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Document Title  
Declaration of Covenants,  
Conditions and Restrictions  
Deer Trails Addition No. 1

3598067

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WAUKESHA COUNTY, WI  
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MICHAEL J. HASSLINGER  
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Don Belman Realty, Inc.  
1407 East Sunset Drive, Suite 200  
Waukesha, WI 53189-8033

Parcel Identification Number

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
DEER TRAILS ADDITION NO. 1

This Declaration of Covenants, Conditions and Restrictions is made by Don Belman Realty, Inc. (hereinafter "Developer").

PREAMBLE

WHEREAS the Developer is the owner of the real property described in a recorded plat and has created a residential subdivision development as more specifically defined in the City of Waukesha Zoning Ordinance known as Deer Trails Addition No. 1; and;

WHEREAS, the legal description of Deer Trails Addition No. 1 is as set forth on Exhibit A; and

WHEREAS, the Developer desires to provide for the preservation of the natural amenities of the sites in the subdivision to provide for the enhancement of property values all contributing to the personal and general health, safety and welfare of the residents and for the maintenance of the land and improvements thereon and to this end desires to subject the subdivision and all real estate contained therein (hereinafter "Property") to the covenants, conditions and restrictions hereinafter set forth, all of which are for the benefit of each owner thereof; and

NOW, THEREFORE, the Developer does hereby declare the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions and restrictions as hereinafter set forth.

ARTICLE I: DEFINITIONS

1.01 "Declaration" means the covenants, conditions and restrictions and all other provisions set forth in this document, as they may be amended from time to time.

1.02 "Developer" means Don Belman Realty, Inc. and its successors and/or assigns. The rights and obligations of Developer as set forth herein shall cease when all the Property, including any additional property subjected to this Declaration by a Supplemental Declaration in accordance with Section 2.03, has been conveyed to Owners.

1.03 "Lot" or "Residential Lot" means a part of the Property intended for any type of individual, private or independent use and occupancy as a residence. The Lots are as shown on the plat as recorded for Deer Trails Addition No. 1, numbered 25 through 59.

1.04 "Owner" means a person, combination of persons, a partnership, a corporation, a trustee or any other legal entity who holds legal title to a Lot which is part of the Property or who has equitable ownership of a Lot as a land contract vendee, but the definition excludes those having an interest or lien on a Lot as security for the performance of an obligation.

1.05 "Plat" means the subdivision plat of Deer Trails Addition No. 1 in the City of Waukesha approved by the City of Waukesha and recorded in the Office of the Register of Deeds for Waukesha County.

1.06 "Property" means the real estate which is described in said plat and comprises the subdivision called Deer Trails Addition No. 1.

1.07 "Homeowners Association" means Deer Trails Homeowner's Association, Inc., a non-stock, non-profit corporation organized and existing pursuant to Chapter 181 of the Wisconsin Statutes, its successors and assigns, which is the means through which the Owners acting as a group shall administer, manager, operate and control the easements under Article VI and Article VII hereof and any outlots added to the Subdivision by Supplemental Declaration which may include one or more outlots.

## ARTICLE II: PROPERTY SUBJECT TO DECLARATION

2.01 THE PROPERTY. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the City of Waukesha, County of Waukesha, and represents the total anticipated development known as Deer Trails Addition No. 1 consisting of 35 Residential Lots, which are to be preserved and maintained as such under the restrictions and protective covenants contained herein.

2.02 PURPOSE OF PROPERTY. All Lots are intended for and shall be used exclusively for residential housing by the Lot Owners, their respective families, lessees and/or guests governed by the terms and conditions contained herein.

2.03 ADDITIONS TO THE PROPERTY. Developer may, from time to time, and has the present intent to, subject additional property to this Declaration by appropriate reference hereto. The additions authorized herein shall be made by filing for record a Supplemental Declaration with respect to the additional property which shall extend the scheme of the restrictions and covenants of this Declaration to such property. Such Supplemental Declaration may contain complementary additions and modifications of the restrictions and covenants applicable to the additional property as may be necessary or appropriate to reflect the different character, if any, of the additional property, and as are not inconsistent with the scheme of this Declaration. Developer is under no obligation to create additional subdivisions or to submit them to the terms of this Declaration. The obligation for maintenance of all outlots in Deer Path and Deer Path Addition No. 1 shall be as set forth in their Declaration of Covenants, Conditions and Restrictions.

## ARTICLE III: USE OF PROPERTY

3.01 RESIDENTIAL USE. All Lots are designated for residential use and shall be used, improved and devoted exclusively to residential use. Nothing herein shall be deemed to prevent any Owner from leasing a residence on a Residential Lot to a single family subject to all of the provisions hereof and any applicable governmental regulations.

3.02 NUISANCE. No nuisance shall be permitted to exist or operate upon any Lot so as to be detrimental to any other Lot in the vicinity thereof or to its occupants. No noxious or offensive activities shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to any other Lot.

