.02 AMENDMENT: Subject to Section 10.01 and Article Thirteen, the provisions of this Declaration may be amended, abolished, modified, enlarged, or otherwise changed in whole or in part by the affirmative vote of Voting Members representing at least seventy-five percent of the total votes or by an instrument executed by Owners of at least seventy-five Percent (75%) of the Dwelling Units and Unbuilt Dwelling Units; except, that (i) the provisions of this Section 10.02 may be amended only by an instrument executed by all of the Owners and all Mortgagees, and (ii) Article Nine, and any other provisions relating to the rights of Declarant may be amended only with the written consent of the Declarant. No amendment which removes Premises from the provisions of this Declaration shall be effective if as a result of such removal, an Owner of a Dwelling Unit or Unbuilt Dwelling Unit shall no longer have the legal access to a public way from his Dwelling Unit or Unbuilt Dwelling Unit. No amendment shall become effective until properly Recorded.

ARTICLE ELEVEN Mortgagees Rights

11.01 NOTICE TO MORTGAGEES: Upon the specific, written request of Mortgagee or the insurer or guarantor of a Mortgagee's mortgage, such party shall receive some or all of the following:

(a) Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Association to the Owner of the Dwelling Unit or Unbuilt Dwelling Unit covered by the Mortgagee's mortgage;

(b) Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Owners; provided, that, if an audited statement is not available, then upon the written request of the holder, insurer or guarantor of a Mortgage, the Association shall permit such party to have an audited statement for the preceding fiscal year of the Association prepared at such party's expense;

(c) Copies of notices of meetings of the Owners;

(d) Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Community Area.

(e) Notice of any default by the Owner of the Dwelling Unit or Unbuilt Dwelling Unit which is subject to the Mortgagee's mortgage under this Declaration, the By-Laws or the rules and regulations of the Association which is not cured within thirty (30) days of the date of the default;

(f) The right to examine the books and records of the Association at any reasonable times; and

(g) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

The request of any such party shall specify which of the above it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Association.

11.02 INSURANCE PROCEEDS/CONDEMNATION AWARDS: In the event of (i) any distribution of any insurance proceeds hereunder as a result of damage to, or destruction of, any part of the Community Area or (ii) any distribution of the proceeds of any award or settlement as a result of condemnation or eminent domain proceedings with respect to any part of the Community Area, any such distribution shall be made to the Owners and their respective Mortgagees, as their interests may appear, and no Owner or other party shall be entitled to priority over the Mortgagee of a Dwelling Unit or Unbuilt Dwelling Unit with respect to any such distribution to or with respect to such Dwelling Unit or Unbuilt Dwelling Unit; provided, that, nothing in this Section shall be construed to deny to the Association the right (i) to apply insurance proceeds to repair or replace damaged Community Area or (ii) to apply proceeds of any award or settlement as a result of eminent domain proceedings as provided in Article Four.

ARTICLE TWELVE

Special Development Rights

12.01 GRANT OF SPECIAL DEVELOPMENT RIGHTS: The Declarant shall have the right and power (but shall not be obligated) to grant Special Development Rights to a Special Development Rights Holder. The grant of Special Development Rights may be made in the deed which conveys a portion of the Premises to the Special Development Rights Holder or in a separate Recorded instrument ("Granting Document"). If a grant of Special Development Rights is made, the Granting Document shall include the following:

- (a) A legal description of the portion of portions of the Premises which are subject to the Special Development Rights (the "Special Development Rights Area");
- (b) A specific list of description of the Special Development Rights granted;
- (c) An expiration date for each Special Development Right granted, which shall in no event be later than such time as the Special Development Rights Holder no longer holds title to any portion of the Special Development Rights Area;
- (d) Limitations or restrictions on the exercise of Special Development Rights;

(e) Such other provisions as the Declarant and the Special Development Rights Holders may agree upon.

