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Document Number

**Declaration of Covenants
And Restrictions**

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Lots 38 through 76 of The Preserve at Deer Creek II Town of Ixonia, Jefferson County, Wisconsin.

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Name and Return Address
Attorney Bruce R. Briney
Nowlan & Mount LLP
P.O. Box 8100
Janesville, WI 53547-8100

Parcel Identification Number (PIN)

DECLARATION OF COVENANTS AND RESTRICTIONS

BROOKSTONE HOMES, INC. is the owner of Lots 38 through 76 of The Preserve at Deer Creek II (the "Subdivision").

Brookstone Homes has elected to subject title to Lots 38 through 76 of the Subdivision to those Covenants and Restrictions stated in The Preserve at Deer Creek Phase I Declaration of Covenants and Restrictions recorded December 7, 2004, in the Jefferson County Register of Deeds as Document No. 1165739 (the "Covenants and Restrictions").

Brookstone Homes, Inc. is the successor to and assignee of The Preserve at Deer Creek of Ixonia LLC as provided in Article 10.1 of the Covenants and Restrictions. Brookstone Homes, Inc. has exercised its right to subject Lots 38 through 76 of the Subdivision to the Covenants and Restrictions pursuant to Article 11 of the Covenants and Restrictions.

Dated: February 8th, 2006

BROOKSTONE HOMES, INC.

By: [Signature]

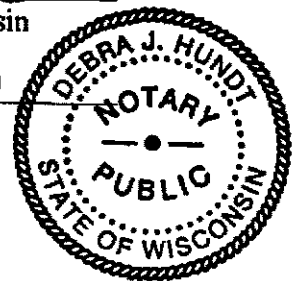
Its: Chief Financial Officer

STATE OF WISCONSIN)
 : ss
COUNTY OF WAUKEHA)

Personally came before me this 8th day of February, 2006, the above-named Steve McKeene to me known to be the person who executed the foregoing instrument and acknowledged the same.

[Signature]

Notary Public, Waukesha County, Wisconsin
My Commission is permanent
or expires: 12-27-09



This document prepared by:
Attorney Bruce R. Briney
Nowlan & Mouat LLP
P.O. Box 8100
Janesville, WI 53547-8100

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**DECLARATION OF COVENANTS AND RESTRICTIONS
FOR THE PRESERVE AT DEER CREEK SUBDIVISION**

The Preserve at Deer Creek of Ixonia, LLC, ("Developer") owns all of the lots in The Preserve at Deer Creek Subdivision Phase I (the "Subdivision") located in the Town of Ixonia, Jefferson County, Wisconsin. The plat of the Subdivision has been recorded in the office of the Register of Deeds of Jefferson County, Wisconsin, on the 7th day of December, 2004, in Volume 13 of Plats, Page 2, as Document No. 1165738.

Developer has established this Declaration of Covenants and Restrictions (the "Declaration" or these "Covenants and Restrictions") for the purpose of establishing a general scheme for the development and construction of residences on lots in the Subdivision and for the purpose of enhancing and protecting the value, attractiveness, appeal, and desirability of lots within the Subdivision.

These Covenants and Restrictions apply to all of the lots in Phase I of the Subdivision (the "Lot" or "Lots") and are binding upon the owners, their successors, and assigns of each of the Lots in the Subdivision.

**ARTICLE 1.
Restrictions on Use of Lots**

1.1 Residential Use. No Lot shall be used except for residential purposes. Except as provided herein, no buildings shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single family residence not to exceed two stories in height and an attached private garage large enough to accommodate not less than two nor more than three cars. The basement of the residence that is exposed or partially exposed shall not constitute a "story" in determining the height of the residence.

1.2 Restrictions on Resubdivision. No Lot shall be divided into smaller Lots so as to increase the total number of Lots in the Subdivision. This prohibition does not preclude the combining of two Lots for the purpose of constructing one residential residence nor does it preclude dividing a Lot and attaching the two portions of the Lot to the two adjoining Lots to create two larger Lots so long as the total number of Lots in the Subdivision is not increased.