3.03 RESTRICTION ON FURTHER SUBDIVISION. No Lot upon which a living unit has been constructed shall be further subdivided or separated into smaller Lots by an Owner and no portion less than all of any such Lot, be conveyed or transferred by an Owner provided that this shall not prohibit deeds of correction, deeds to resolve boundary disputes and similar corrective instruments.

3.04 MAINTENANCE OF PROPERTY. The Owner of each Residential Lot shall keep that Lot and all improvements thereon in good order and repair and free of debris including, but not limited to, the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting or appropriate external care of all buildings and other improvements all in a manner and with such frequency as consistent with good property management. In addition to normal maintenance and mowing of lawn areas on a Lot, the Owner of each Lot shall maintain the lawn and yard area in front of the Lot from the property line (front Lot line) to the curb. In addition to mowing, the Lot Owner of each Lot shall keep this area free of debris.

3.05 PRESERVATION OF TREES. No existing, live tree having a diameter of three (3) inches or more at a height four (4) feet above the ground shall be cut down, destroyed, mutilated, moved or disfigured without prior approval of the Architectural Review Board. During construction, all existing trees shall be protected and preserved by wells or islands and proper grading as may be required by the Architectural Review Board. Trees and shrubs shall be maintained in their present or natural state upon all Lots, with the exception that removal shall be permitted only upon approval by the Architectural Review Board which shall not unreasonably withhold approval when removal is necessary for the construction of a building. Any trees required by the City of Waukesha in the terraced area (between sidewalk and

street curb) shall be planted by Lot Owner, at Lot Owner's expense, and preserved and maintained by Lot Owner under the terms of this Declaration.

3.06 REFUSE DISPOSAL. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. All rubbish, trash, garbage or other waste shall be kept in covered containers until disposed of. All containers or other equipment for the storage or disposal of trash, garbage or other waste shall be kept in a sanitary condition and suitably screened from view from the street. These provisions shall not be strictly enforced against any contractor during the course of the construction period on any Lot. However, any contractor hired by any Lot Owner shall take all reasonable and necessary measures to maintain the Lot free from rubbish and trash or other construction waste during the construction period.

3.07 DRAINAGE FACILITIES. No construction shall be allowed in any area designated as a drainage facility or drainage easement area on the recorded plat of Deer Trails Addition No. 1. The Owner of any Lot having a drainage facility shall be responsible for maintenance of the lawn on and removal of debris from the drainage facility. Lots 27 and 28 have drainage easements as shown on the Plat. Outlot 1 has an access and drainage easement as located on the Plat of the Subdivision, which shall be maintained by the Deer Trails Homeowners Association, Inc., per said Plat requirements.

3.08 MOTORIZED VEHICLES. No snowmobile, trail bike, dune buggy or other off-street motorized vehicle of any type shall be operated on any Lot at any time.

3.09 STORAGE. No outside storage of vehicles, boats, motorcycles, snowmobiles, motor homes, recreation vehicles, trucks, trailers, tractors or other paraphernalia shall be permitted on any Lot. Any such storage on any Lot shall be in permanent buildings which have been constructed with the approval of the Architectural Review Board and the City of Waukesha.

3.10 GRADING RESTRICTIONS. Each Lot owner must strictly adhere to and finish grade the Lot in accordance with the Master Lot Grading Plan or any amendment thereto approved by the City Engineer on file in the office of the City Clerk. The Developer and/or the City and/or their agents, employees or independent contractors shall have the right to enter upon any Lot, at any time, for the purpose of inspection, maintenance, correction of any drainage condition, and the property owner is responsible for cost of the same.

#### ARTICLE IV: ARCHITECTURAL CONTROL

4.01 ARCHITECTURAL REVIEW BOARD. There is created an Architectural Review Board consisting of not more than three (3) persons. Initially, the Developer alone shall serve as the Architectural Review Board. However, he reserves the right to appoint up to a total of three (3) persons, which may or may not include himself, to the Architectural Review Board. At the time that the Developer no longer owns any Lots in the subdivision, the members of the Architectural Review Board shall be appointed by a majority vote of the Lot Owners.

4.02 REGULATION. The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Property and of the improvements thereon for each of the Residential Lots in such a manner so as to preserve and enhance values and to maintain an harmonious relationship among structures and the natural vegetation and topography.

4.03 APPROVALS REQUIRED. No improvements, alterations, repairs, changes in paint colors, excavations, changes in grade or other work which in any way alters the exterior of any Lot or the improvements located thereon from its natural or improved state existing on the date such Lot was first occupied after conveyance by the Developer to any Owner shall be made or done without the prior approval of the Architectural Review Board. No building, fence, wall, residence or other structure shall be commenced, erected, maintained or improved, altered, made or done without the prior written approval of the Architectural Review Board.