12.02 EXERCISE OF SPECIAL DEVELOPMENT RIGHTS: Special Development Rights shall be exercised subject to the following:

(a) Each Special Development Rights Holder shall be required to pay assessments to the Association for each Dwelling Unit or Unbuilt Dwelling Unit from time to time owned by it in the Special Development Rights Area on the same basis as each other Owner (other than Declarant);

(b) The Special Development Rights Holder shall not be required to pay any fee or charge to the Association for the exercise of Special Development Rights granted to it over and above any assessments payable by the Special Development Rights Holder;

(c) If a Special Development Rights Holder takes title (in its own name or in the name of a land trust or nominee) to Special Development Rights Area which is Unplatted Area, then no portion thereof shall be subdivided unless (i) the Declarant consents to the Recording of the proposed Subdivision Plat, in writing, on the Subdivision Plat and (ii) the Subdivision Plat identifies thereon all portions of the Premises affected thereby which shall be Community Area hereunder. Upon the Recording of a Subdivision Plat with respect to a portion of a Special Development Rights Area as provided above, the portion of the Premises with respect to which the Subdivision Plat is Recorded shall be Platted Area hereunder and the portions thereof which are designated as Community Area shall be Community Area hereunder.

ARTICLE THIRTEEN Annexing Additional Property

13.01 IN GENERAL: Declarant reserves the right at any time and from time to time prior to ten (10) years from the date of Recording of this Declaration to annex, add and subject additional portions of the Development Area to the provisions of this Declaration as additional Premises by recording a supplement to this Declaration (a "Supplemental Declaration"), as hereinafter provided. Any portion of the Premises which is subjected to this Declaration by a Supplemental Declaration shall be referred to as "Added Premises"; any portion of any Added Premises which is made part of the Community Area shall be referred to as "Added Community Area"; any Dwelling Units contained in the Added Premises shall be referred to as "Added Dwelling Units"; and any Unbuilt Dwelling Units in the Added Premises shall be referred to as "Added Unbuilt Dwelling Units". After the expiration of said ten (10) year period, Declarant may exercise the rights described herein to annex, add and subject additional portions of the Premises to the provisions of this Declaration, provided that the consent the Owners (by number) of two-thirds (2/3) of all Dwelling Units and Unbuilt Dwelling Units then subject to this Declaration is first obtained.

13.02 POWER TO AMEND: Declarant hereby reserves the right and power to Record a Supplemental Declaration, at any time and from time to time as provided in Section 13.01, which

amends or supplements Exhibit B. Exhibit B may only be amended or supplemented pursuant to this Article to add portions of the Premises to Exhibit B, identify Added Dwelling Units and Added Unbuilt Dwelling Units and shall not be amended to reduce or remove any real estate which is described in Exhibit B immediately prior to the Recording of such Supplemental Declaration. A Supplemental Declaration may contain such additional provisions affecting the use of the Added Premises or the rights and obligations of owners of any part or parts of the Added Premises as the Declarant deems necessary or appropriate.

13.03 EFFECT OF SUPPLEMENTAL DECLARATION: Upon the Recording of a Supplemental Declaration by Declarant which annexes and subjects Added Premises, Added Community Area, Added Dwelling Units, or Added Unbuilt Dwelling Units to this Declaration, as provided in this Article, then:

(a) The easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges set forth and described herein shall run with and bind the Added Premises and inure to the benefit of and be binding on any Person having at any time any interest or estate in the Added Premises in the same manner, to the same extent and with the same force and effect that this Declaration applies to the Premises, and Persons having an interest or estate in the Premises, subjected to this Declaration prior to the date of the Recording of the Supplemental Declaration;

(b) Every Owner of an Added Dwelling Unit or Added Unbuilt Dwelling Unit shall be a member of the Association on the same terms and subject to the same qualifications and limitations as those members who are Owners of Dwelling Units or Added Unbuilt Dwelling Unit immediately prior to the Recording of such Supplemental Declaration;

(c) In all other respects, all of the provisions of this Declaration shall include and apply to the Added Premises made subject to this Declaration by any such Supplemental Declaration and the Owners, mortgagees, and lessees thereof, with equal meaning and of like force and effect and the same as if such Added Premises were subjected to this Declaration at the time of the Recording hereof;

(d) The Recording of each Supplemental Declaration shall not alter the amount of the lien for any Charges made to a Dwelling Unit, an Unbuilt Dwelling Unit or its Owner prior to such Recording;

(e) The Declarant shall have and enjoy with respect to the Added Premises all rights, powers and easements reserved by the Declarant in this Declaration, plus any additional rights, powers and easements set forth in the Supplemental Declaration; and

(f) Each Owner of an Added Dwelling Unit or Added Unbuilt Dwelling Unit which is subject to assessment hereunder shall be responsible for the payment of the Community Assessment pursuant to Section 6.02, but shall not be responsible for the payment of any special assessment which was levied prior to the time that the Added Dwelling Unit or Added Unbuilt Dwelling Unit became subject to assessment hereunder.