1.3 Prohibited Uses.

1.3.1. No disabled motor vehicles, nor any machinery, boats, trailers, campers, or recreational vehicles, or any similar vehicles shall be stored or kept on any street in the Subdivision for a period of more than 72 hours. No machinery, motor vehicle, boat, trailer, camper, recreational vehicle, or similar vehicle shall be stored or kept on any Lot except if kept within the garage of the residence constructed on the Lot with the garage door closed.

1.3.2. No animals of any kind shall be raised, bred, or kept on any Lot excepting only that a maximum of three (3) dogs, cats, or other household pets may be kept provided they are not kept, bred, or maintained for commercial purposes or for fur, clothing, or food. Pets kept on a Lot must be restrained or confined to the owner's Lot. All Lots shall be kept clean and free of pet waste and debris.

1.3.3. No Lot or portion of a Lot shall be used as a dumping ground for rubbish or a site for the accumulation of unsightly materials of any kind. Trash, garbage, or other waste shall not be kept on any Lot except completely within well-maintained sanitary containers and only in reasonable quantities and until the next regularly scheduled pickup or removal of such items. All equipment and containers for the storage or other disposal of such waste materials shall be kept in clean and sanitary condition. Materials incident to the construction of improvements on a Lot may be stored on the Lot during construction so long as construction progresses on such Lot without delay.

1.3.4. No garage or other outbuilding (except for sales offices and construction trailers owned and used by Developer, Developer's assignees, or builders on a Lot) shall be occupied by any owner, tenant, or other person prior to the erection and completion of a residence on the Lot.

1.3.5. No business or commercial structure or improvement shall be erected or allowed to operate on any Lot excepting only that an owner of a residence on a Lot may use a room in the residence as an office or studio provided that no advertising signs shall be displayed and provided that any such use shall comply with all applicable zoning ordinances and regulations. Developer may maintain model homes and may operate a sales office out of any model home on any Lot.

1.3.6. No sign of any kind shall be displayed to the public view on any Lot except a "for sale" sign used by the owner of the Lot or by the Developer. Developer may install a permanent entrance sign or signs to the Subdivision. Developer may also install temporary advertising signs on any Lot owned by Developer.

1.4 Landscape, Grading and Drainage Requirements.

1.4.1. Landscaping plans must be submitted for approval in conjunction with building plans. At a minimum, landscaping shall include the street trees required under Section 4.2 hereof, together with sodded or seeded lawns on all four sides of the Home.

1.4.2. All landscaping (including permanent lawns) shall be performed in accordance with the plan approved by the Developer and shall be completed within 90 days following the issuance of the occupancy permit for the Home,

or if said permit was granted after September 15, all landscaping plans shall be completed be on or prior to June 1 of the following year.

1.4.3. No fence, wall, hedge, or screen planting shall be installed unless in accordance with landscaping or other plans approved in advance by the Developer pursuant to Article 4. In general, fencing will be discouraged other than for protection of swimming pools. Any fencing shall be "see through" and decorative such as split rail or picket type fencing. Chain link fencing or wire fencing of any kind is prohibited. No fencing shall extend higher than six (6) feet above finish grade. No swimming pools shall be installed above the surface grade.

1.4.4. Prior to commencement of the home construction, the Lot shall at all times be free of soil erosion and fully and completely stabilized with turf (which during the mowing season shall be regularly mowed) and kept in a clean and sightly condition. In the event of any failure to comply with any of the foregoing, the Developer or the Association (or contractors engaged by them) shall have the right to enter the Lot and conduct such repairs or maintenance as required above, and the cost thereof shall become a special assessment against the Lot under Article 7 of the Declaration.

1.4.5. Each lot owner must strictly adhere to and finish grade its lot in accordance with the Master Lot Grading Plan or any amendment thereto approved by the TOWN Engineer on file in the office of the TOWN Clerk. The DEVELOPER and/or the TOWN 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. No owner of any lot shall or will at any time alter the grade of any lot from that which is naturally occurring on that lot at the time the site development improvements have been completed by the DEVELOPER unless and until the lot owner shall first obtain the written approval of the TOWN Engineer for such grade alteration. In order to obtain this approval, it shall first be necessary for the lot owner, at the lot owner's expense, to have prepared a grading plan which shows in detail the area to be re-graded, the existing and proposed topography, analyzes the effects on site drainage, states that the effects on site drainage will not be in violation of law as to alteration of natural drainage courses, and is a plan which does not unreasonably affect an adjacent property owner as regards drainage or their viewing of unreasonable slop treatment. The TOWN Engineer's approval, if granted, shall not relieve the lot owner from the ultimate responsibility for the design, performance, and function of the grade alteration and/or drainage condition, and the lot owner by requesting the alteration, and/or by altering the grade, thereby agrees to indemnify and hold harmless the TOWN and its agents, employees and independent contractors regarding the same. The DEVELOPER and/or the TOWN and/or their agents, employees or independent contracts 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 2.