4.04 PROCEDURE. All plans, including, but not limited to, building plans, exterior design plans, house stake-out survey, and grading plans, which would result in the alteration or improvement of a Lot or existing or contemplated improvements thereon, shall be submitted in triplicate to the Architectural Review Board for approval prior to implementation of any such plans. Plans shall be deemed submitted when received by any member of the Architectural Review Board. Approval shall be evidenced by the Architectural Review Board signing and dating one copy of the approved plan(s) and returning two copies to the Owner of the Lot to which the approved plan(s) pertain. One of the approved copies shall be furnished by the Owner to the City of Waukesha Building Inspector. If plans are disapproved by the Architectural Review Board, it shall so state in a letter to the Lot Owner, stating the reasons for disapproval. All requests for approval and documentation shall be submitted to the Architectural Review Board c/o Don Belman, 1407 East Sunset Drive; Suite 200, Waukesha, WI 53189-8033.

4.05 OBJECTIVES AND AUTHORITY. It is a design objective of the Developer to avoid the monotony of duplication by creating a diverse group of residential designs. It is also a design objective to assure compatibility of architectural styles among homes in close visual proximity to one another. The Architectural Review Board shall be guided by these objectives in evaluating plans submitted by Lot Owners for approval. In reviewing and evaluating the plans submitted for approval, the Architectural Review Board shall also consider harmony of external design and colors with existing and/or planned structures, topography, setbacks, finish grade elevations, driveways, plantings, type and quality of materials, and location as it relates to architectural themes. The foregoing is intended as an example of areas of consideration for the Architectural Review Board and is not to be construed as limiting the Architectural Review Board from considering other factors it deems relevant to approval or rejection of a proposed plan. The Architectural Review Board shall have the exclusive authority to interpret these deed restrictions.

4.06 FAILURE TO APPROVE. In the event the Architectural Review Board fails to approve, modify, or disapprove in writing an application within forth-five (45) days after plans, specifications and a house stake-out survey in writing have been submitted to it in accordance with the requirements hereunder and in accordance with adopted procedures, approval will be deemed granted.

#### ARTICLE V: BUILDINGS AND STRUCTURES

5.01 SIZE LIMITATIONS. No residence or other structure shall exceed two and one-half (2-1/2) stories in height. Basement exposures are considered an exception to the height limit and shall be permitted. Basement exposures are considered to be an exception to the height limit and shall be permitted. All residences shall include an attached garage containing space for a minimum of two (2) ordinary passenger automobiles, but in no event shall the garage be less than four hundred seventy-five (475) square feet in area nor larger than is necessary to contain three and one-half (3 ½) ordinary passenger automobiles. All residences shall contain the following minimum square feet of usable living area, fully above grade, exclusive of garages, porches, breezeways and patios:

(a)	Single story	1700 sq. ft.
(b)	Two story	2050 sq. ft. (1050 sq. ft./first floor)
(c)	Tri-level	1950 sq. ft. (1050 sq. ft./upper level)
(d)	Bi-level	1950 sq. ft. (1050 sq. ft. upper level)

5.02 CONSTRUCTION METHODS. All residences placed on any Lot shall be built by conventional, stick built on-site construction methods, or, alternatively, by on-site construction or panelized methods. No factory-built, off-site, modular or unitized constructed residence shall be allowed to be placed on any Lot. It shall be within the discretion of the Architectural Review Board, exclusively, to determine and/or define the type of construction method proposed to be used, and to approve and/or disapprove of the same when plans are submitted for a proposed residence as provided herein. Main roofs on residences shall have a minimum pitch of 8/12 and roof materials shall be of dimensional consideration. All fireplace chimneys shall be full masonry. No pre-fabricated or metal chimneys will be approved. No used materials will be permitted in the construction of any building except such materials as reclaimed brick which, in the opinion of the Architectural Review Board, will enhance the appearance of the building of which they will become a part. Foundation exposures in excess of twelve (12) inches high shall be covered with siding, brick, stucco or other approved coverings. Exposed block or paved concrete walls in excess of twelve (12) inches high are deemed an automatic violation of the Architectural Review Board's approval and these restrictions. No vinyl siding on exterior walls will be approved. Wood, steel, aluminum and fiber cement siding are allowed on exterior walls. The Architectural Review Board has the right to modify the residences to include cultured or other artificial stone for the exterior veneer of building wall construction.

5.03 BUILDING SET-BACKS. No residence or other structure shall be erected on any Lot, nearer than twenty-five (25) feet from the front Lot line. Side yard and rear yard set-backs shall be as required by the City of Waukesha Building Code. All front yard and side yard set-backs on corner lots shall be as required by the City of Waukesha Building Code.