ARTICLE FOURTEEN
Miscellaneous

14.01 NOTICES: Any notice required to be sent to any Owner under the provisions of this Declaration or the By-Laws shall be deemed to have been properly sent when (i) mailed, postage prepaid, to his or its last known address as it appears on the records of the Association at the time of such mailing or (ii) when delivered personally to his Dwelling Unit.

14.02 CAPTIONS: The Article and Section headings are intended for convenience only and shall not be construed with any substantive effect in this Declaration. In the event of any conflict between statements made in recitals to this Declaration and the provisions contained in the body of this Declaration, the provisions in the body of this Declaration shall govern.

14.03 SEVERABILITY: Invalidation of all or any portion of any of the easements, restrictions, covenants, conditions, or reservations, by legislation, judgment or court order shall in no way affect any other provisions of this Declaration which shall, and all other provisions, remain in full force and effect.

14.04 PERPETUITIES AND OTHER INVALIDITY: If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provisions shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of George Bush, the former President of the United States.

14.05 ASSIGNMENT BY DECLARANT: Except as otherwise provided herein, all rights which are specified in this Declaration to be rights of the Declarant are mortgageable, pledgeable, assignable or transferable. Any successor to, or assignee of, the rights of the Declarant hereunder (whether as the result of voluntary assignment, foreclosure, assignment in lieu of foreclosure, or otherwise) shall hold or be entitled to exercise the rights of Declarant hereunder as fully as if named as such party herein. No such successor assignee of the rights of Declarant hereunder shall have or incur any liability for the acts of any other party which previously exercised or subsequently shall exercise such rights.

14.06 TITLE HOLDING LAND TRUST: In the event title to any Dwelling Unit or Unbuilt Dwelling Unit is conveyed to a title holding trust, under the terms of which all powers of management, operation and control of the Dwelling Unit or Unbuilt Dwelling Unit remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all Charges and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Dwelling Unit or Unbuilt Dwelling Unit. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Dwelling Unit or Unbuilt Dwelling Unit and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such Dwelling Unit or Unbuilt Dwelling Unit.

Dated: November 19, 2001

DECLARANT:

THE RYLAND GROUP, INC.

By: Paul G. Shelly
Its: Operational Vice President

30084\064\0001.539 -- RED[111401] - Declaration for Timber Trails HOA

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that Peter G. Skelly, Operational VP, of The Ryland Group, Inc. appeared before me this day in person and acknowledged that he signed and delivered said instrument as his free and voluntary act, and as the free and voluntary act of The Ryland Group, Inc. for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 19th day of November, 2001.