Common Areas and Facilities

2.1 **Common Areas Defined.** The term "Common Area" shall mean Outlots 1 and 2.

2.2 **Reservation of Common Areas.** The Developer hereby declares all of the "Common Areas" shall be reserved for the benefit of all Lot owners of the Subdivision for the purposes intended, including without limitation, the perpetual maintenance operation, repair and replacement of the Common Facilities located therein.

2.3 **Common Facilities Defined.** Developer hereby declares that all of the following facilities and improvements shall be known and identified herein as "Common Facilities" as and to the extent installed and constructed by the Developer in its sole discretion:

2.3.1 The storm water detention pond and all associated storm sewer lines, outfall structures, rip rap, and other improvements and facilities located in the Common Areas for storage and management of storm and surface waters.

2.3.2 All monuments, decorative structures, signage intended for permanent location, landscaping, fences and other structures and improvements located within the Common Areas.

2.3.3 All landscaping, ponds and passive recreational facilities (e.g. benches or footbridges) located in the Common Areas.

2.4 **Responsibility for Common Areas and Facilities.** The Association shall be responsible for the maintenance and operation of the Common Areas and the repair and replacement of the Common facilities, including the storm water pond. The Association shall also be responsible for all costs associated with the operation, maintenance, repair and replacement of the common facilities.

2.5 **Formation of Association.** The Developer shall have the right at any time following formation of the Association to convey or otherwise transfer to the Association, without cost, all or any portion of the Common Areas and the Association shall accept title to the same and assume responsibility for the management and maintenance thereof and the Common Facilities as provided herein.

ARTICLE 3.
Environmental Regulations

3.1 Grading, Filling, Excavation. All grading, excavation, filling and any other construction activities shall be in strict conformance with the permit dated May 25, 2004 issued by the DNR under Chapter 30 of the Wisconsin Statutes, and any amendments thereto (the "Chapter 30 Permit"), together with all federal, state and local laws, regulations, ordinances and administrative orders in respect to the protections of waterways, wetlands and other environmental areas (together as "Environmental Regulations"). Each Lot Owner shall be obligated to indemnify, defend and hold harmless the Developer, its members, contractors, agents and consultants against any violation of Environmental Regulations caused by said Lot owner, its agents, contractors, or employees.

ARTICLE 4.
Architectural Control Committee

4.1 Appointment. The Architectural Control Committee (the "Committee") shall consist of one or more representatives of Brookstone Homes, Inc. Brookstone Homes, Inc., may, at any time, resign as the Committee and upon such resignation Brookstone Homes, Inc shall notify the Lot owners in writing of such resignation. At that time, the majority of the Lot owners in the Subdivision shall elect the Committee consisting of three persons who shall establish its rules and procedures for operating. Notwithstanding the fact that Brookstone Homes, Inc may resign as the Committee, Brookstone Homes, Inc shall act as the Committee for any Lots owned by Brookstone Homes, Inc.

4.2 Procedure for Approval. Each of the following documents (the "Approval Plans") must be submitted to the Committee for its approval prior to the Lot owner commencing any construction, remodeling, or repair to any improvements on his or her Lot and prior to the Lot owner requesting a building permit from the appropriate authorities:

4.2.1. Plat of the Lot showing all proposed construction, changes, additions; and/or repairs;

4.2.2. Engineering plans and specifications for all construction, changes, additions and/or repairs;

4.2.3. Landscaping, fencing, and general development plans; and,

4.2.4. Architectural, building, and construction plans for the construction, changes, additions, and/or repairs showing the nature, kind, shape, height, materials, and location of all landscaping and improvements on the Lot and specifying any requested variance from any of the requirements set forth in these Covenants and Restrictions and if requested by the Committee, samples of proposed construction materials.