5.04 COMPLETION OF CONSTRUCTION. Any construction commenced shall be completed within a one (1) year period from commencement of construction and shall be ready for occupancy within that period. Also, within such time period, the Owner of such Lot shall seed and suitably plant grass and decorative shrubs in all of such Lot area except that occupied by the residence, driveways and out buildings. During the time of construction, the Lot Owner shall be responsible to see that his contractor maintains a regularly scheduled clean up of all scraps, paper or other waste materials. Within one (1) year of the issuance of the occupancy permit for the construction of a residence on a Lot, the Lot Owner shall complete or cause to be completed the finish grading, re-topsoiling, and seeding or establishing of other ground cover or other plant material of all areas disturbed during the construction on the Lot. For all structures other than a residence, said items shall be completed by the Lot Owner within one (1) year of the issuance of a building permit and/or Architectural Review Board approval, whichever occurs last. At least two (2) trees with a minimum caliper of two (2) inches shall be installed on each unwooded lot at the time of landscaping.

5.05 DRIVEWAYS. Within one (1) year of the issuance of the occupancy permit for a residence on a Lot, the Lot Owner shall install concrete (not asphalt) driveway. Said driveway shall extend from the vehicle entry of the garage to the edge of the public sidewalk and shall include all areas to be normally traveled by vehicles. Developer will be installing concrete curbs on all Lots as required by the City of Waukesha. Curb cuts for driveways will have to be made after the installation of said curbs at the location desired by the Lot Owner. These cuts, and the driveway curb approach, which is required to be concrete (not asphalt), will have to be installed at the Lot Owner's expense.

5.06 SIDEWALKS AND CURB AND GUTTER. Developer may be installing sidewalks and curb and gutter on Lots prior to Lot sales. The sidewalks or curb and gutter, if any, will have to be crossed by the Lot Owner's contractors during the construction of a residence on the Lot. Any damage to the sidewalks or curb and gutter which require repair after the Developer has sold the Lots shall be solely the responsibility of the Lot Owner. Lot Owner shall inspect the sidewalks and curb and gutter prior to the purchase of the same from Developer and upon closing accept the same in an "as is" condition, if the sidewalks or curb and gutter have been installed prior to the Lot sale.

5.07 SEWER AND WATER. Developer will be installing municipal sewer main in the street right of way, with laterals to each Lot line. Developer will be installing municipal water mains in the street right of way. It will be the responsibility of the Lot Owner to connect to the water main in the street and to the sewer lateral to the Lot.

5.08 HEIGHT OF GRADE. Alteration of the grade of any Lot from that which is naturally occurring on a Lot at the time the site development improvements have been completed by the Developer shall be prohibited without the prior written approval of the Architectural

Review Board and the City of Waukesha. A Lot Owner seeking approval of an alteration in the grade of a Lot shall submit to the Architectural Review Board a grading plan, prepared at the Lot Owner's expense, showing, in detail, the areas to be graded, the existing and proposed topography, and analyzing the effects on site drainage. Approval shall be withheld if the proposed grading alteration would adversely affect drainage on an adjacent Lot, or would, in the opinion of the Architectural Review Board, adversely affect the use and enjoyment of an adjacent Lot by its Owner. The Architectural Review Board reserves the right to require deposits of excess dirt or fill at other locations with the subdivision at Owner's expense.

5.09 GRADING. Included in the purchase price is grading of the subject Lot generally in compliance with a plan to establish approximate earth balance by rough grading to the yard grade after the home construction. Individual home designs will have different earth requirements. Developer shall not be responsible for import or export of any fill material created by the Lot Owner's individual home construction.

5.10 OUT BUILDINGS. Out buildings shall be permitted on any Lot subject to the City of Waukesha Zoning Ordinance and the approval of the Architectural Review Board, as set forth hereinafter. No out building shall be constructed closer than one-half (½) the average depth of such Lot to any street Lot line. The plans for any proposed out building shall be approved by the Architectural Review Board. The main roof of all outbuildings shall be constructed with Section 5.02 above. Three (3) sets of plans, describing in detail all materials to be used and the type of construction, shall be submitted to the Architectural Review Board. Upon approval, two (2) sets of plans shall be signed, dated and returned to the Lot Owner as evidence of such approval. One (1) of the approved copies shall be furnished by the Owner of the Lot to the City of Waukesha Building Inspector. All construction materials to be used in constructing out buildings shall be of similar or like materials used in constructing the principal residence on said Lot. Asphalt roof shingles and only veneer materials compatible with the principal residence will be allowed in such construction. Tin sheds, pole barns, or tin-sided or tin-roofed out buildings will not be allowed. The Architectural Review Board shall have final approval of all materials to be used in granting approval for said out buildings as aforesaid. Once Architectural Review Board approval has been given, the plans for construction of any out building will be strictly adhered to. If plans are disapproved by the Architectural Review Board, it shall so state in a letter to the Lot Owner stating the reasons for disapproval.