Jean M. Klippstein
Notary Public



**EXHIBIT A TO
DECLARATION FOR TIMBER TRAILS**

The Development Area

OVERALL TIMBER TRAILS 1-9 LEGAL DESCRIPTION

THAT PART OF SECTIONS 25, 26 AND 36 IN TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF TIMBER TRAILS UNIT 1, BEING A SUBDIVISION IN THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED MAY 23, 2001 AS DOCUMENT 2001K048421 IN KANE COUNTY ILLINOIS; (THE FOLLOWING 3 COURSES ARE ALONG THE BOUNDARY OF TIMBER TRAILS UNITS 1, AND 2); THENCE NORTH 67 DEGREES 17 MINUTES 57 SECONDS WEST, 257.85 FEET; THENCE WESTERLY, 810.99 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 49,143.70 FEET, THE CHORD OF SAID CURVE BEARING NORTH 67 DEGREES 46 MINUTES 19 SECONDS WEST; THENCE NORTH 70 DEGREES 56 MINUTES 41 SECONDS WEST, 104.24 FEET; THENCE SOUTH 20 DEGREES 44 MINUTES 05 SECONDS WEST, 28.20 FEET TO THE CENTERLINE OF THE RIGHT OF WAY OF BIG TIMBER ROAD PER DOCUMENT 376207; THENCE NORTHWESTERLY ALONG SAID CENTERLINE, 272.27 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 49,110.70 FEET, THE CHORD OF SAID CURVE BEARING NORTH 68 DEGREES 31 MINUTES 28 SECONDS WEST; THENCE NORTH 20 DEGREES 44 MINUTES 05 SECONDS EAST, 26.10 FEET TO THE SOUTHEAST CORNER OF TIMBER TRAILS UNIT 3 (THE FOLLOWING 3 COURSES ARE ALONG THE BOUNDARY OF TIMBER TRAILS UNIT 3 AND EXTENSION THEREOF); THENCE NORTH 64 DEGREES 04 MINUTES 57 SECONDS WEST, 85.16 FEET; THENCE NORTH 68 DEGREES 46 MINUTES 57 SECONDS WEST, 1314.18 FEET; THENCE NORTH 00 DEGREES 13 MINUTES 21 SECONDS EAST, 1060.76 FEET; THENCE NORTH 39 DEGREES 51 MINUTES 30 SECONDS EAST, 153.18 FEET; THENCE NORTH 50 DEGREES 08 MINUTES 30 SECONDS WEST, 120.00 FEET; THENCE SOUTH 39 DEGREES 51 MINUTES 30 SECONDS WEST, 8.31 FEET; THENCE NORTH 00 DEGREES 13 MINUTES 21 SECONDS EAST, 94.06 FEET; THENCE NORTH 39 DEGREES 51 MINUTES 30 SECONDS EAST, 154.88 FEET; THENCE NORTH 50 DEGREES 08 MINUTES 30 SECONDS WEST, 120.00 FEET; THENCE SOUTH 39 DEGREES 51 MINUTES 30 SECONDS WEST, 137.50 FEET TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 26; THENCE SOUTH 89 DEGREES 39 MINUTES 04 SECONDS WEST ALONG SAID SOUTH LINE, 1239.47 FEET TO THE WEST LINE OF THE EAST HALF OF SAID SOUTHEAST QUARTER; THENCE NORTH 00 DEGREES 06 MINUTES 08 SECONDS EAST ALONG SAID WEST LINE, 2635.56 FEET TO THE NORTH LINE OF SAID SOUTHEAST QUARTER; THENCE NORTH 89 DEGREES 30 MINUTES 32 SECONDS EAST ALONG SAID NORTH LINE, 1322.20 FEET TO THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER AS PER MONUMENT RECORD 2000K055171; THENCE SOUTH 89 DEGREES 58 MINUTES 10 SECONDS EAST ALONG THE NORTH LINE OF THE SOUTH HALF OF SECTION 25 A DISTANCE OF, 1861.13 FEET; THENCE SOUTH 08 DEGREES 02 MINUTES 18 SECONDS EAST, 570.00 FEET; THENCE SOUTH 21 DEGREES 15 MINUTES 16 SECONDS EAST, 175.00 FEET; THENCE SOUTH 33 DEGREES 20 MINUTES 37 SECONDS EAST, 800.00 FEET; THENCE SOUTH 47 DEGREES 44 MINUTES 20 SECONDS EAST, 188.63 FEET; THENCE SOUTH 63 DEGREES 31 MINUTES 16 SECONDS EAST, 73.24 FEET; THENCE SOUTH 70 DEGREES 19 MINUTES 17 SECONDS EAST, 661.19 FEET TO THE WESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 25 DEGREES 26 MINUTES 00 SECONDS EAST ALONG