4.2.5. All Approval Plans must be submitted in duplicate and must be sent to the Committee by hand delivery or certified mail; provided, however, the Developer shall not be obligated to submit or obtain approval as long as the Developer own any Lots in the Subdivision. At such time as the Approval Plans meet the approval of the Committee, one complete set of the Approval Plans will be retained by each party and the other complete set shall be marked approved, signed by each party, and returned to the Lot owner or the Lot owner's designated representative. If the Approval Plans are disapproved, one set of the Approval Plans shall be returned to the Lot owner marked "disapproved" and shall be accompanied by a statement of the reasons for disapproval. The Committee's approval or disapproval shall be in writing. In no event shall the Committee give oral approval of any of the Approval Plans.

4.3 Committee's Review. No building, structure, fence, wall, or improvement shall be erected, placed, or altered on any Lot in the Subdivision until the Approval Plans have been approved by the Committee as to the quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. The Committee shall also have the authority among other things to require, at a minimum, pitch or slopes on the main structure of the residence to be constructed, remodeled, or added onto any Lot in the Subdivision, to require the colors of roofing materials, siding, shutters, windows, or other accents to any residence or building to be constructed or remodeled, to prohibit or regulate the use of solar or heating panels, to regulate the construction and maintenance of awnings, and generally to require that any plans meet the standards established by the Committee. After the Approval Plans have been submitted to the Committee for review, the Committee may request additional information and/or revised Approval Plans.

4.4 Committee's Approval. The Committee shall have 30 days after its receipt of the final Approval Plans from the Lot owner within which to render its decision on the approval or disapproval of the Approval Plans. The final Approval Plans shall include any additional specifications and/or revised Approval Plans requested by the Committee. In the event the Committee fails to approve or disapprove within 30 days after complete Approval Plans have been submitted to it, approval shall be presumed and all related Covenants and Restrictions shall be deemed to have been in full compliance by the Lot owner. No construction, remodeling, or alterations may be started by any Lot owner without the prior written approval of the Committee except as provided above. If a Lot owner fails to submit final Approval Plans for approval by the Committee and/or otherwise fails to follow the procedures set forth herein, any construction, remodeling, or alterations whether such construction, remodeling or alterations have been started or completed, shall constitute a violation of these Covenants and Restrictions. No owner of a Lot may claim that the Committee, through any acts or failure to act by the Committee, has waived its right to approve or disapprove any such construction, remodeling, or alteration. The decision of the Committee is final as to all matters.

4.5 Liability of Developer and the Committee. The Developer and its assignees and the members of the Committee shall have no liability for decisions made

by them so long as such decisions are made in good faith and are not discriminatory, arbitrary, or capricious. Any errors in or omissions from the documents submitted to the Developer or the Committee shall be the responsibility of the entity or person submitting the documents and the Developer or the Committee shall have no obligation to check for errors in or omissions from any such documents or to check for such document's compliance with the general provisions of these covenants and restrictions, local ordinances and regulations, state statutes, or the common law. Developer shall have no responsibility or liability for (i) the creation, selection, management, or operation of the Committee, (ii) any actions taken or omitted to be taken by or on behalf of the Committee as a result of, in connection with, under, or pursuant to this Declaration, or (iii) any liabilities, obligations, debts, actions, causes of action, claims, debts, suits, or damages incurred by or on behalf of or arising in connection with the Committee or the duties and obligations of the Committee pursuant to these Covenants and Restrictions.

4.6 Developer's Representations Developer makes no representation or warranty whatsoever, express or implied, regarding the physical condition of any Lot. Developer recommends that prospective buyers have their Lot inspected and tested by a qualified professional regarding subsurface conditions or any other matter which may be of concern.

ARTICLE 5.

Construction of Improvements

5.1 General Standards. All construction in the Subdivision shall be in accordance with the standards developed pursuant to Article 5.

5.2 Garage Required. Each residence shall have a private attached garage suitable for parking not less than two standard size automobiles or more than three standard size automobiles. No garage shall be enclosed or otherwise altered to prevent the parking of at least two conventional automobiles completely within such garage. Enclosure of garages by Developer for temporary marketing, sales, construction, or office purposes is permitted provided such enclosures and offices are architecturally compatible with the residence.