5.11 ELECTRIC LAMPPOSTS. The Developer shall cause to be installed on the Lot by the date of initial occupancy of the residence, an electric lamppost. The lamppost shall be installed near the driveway edge approximately five (5) feet from where the driveway meets the sidewalk so as to maintain uniformity of lamppost locations throughout the subdivision. The lamplight fixture shall be provided by the Developer at an expense to the Lot Owner of \$1,050.00 to be shown on the closing statement for the purchase of the Lot. Installation and trenching for lamplight fixture shall be invoiced separately to the Lot Owners.

5.12 UTILITY RESTRICTIONS. Any fuel oil or gas tanks, required for home heating and/or cooking, if outside the residence, shall be buried below ground level. No above ground fuel-storage tanks will be allowed. All Lots shall be provided with electric and telephone service by means of underground installations only. No residence or other structure on any Lot shall be serviced by the use of any secondary overhead service wires. All costs and expenses involved in installing underground utility service connections on any Lot, between the utility company's pedestals and the buildings on any Lot, shall be paid by the Owner of said Lot.

5.13 SIGNS. The only signs to be displayed to the public view on any Lot shall be the following:

- (a) A sign not more than two (2) square feet in size identifying the property or the Owner.
- (b) A sign not more than five (5) square feet in size advertising the property for sale or rent.
- (c) A sign used by a builder to advertise a Lot and/or residence for sale, but only during the construction and sales period.

5.14 UNIFORM MAILBOXES AND POSTS. In order to maintain a pleasant continuity in Deer Trails, a mailbox must be purchased from the Developer at the time of the closing of the Lot. The cost to be charged on Owner's closing statement will be \$200.00. Developer will then provide a mailbox when needed to the Lot Owner at a location to be determined by the local Post Office. Developer will obtain such location and build covered mail/newspaper units to house the number of boxes requested by the Post Office at that location. It is understood that the Post Office will require multiple boxes at one location. Should maintenance be required on the mailbox units, the Homeowners Association reserves the right to have repairs made and charge back costs to the respective Owners of the mailboxes. However, it shall be the responsibility of each Lot Owner to install numbers and maintain the Lot mailbox after it has been installed by the Developer.

5.15 FENCES AND WALLS. No barrier fences or containment fences may be erected on or adjacent to any Lot line. Only that fencing which is purely of a decorative or landscaping nature may be installed. Fencing to meet governmental regulations with regard to swimming pools will be permitted, subject to approval by the Architectural Review Board. Properly designed and located kennels for domestic pets shall be permitted. Lot line and other fences will be permitted, provided they are constructed of wood, a maximum of four (4) feet in height, and the design thereof has been submitted to and approved by the Architectural Review Board in advance of the construction thereof. Conflicts with underground public utility facilities within easements shall result in fence locations accommodating such facilities. Retaining walls shall be subject to the regulations of the City of Waukesha and shall be built of wood, stone, brick, or manufactured decorative block, such as "Keystone" or similar products, but not concrete block or reinforced poured concrete. Picket fences shall provide 3-1/2 inches between pickets. All fencing subject to review and approval by the City of Waukesha Building Inspection Department.

5.16 SOLAR COLLECTORS, SWIMMING POOLS AND ANTENNAE. Solar collectors, rooftop antennae, and/or aboveground swimming pools shall not be allowed to be installed on the ground or on buildings on the Lots. Satellite dishes shall be permitted to be installed on the roofs, providing they are no more than eighteen (18) inches by twenty-four (24) inches and the erection or installation of the arm and location has been approved in writing by the Architectural Review Board. Such devices shall be permitted to be erected or installed only on the roof line at the back of the residence on the Lot and so that the top of the device does not extend above the highest part of the roof line of the residence. Only in-ground swimming pools will be allowed and must be installed in accordance with the City of Waukesha requirements.

#### ARTICLE VI: UTILITY AND OTHER EASEMENTS

6.01 UTILITY AND REPAIR EASEMENTS. This Declaration hereby grants an easement upon, over and under the Lots for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems including electricity, telephone, natural gas and storm sewer. In the event that the Owner of any Lot proposes to undertake an improvement which would cause the relocation, either horizontally or vertically, from that which was initially installed under the Developer's plan, the Owner shall first obtain written approval of the utility involved and then shall bear the total cost charged by the utility involved. The Owner of any Lot should contact the telephone company, electric company or the gas company respectively if they intend to do any excavation, grading or construction in the easement area of said Lot so as to avoid damage to the facilities that may be presently located therein or injury to any persons.

6.02 DEVELOPER'S EASEMENT. There is hereby created an easement upon, across, over and through all of the Lots for the purpose of allowing the Developer and his agents ingress and egress in order to accomplish the construction, repair and maintenance of any of the improvements or facilities involved in the overall Development. This easement shall cease upon the completion of construction by the Developer.

6.03 BINDING EFFECT. Except as set forth in Section 6.02, all easements and rights described herein are easements appurtenant and running with the land. All easements and rights described herein are granted and reserved to, and shall inure to the benefit of and be binding on, the undersigned, their successors and assigns, and on Lot Owners, purchasers, mortgagees, lessees and occupants and their heirs, executors, administrators, successors and assigns.