SAID WESTERLY LINE, 1618.40 FEET; THENCE SOUTHEASTERLY TANGENT TO THE LAST DESCRIBED COURSE ALONG SAID WESTERLY LINE, 930.65 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 2940.94 FEET, THE CHORD OF SAID CURVE BEARING SOUTH 16 DEGREES 22 MINUTES 03 SECONDS EAST; THENCE SOUTH 07 DEGREES 18 MINUTES 08 SECONDS EAST ALONG SAID WESTERLY LINE, 1798.64 FEET TO THE CENTERLINE OF BIG TIMBER ROAD AS DESCRIBED IN DOCUMENT 376209; THENCE NORTHWESTERLY ALONG THE SAID CENTERLINE, 181.70 ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1637.05 FEET, THE CHORD OF SAID CURVE BEARING NORTH 70 DEGREES 25 MINUTES 32 SECONDS WEST; THENCE NORTH 67 DEGREES 14 MINUTES 45 SECONDS WEST TANGENT TO THE LAST DESCRIBED COURSE ALONG SAID CENTERLINE, 1794.00 FEET TO THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 36; THENCE NORTH 00 DEGREES 21 MINUTES 03 SECONDS EAST ALONG SAID EAST LINE, 35.68 FEET TO THE POINT OF BEGINNING, IN KANE COUNTY, ILLINOIS.

1. Lots 1 through 115, both inclusive, in Timber Trails Unit One.
2. Lots 118 through 229, both inclusive, in Timber Trails Unit Two.
3. Lots 232 through 299, both inclusive, in Timber Trails Unit Three.
4. Lots 497 through 583, both inclusive, in Timber Trails Unit Five

III. CONDOMINIUM UNITS

None at this time.

IV. COMMUNITY AREA

None at this time.

V. ASSOCIATION MAINTAINED MUNICIPAL LAND

- A. Bicycle or jogging paths and/or landscaped areas located in dedicated rights of way in Timber Trails Units One through Five inclusive.
- B. Lots 116 and 117 in Timber Trails Unit One
- C. Lots 230 and 231 in Timber Trails Unit Two
- D. Lots 300 and 301 in Timber Trails Unit Three
- E. Lot 622 in Timber Trails Unit Four.
- F. Lot 584 in Timber Trails Unit Five.

PIN: 2-25-300-005
2-36-100-006
2-25-400-021
2-25-400-023
2-25-400-024

ADDRESS: Big Timber Road, West of Tyrell Road, Gilberts, Illinois

**EXHIBIT B TO
DECLARATION FOR TIMBER TRAILS**

The Premises

I. THE PREMISES

- a. Lots 1 through 117, both inclusive, in Timber Trails Unit 1, being a subdivision of part of the Northwest Quarter of Section 36, Township 42 North, Range 7 East of the Third Principal Meridian, in Kane County, Illinois according to the plat thereof recorded in Kane County, Illinois on May 23, 2001, as Document No. 2001K048421 ("Timber Trails Unit One").
- b. Lots 118 through 231, both inclusive, in Timber Trails Unit 2, being a subdivision of part of the Northwest Quarter of Section 36 and the Southwest Quarter of Section 25, Township 42 North, Range 7 East of the Third Principal Meridian, in Kane County, Illinois according to the plat thereof recorded in Kane County, Illinois on May 23, 2001, as Document No. 2001K048422 ("Timber Trails Unit Two").
- c. Lots 232 through 301, both inclusive, in Timber Trails Unit 3, being a subdivision of part of the Northwest Quarter of Section 36 and the Southwest Quarter of Section 25, Township 42 North, Range 7 East of the Third Principal Meridian, in Kane County, Illinois according to the plat thereof recorded in Kane County, Illinois on May 23, 2001, as Document No. 2001K048422 ("Timber Trails Unit Three").
- d. Lots 585 through 622, both inclusive, in Timber Trails Unit 4, being a subdivision of part of the South Half of Section 25, Township 42 North, Range 7 East of the Third Principal Meridian, in Kane County, Illinois, according to the plat thereof recorded in Kane County Illinois on November 27, 2001, as Document No. 2001K124940 ("Timber Trails Unit Four").
- e. Lots 497 through 58, both inclusive, in Timber Trails Unit 5, being a subdivision of part of the Southwest Quarter of Section 25, Township 42 North, Range 7 East of the Third Principal Meridian, in Kane County, Illinois, according to the plat thereof recorded in Kane County, Illinois on November 27, 2001, as Document No. 2001K124941 ("Timber Trails Unit Five").

II. LOTS

- A. Townhome Lots

None at this time.
- B. Detached Home Lots