5.3 Driveways Each Lot shall be improved by the Lot Owner with an asphalt, brick or concrete driveway extending from the inside edge of the sidewalk to the garage within 90 days following issuance of an occupancy permit for the Home, or if said permit is granted after September 15, then said completion shall be achieved prior to June 1 of the following year. A plot plan showing the location of the drive shall be submitted to the Developer for its prior approval under Article 4.

5.4 Construction Damage Each Lot Owner shall be responsible for any damage to any other Lots, the Common Areas, the Common Facilities, or any improvements the Developer is obligated to construct or install under contract with a local government unit, caused by said Lot Owner, its agents, employees, or contractors, including without limitation, ruts from vehicles or equipment, destruction of vegetation, street cleaning, or the depositing of fill or construction refuse. Such damage shall be

fully restored or cleaned up and the cost thereof, together with the interest therein at 12% accruing from the date incurred which shall be reimbursed by the Lot owner, and if not so reimbursed, shall constitute a special assessment against the Lot.

5.5 Location on Lot and Setbacks

5.5.1. All structures or improvements (including eaves, steps, overhangs, and attached porches, patios and other appurtenances) shall be located in conformance with applicable zoning and building codes. Each corner Lot shall be deemed to have two front yards and two side yards and architectural design shall be treated accordingly.

5.5.2. If any statutes, ordinances, rules, regulations, zoning codes, or building codes require setbacks which are different than those provided in these Covenants and Restrictions, the provisions of these Covenants and Restrictions will apply if they are more restrictive.

5.5.3. Notwithstanding the setback requirement specified above, the orientation and precise location of each Home and garage, as well as all other improvements on the Lot, must be approved in writing by the Committee prior to any construction, it being intended that the Committee may, in its discretion, impose greater setback requirements than those permitted under Municipal ordinances in order to achieve or maintain the aesthetic appearance for the Subdivision or any portions thereof which the Committee deems advisable. Additionally, the approval of the exact location of the Home by the Committee may be for the purpose of ensuring a proper and consistent setback of structures and buildings and to avoid blockage and views of other properties.

5.6 Construction Specifically Regulated.

5.6.1. One (1) outbuilding, shed, or similar accessory building not exceeding 200 square feet shall be allowed to exist on any Lot provided the use of such is restricted to storage, children's playhouses, greenhouses, or gazebos. Any such building shall be architecturally consistent in quality, material, character, and appearance with the residence and the plan of which must be approved by the Committee.

5.6.2. No air conditioning apparatus shall be installed on the ground in front of a residence or on the roof of any residence. No air conditioning apparatus shall be attached to any front wall or window of a residence. No window air conditioners shall be permitted.

5.6.3. Except with the prior written permission of the Committee, no antennas, dishes, or other equipment for receiving or sending audio or video messages or transmissions shall be permitted on any Lot except

antennas for private AM and FM radio reception and UHF and VHF television reception. Up to two satellite dishes each with a diameter not to exceed 18 inches shall be permitted on each Lot.

5.6.4. Within platted utility and drainage easements on each Lot, no permanent structures, paving (other than driveways and sidewalks), landscape planting, or materials shall be placed or permitted to remain which may damage or materially interfere with the installation, operation, and maintenance of utilities or change, obstruct, or retard the flow of water through or within drainage channels and/or easements.

5.6.5. The owner of each Lot shall maintain erosion control fixtures including, but not limited to, silt fence, geotextile fabric, and hay bales until the time that vegetative cover is established to an extent that soils are stabilized and erosion and sedimentation do not originate from the Lot. The Lot owner shall not change, alter, or impede in any manner any drainage ways located on the Lot nor change the elevation of the final grade on the Lot. Should the Owner cause any such change or alteration, the cost to remedy and/or remove such change or alteration shall be paid by the lot owner.