6.04 LANDSCAPING EASEMENTS. The Developer may construct permanent retaining walls and landscaping on those portions of Lots 1, 2, 3, and 4 described on the Plat of Deer Trails. The retaining walls and landscaping shall be maintained by the Homeowners Association at its cost and expense. Developer hereby grants to the Homeowners Association a permanent easement to enter upon Lots 1, 2, 3, and 4 to maintain, restore, and repair said retaining walls and landscaping, together with the free right of ingress and egress by all means, including vehicles over and across such Lots, insofar as such right of ingress and egress is necessary to the proper use of the easement granted herein.

6.05 DRAINAGE EASEMENT AREAS. The Drainage Easements shown on the Plat shall be maintained by the Owners of the Lots upon which such Drainage Easements exist at such Lot Owners' own cost and expense. The Access and Drainage Easement shown on the Plat of the Subdivision shall be maintained by the Homeowners Association.

6.06 SIDEWALK EASEMENT. There is created a permanent easement upon, across, over and through Lot 24 as shown on the Plat attached hereto for the purpose of construction and maintenance of a sidewalk which shall be maintained by the Owner of said Lot.

#### ARTICLE VII: SUBDIVISION IDENTIFICATION

7.01 PURPOSE. In order to properly identify Deer Trails Addition No. 1 as well as to serve as entry signs to the Subdivision, the Developer may erect what it determines to be appropriate sign structures and landscaped areas surrounding the same to include various bushes, plants and trees.

7.02 LOCATION. Sign structures and landscaped areas may be located in the Subdivision at the discretion of the Developer.

7.03 SIGN AND LANDSCAPING EASEMENTS. The Developer reserves unto itself, and its successors and assigns, the right to erect, repair, maintain, improve, change, and remove the Subdivision identification sign and entrance landscaping situated on that portion of Lot 1 and that portion of Lot 24 described on the Plat of Deer Trails, together with the free right of ingress and egress by all means, including vehicles over and across Lot 1 and Lot 24, insofar as such right of ingress and egress is necessary to the proper use of the right reserved herein. The developer hereby grants to the Homeowners Association a permanent easement to keep, maintain, restore, repair, improve, change, and remove said entrance sign and landscaping, together with the free right of ingress and egress by all means, including vehicles over and across such property, insofar as such right of ingress and egress is necessary to the proper use of the easement granted herein. No trees, shrubs, fences, or other obstructions, whether natural or constructed, shall be permitted which interfere with the unobstructed view of the sign and landscaping from the public streets adjacent to Lot 1 and Lot 24.

7.04 ERECTION AND MAINTENANCE. It shall be the Developer's responsibility to erect the sign structures, entrance monuments, and landscaped areas. After initial construction and erection, it shall be the responsibility of the Homeowners Association to provide continuous maintenance for the same and the sign structures and landscaping shall be the property of the Homeowners Association.

ARTICLE VIII: OUTLOTS

8.01 LOCATION OF OUTLOTS. There are two (2) Outlots on the Plat of the Subdivision, each to be maintained and owned by the Homeowners Association. Additional property may be made subject to the Declaration by a Supplemental Declaration which may include one or more Outlots. The Homeowners Association will be responsible for the maintenance of the outlets.

ARTICLE IX. HOMEOWNERS ASSOCIATION

9.01 PURPOSE FOR THE HOMEOWNERS ASSOCIATION. The Developer has deemed it desirable for the effective preservation of the values and amenities in this Subdivision to create an agency to which should be delegated and assigned the powers of maintaining and administering the outlots described herein together with any other common areas in the Subdivision, and administering and enforcing the covenants and restrictions herein. The Developer has also deemed it desirable that the Homeowners Association shall have the power to assess, collect and disburse the assessments and charges hereinafter created. To this end there will be incorporated under the laws of the State of Wisconsin, Deer Trails Homeowners Association, Inc. (referred to in this Declaration as the "Homeowners Association") for the purposes of exercising the functions aforesaid.

9.02 MEMBERSHIP. Every person or entity who is an Owner of a Lot within the subdivision and any future additions to the Subdivision shall be a member of the Homeowners Association, provided that no person or entity who holds an interest merely as security for the performance of an obligation shall be a member.

9.03 MANAGEMENT. The Homeowners Association shall be managed by a Board of Directors. The Board of Directors shall consist of three (3) members. As long as the Developer owns any of the Lots, including any Lots made subject to this Declaration by a Supplemental Declaration, the Board of Directors of the Homeowners Association shall be appointed by the Developer. After the Developer no longer owns any Lots, the Board of Directors shall be elected by the Owners. However, nothing contained herein shall prevent the Developer, at its sole discretion, from turning control of the Board of Directors of the Homeowners Association over to the members of the Homeowners Association at any time. The Developer shall be entitled to one (1) vote for each Lot owned; provided, however, that notwithstanding any other provision for voting, the Developer shall have sufficient votes to constitute a majority of votes until all its Lots are sold.