5.6.6. Each Lot owner shall cultivate grass on all areas of his or her Lot, and shall maintain all areas in a sanitary and attractive manner. Grass, weeds, and vegetation on each Lot shall be kept mowed at regular intervals so as to maintain the Lot in a neat and attractive manner. No vegetables shall be grown in any portion of a Lot that faces a street unless completely screened from public view by fences which comply with these Covenants and Restrictions. No Lot owner shall permit weeds or grass to grow to a height of greater than six inches on his or her Lot. Upon failure of the owner of any Lot to so maintain his or her Lot (whether or not developed), Developer or the Committee may, at their option, have the grass, weeds, and vegetation cut as often as necessary in their judgment and the owner of such Lot shall be obligated when presented with an itemized statement to reimburse the Developer or the Committee for the cost of such work. Any such expenses incurred by the Developer or the Committee including reasonable attorney's fees shall be construed to create a lien in favor of the Developer and/or Committee for the cost of such work or the reimbursement sought for such work performed by such party. By accepting a deed to a Lot, the Lot owner hereby grants to the Developer and/or the Committee an easement to come upon the Lot at any time to perform such work.

5.6.7. Each Lot owner shall maintain the exterior of all buildings, fences, walls, and other improvements on his or her Lot in good condition and repair, shall replace worn and rotten parts, shall regularly repaint all painted surfaces and shall not permit the roofs, rain gutters, downspouts, exterior walls, windows, doors, sidewalks, driveways, parking areas, or

other exterior portions of the improvements to deteriorate. Upon failure of the Lot owner to maintain the exterior of all buildings, fences, walls, and other improvements on his or her Lot, the Developer or the Committee may, at their option, perform such maintenance as often as necessary in their judgment and the owner of such Lot shall be obligated when presented with an itemized statement to reimburse the Developer or the Committee for the cost of such maintenance work. These provisions shall be construed to create a lien in favor of the Developer or the Committee against such Lot for the cost of such work or the reimbursement sought for such work performed on such Lot together with reasonable attorney's fees. By accepting a deed to a Lot in the Subdivision, the Lot owner grants to the Developer or the Committee an easement to come upon his or her Lot to perform such maintenance work.

5.6.8. Any construction must be substantially completed within nine months of the start of construction unless extended by the Committee.

5.6.9. The minimum square footage of any residence constructed on a Lot in the Subdivision shall comply with the minimum requirements set forth in any local controlling ordinances, but in no case may the total floor area be less than 1,400 square feet for a single story residence and 1,700 for a two story residence (with a minimum of 850 square feet located on the first floor).

5.6.10. The location and type of any fence or wall must be approved by the Committee and must be constructed with materials approved by the Committee and must comply with all applicable governmental requirements and ordinances. No fence or walls shall be permitted in the front yard of a residence. No solid wood fence, stockade fence, or chain link shall be permitted and no fence shall be more than six feet in height.

5.6.11. Any improvements on any Lot which are fully or partially destroyed or damaged by fire, storm, or other peril shall be fully rebuilt and repaired or the debris therefrom fully removed within a reasonable period of time not to exceed 120 days after the occurrence of such destruction or damage unless a written extension is obtained from the Committee.

5.6.12. One-third (1/3) of all homes constructed within each phase of the Subdivision shall consist of One-third (1/3) natural material on the front elevation. Natural materials shall include brick, stone, cedar, and hardiplank, as well as other materials approved by the Committee.

ARTICLE 6.

Membership and Voting Rights in the Association

6.1 Membership in the Association. Every owner of a Lot in the Subdivision shall be a member of the Association. Membership shall be appurtenant to, and shall not be separated from, ownership of a Lot.

6.2 Voting Rights.

6.2.1. All Lot owners shall be entitled to one vote for each Lot. When more than one person holds an interest in any Lot, all such persons shall be members but the vote for such Lot shall be exercised as they among themselves determine but in no event shall more than one vote be cast with respect to any Lot.

6.2.2. So long as the Developer owns any Lots in the Subdivision, the Developer shall appoint a Board of Directors to the Association (the "Board") and shall control the operation and management of the Association. At such time as the Developer no longer holds title to any Lots in the Subdivision or at such earlier time as the Developer may, in its sole discretion, elect, the control and operation of the Association shall be turned over to the Lot owners who shall elect the Board of Directors.