9.04 VOTING RIGHTS. The Homeowners Association shall have one class of membership: members shall be Owners and shall be entitled to one vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interests in any Lot, i.e., and without limitation by enumeration, as tenant in common or survivorship marital property, there shall be cast one (1) vote amongst them for each Lot they so own. The presence in person or by proxy of any duly called meeting of members of the Homeowners Association in person or by proxy of Owners holding more than ten percent (10%) of the votes shall constitute a quorum.

9.05 ANNUAL ASSESSMENTS. Each Owner shall be subject to a general annual charge or assessment to be determined solely by the Board of the Directors of the Homeowners Association for the purpose of defraying the costs of maintaining and administering the outlets and any other common areas of the subdivision. Such annual assessment shall be a pro rata share, or one (1) share per Lot, of the cost incurred by the Homeowners Association to maintain the outlots and other common areas for the recreation, health, safety, welfare and enjoyment of its members. Said cost shall include, but not be limited to payment of electricity and other utility bills, taxes, insurance, repair, replacement, and additions to the improvements made upon said outlets or common areas, and the cost of labor, equipment, materials, management and supervision thereof. The Developer shall pay its pro rata share of such annual assessments for each Lot it still owns in the subdivision. Such annual assessment shall be levied by the Homeowners Association as of January 1<sup>st</sup> for each year and the statement for such amount shall be mailed to the Owner of each Lot as of such date, and be payable on or before March 1<sup>st</sup> of each year. The initial annual assessment shall be \$100.00 per Lot prorated per annum and payable at closing. Such annual assessment may be changed by a majority of the votes of the members of the Homeowners Association. The assessment, however, as established by the Homeowners Association, shall be set taking into consideration the cost of current maintenance and future needs and may be in any lesser or greater sum than the initial assessment which will meet these requirements.

9.06 SPECIAL ASSESSMENTS. A special assessment may be levied by the Homeowners Association for the purpose of defraying in whole or in part the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement upon an outlot or common area in the subdivision, if consented to by a two-thirds (2/3) majority of the members voting at a duly called meeting of the Homeowners Association at which a quorum is present. Such special assessments shall be due and payable ninety (90) days after the required affirmative vote of the members of the Homeowners Association.

9.07 PROOF OF PAYMENT. The Homeowners Association shall, upon demand at any time, furnish to any Owner a certificate in writing signed by an officer of the Homeowners Association setting forth whether said assessments have been paid. Such certificate shall be conclusive evidence of the payment of any and all assessments therein stated to have been paid. Such certificate shall be conclusive evidence of the payment of any and all assessments therein stated to have been paid.

9.08 LIENS AND COLLECTION OF ASSESSMENTS.

(a) Establishment of Liens. Any and all Homeowners Association assessments made by the Homeowners Association and in accordance with the provisions of this Declaration with interest thereon at the lesser of eighteen percent (18%) per annum or the highest rate allowed by law and costs of collection, including, but not limited to, reasonable attorney's fees are hereby declared to be a charge and a continuing lien upon the Lots against which each such Homeowners Association assessment was made. Each Homeowners Association assessment against a Lot together with interest and costs of collection thereof, including reasonable attorney's fees, shall be the personal obligation of the Owner of each Lot assessed. Said lien shall be effective only from and after the time of the recordation with the Register of Deeds of Waukesha County, of a written acknowledged statement by the Homeowners Association setting forth the amount due to the Homeowners Association as of the date the statement is signed. Upon full payment of all sums secured by that lien, the party making payment shall be entitled to a satisfaction of the statement of lien in recordable form. Notwithstanding anything to the contrary herein contained, where an institutional mortgage of record obtains title to a Lot as a result of foreclosure of its mortgage or by virtue of deed in lieu of foreclosure, such acquirer of title, its successors or assigns, shall not be liable for the share of Homeowners Association assessments pertaining to such Lot or chargeable to the former Owner thereof which became due prior to the acquisition of title as a result of the foreclosure or deed in lieu thereof, unless the Homeowners Association assessment against the Lot in question is secured by a claim of lien for the Homeowners Association assessment, as recorded prior to the recordation of the mortgage that was foreclosed or with respect to which a deed in lieu of foreclosure was given.

(b) Collection of Homeowners Association assessments. In the event any Owner shall fail to pay any Homeowners Association assessment or installment thereof, charged to such Owner, within fifteen (15) days after the same becomes due, then the Homeowners Association, through its Board of Directors, shall have any and all of the following remedies, to the extent permitted by law, which remedies are cumulative, and which remedies are not in lieu of, but are in addition to, all other remedies available to the Homeowners Association:

(i) To advance on behalf of the Owner in default, funds to accomplish the needs of the Homeowners Association, up to and including the full amount for which such Owner is liable to the Homeowners Association, in the amount or amounts of money so advanced, together with interest and all costs of collection thereof, including but not limited to, reasonable attorney's fees, may thereupon be collected by the Homeowners Association, and such advance by the Homeowners Association shall not waive the default.

(ii) To file an action in equity to foreclose its lien at any time after the effective date thereof. The lien may be foreclosed by an action in the name of the Homeowners Association in like manner as the foreclosure of a mortgage on real property.

(iii) To file an action at law to collect said Homeowners Association assessment, plus interest, plus court costs and reasonable attorney's fees without waiving any lien rights or rights of foreclosure in the Homeowners Association.

(c) Collection by Developer. In the event for any reason the Homeowners Association shall fail to collect the Homeowners Association assessment, then in that event, the Developer shall at all times have the right (but not the obligation):

(i) To advance such sums as the Homeowners Association could have advanced as set forth above; and

(ii) To collect such Homeowners Association assessment and, if applicable, any such sums advanced by Developer; utilizing remedies available to the Homeowners Association as set forth above, which remedies (including, but not limited to, recovery of reasonable attorney's fees) are hereby declared to be available to Developer.

#### ARTICLE X: GENERAL PROVISIONS

10.01 DURATION. The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

10.02 AMENDMENT. This Declaration may be amended at any time by an instrument signed by not less than ninety percent (90%) of the Owners. All Amendments shall be recorded in the Register of Deeds Office for Waukesha County.

10.03 ENFORCEMENT. Any Lot Owner, the Developer, or the Homeowners Association shall have the right to enforce by any proceeding in law or in equity, all covenants, conditions and restrictions imposed by the provisions of this Declaration. Failure to enforce any covenant, condition or restriction contained herein shall in no event be deemed a waiver of the right to do so thereafter. Any Lot Owner, the Homeowners Association, or the Developer who brings an action hereunder to enforce these covenants, conditions and restrictions shall, if successful in prosecuting said action, recover all reasonable costs, expenses, and reasonable attorney fees, as determined by the court. As long as the Developer owns any Lot, any Lot Owner who wishes to make a complaint regarding any matter which is the subject of this Declaration must do so in writing stating the Lot Owner's full name and address and the nature of the complaint and delivering it to the Developer at 1407 E. Sunset Drive, Suite 200, Waukesha, WI 53189.

10.04 RIGHTS OF THE DEVELOPER. For such time as the Developer shall own any Lot, his rights and interest shall not be prejudiced by any of the following actions unless he shall, in writing, join in such actions. There will be no amendments to the Declaration which:

- (a) Discriminate or tend to discriminate against his rights as a Lot Owner.
- (b) Change ARTICLE I, DEFINITIONS, in a manner which alters his rights or status.
- (c) Alter the character and rights of the Developer as set forth in the Declaration.
- (d) Alter previously recorded or written agreements with public or quasi-public agencies as regards to easements and rights-of-way.

10.05 NUMBER AND GENDER. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

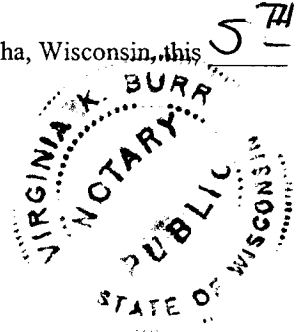
10.06 CAPTIONS. The captions and section headings herein are inserted only as a matter of convenience and for reference and in no way define or limit the scope or intent of the various provisions hereof.

10.07 SEVERABILITY. The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of the remaining portion of said provision or of any other provision hereof.

10.08 GOVERNING LAW. This Declaration shall be governed by and construed under the laws of the State of Wisconsin.

IN WITNESS WHEREOF, Don Belman Realty, Inc., Developer, has executed this Declaration at Waukesha, Wisconsin, this 5<sup>th</sup> day of SEPT, 2008.

Don Belman Realty, Inc.  
 BY: [Signature]  
 Don Belman, President



STATE OF WISCONSIN )  
 COUNTY OF WAUKESHA ) ss.

Personally came before me this 5<sup>th</sup> day of September 2008, the above named Don Belman, President, an officer of Don Belman Realty, Inc., to me known to be the person who executed the foregoing instrument and acknowledged the same as Developer.

Virginia K. Burr (Virginia K. Burr)  
 Notary Public, State of Wisconsin  
 My Commission (expires) (is) May 01, 2011

This instrument drafted by:  
 Denis J. Wagner  
 SCHOBER & RADTKE S.C.  
 15525 West National Avenue  
 New Berlin, Wisconsin 53151-0155

EXHIBIT A

LEGAL DESCRIPTION

Deer Trails Addition No. 1, a subdivision being a part of the Southwest One-quarter ( $\frac{1}{4}$ ) of the Southwest One-quarter ( $\frac{1}{4}$ ) of Section 13, Township 6 North, Range 19 East, City of Waukesha, Waukesha County, Wisconsin.