6.3 Board of Directors. At such time as the control of the management and operation of the Association is turned over to the Lot owners by the Developer pursuant to Section 6.2.2 above, the Association shall elect the Board and the Board shall by majority rule conduct all of the business of the Association except when membership votes are required.

6.4 Bylaws. The Association may make whatever rules and bylaws it deems desirable to govern the Association and its members; provided that any conflict between such bylaws and the provisions hereof shall be controlled by the provisions hereof.

6.5 Inspection Rights. Each owner shall have the right to inspect and examine the books, records and accounts of the Association at reasonable times upon reasonable written notice, provided that such inspection and examination shall be at such owner's sole cost and expense.

ARTICLE 7.

Assessments

7.1 Creation of Lien and Personal Obligation of Assessments. No mandatory assessments shall be due from a Lot owner prior to the date when Developer transfers title to the Lot (the "Lot Approval Date") to the owner. From and after the Lot Approval Date, Developer, for each fully developed Lot in the Subdivision, each owner (other than the Developer), by acceptance of a deed to a Lot, is deemed to covenant and agree, to pay the Association annual assessments as defined in Section 7.2, and special

assessments as defined in Section 7.4, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs of collection and reasonable attorneys' fees, shall be a charge on each Lot and, if unpaid as described in Section 7.5 hereof, shall constitute a continuing lien upon the Lot against which each such unpaid assessment is made. Each such assessment, together with interest, costs of collection and reasonable attorney's fees, shall be the personal obligation of the owner of such Lot at the time when the assessment came due. The personal obligation for delinquent assessments shall not pass to such owner's successors in title unless expressly assumed by them, provided that the lien for such assessments shall continue and may be enforced against the Lot.

7.2 Annual Assessment.

7.2.1. From and after the Lot Closing Date, each Lot shall hereby be subjected to an annual assessment for the purpose of creating a fund to be designated and known as the "maintenance fund." The annual assessment shall be paid by the owner of each Lot to the Association annually in advance or in such intervals and methods as may be established by the Board from time to time. The annual assessment shall be sufficient to fund the purposes, uses, and benefits described in Section 7.3.

7.2.2. The assessment for a particular Lot for the calendar year in which the Lot Closing Date occurs shall be prorated for such calendar year for the period commencing on the Lot Closing Date and ending on December 31 of such calendar year. The rate at which each Lot will be assessed for subsequent years will be determined annually at least 30 days in advance of each annual assessment by the Board.

7.2.3. Upon the closing of a lot/home from Builder to owner, Developer will collect a one time working capital contribution of \$100.00. This working contribution will be used to fund normal maintenance and operations of the Association. All capital contributions shall be deposited in The Preserve at Deer Creek of Ixonia Homeowner's Association bank account.

7.3 Purposes. The Association shall use the proceeds of the annual assessment for the use and benefit of the Subdivision. Such uses and benefits may include, by way of example and not limitation, any and all of the following:

7.3.1. Maintaining, operating, managing, repairing, replacing or improving the landscaping, lighting, sprinkler systems, walls, fences, Subdivision monuments, signs and other improvements located in the Common Areas;

7.3.2. Mowing the grass, maintaining the gravel and maintaining signs in or adjoining any rights-of-way or easements in the event the Municipality or County fails to maintain such areas;

7.3.3. Paying legal charges and expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions and conditions affecting the Lots and/or Common Areas;

7.3.4. Paying reasonable and necessary expenses in connection with the collection and administration of the assessments; and

7.3.5. Paying insurance premiums for liability and fidelity coverage for the Committee and/or the Association and/or their members, officers, and directors and doing any other things which are necessary or desirable in the opinion of the Board, it being understood that the judgment of the Board, in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

7.4 Special Assessments for Capital Improvements by the Association.

In addition to the annual assessments above, the Board may levy in any calendar year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, any required capital improvements or for any other special purpose as determined by the Board.

7.5 Effect of Nonpayment of Assessments; Remedies of Developer or the Association. Any assessment not paid within 30 days after the due date shall bear interest from the due date until paid in full at the rate of 12% per annum, but in no event in excess of the maximum rate allowed by applicable Wisconsin law. The Association may bring an action at law against the Lot owner personally obligated to pay the same, may foreclose the lien against the Lot and/or may pursue any other legal or equitable remedy available to it. No owner may waive or otherwise avoid liability for the assessment provided for herein by nonuse of any Common Area or by abandonment of its Lot.

7.6 Subordinated Lien to Secure Payment. The lien on any particular Lot created as the result of the non-payment of any assessment provided for herein shall only be subordinate to the liens of any valid first lien mortgage or deed of trust secured by such Lot. Sale or transfer of any Lot shall not impair the enforceability or priority of the assessment lien against such Lot.

7.7 Developer Not Liable for Association Deficits. Notwithstanding anything contained in this Declaration to the contrary, Developer shall not be liable for any liabilities, obligations, damages, causes, causes of action, claims, debts, suits or other matters incurred by or on behalf of the Association or Lot owners or for any deficits or shortfalls incurred or realized by or on behalf of the Association or Lot owners in connection with the Subdivision or this Declaration.

ARTICLE 8.
Property Rights in Common Area.

8.1 **Property Rights in Common Area.** The Developer, the Association, and their successors, assigns, contractors, agents and employees shall have the right and easement to enter upon the Common Area (if any) for the purpose of exercising the rights set forth in this Declaration.

8.2 **Conveyance of Common Area to Association.** Developer shall convey the Common Area to the Association, free and clear of any encumbrances other than as may be created by this Declaration or imposed by the Municipality, County or other applicable governmental authority, within a reasonable period of time after the Association is formed, or if the improvements on the Common Area will be completed at a later date then within a reasonable period of time after the completion of such improvements.

ARTICLE 9.
General Provisions.

9.1 **Utility and Drainage Easements.** Easements are or will be established on the Plat for the installation, operation, maintenance and ownership of utility service lines from the Lot lines to the residences, and the conveyance of surface drainage. Developer reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically developing the land and installing improvements in the Subdivision. The owner of a Lot shall mow weeds and grass and shall keep and maintain in a neat and clean condition any easement which may traverse a portion of the owner's Lot.

9.2 **Recorded Plat.** All dedications, limitations, restrictions and reservations shown on the Plat(s) are and shall be incorporated herein and shall be construed as being adopted in each contract, deed or conveyance executed or to be executed by Developer or other owner conveying Lots in the Subdivision whether specifically referred to therein or not.

9.3 **Mortgages.** It is expressly provided that the breach of any of the conditions in this Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, as to the same premises or any part thereof encumbered by such mortgage or deed of trust, but said conditions shall be binding thereto as to Lots acquired by foreclosure, trustee's sale or otherwise, but only as to any breach occurring after such acquisition of title.

9.4 **Term.** The foregoing covenants and restrictions shall run with and bind all of the Lots within the Subdivision and shall remain in full force and effect for a term of 30 years after this Declaration is recorded, and shall be automatically extended for successive periods of 10 years unless a majority of the Lot owners in the Subdivision vote to terminate these Covenants and Restrictions and the termination is approved by the Town Board.

9.5 **Severability.** If any condition, covenant or restriction herein contained shall be invalid, which invalidity shall not be presumed until the same is determined by the unappealable judgment or order of a court of competent jurisdiction, such invalidity shall in no way affect any other condition, covenant or restriction, each of which shall remain in full force and effect.

9.6 **Binding Effect.** Each of the conditions, covenants, restrictions and agreements herein contained is made for the mutual benefit of, and is binding upon, each and every person acquiring any Lot within the Subdivision. This instrument, when executed, shall be filed of record in the deed records of the County so that each and every owner or purchaser of any Lot of the land within the Subdivision is on notice of the easements, conditions, covenants, restrictions and agreements herein contained.

9.7 **Other Authorities.** If other authorities, such as the Municipality or County, impose more demanding, extensive or restrictive requirements than those set forth herein, the requirements of such authorities shall govern. Other authorities' imposition of lesser requirements than those set forth herein shall not supersede or diminish the requirements herein.

9.8 **Addresses.** Any notices or correspondence to an owner of a Lot shall be addressed to the street address of the Lot. Any notices or correspondence to the Developer. The Committee or the Association shall initially be addressed to the Developer, the Committee, or the Association whichever applies, at the addresses of the Developer, or to such other addresses as are specified by the Developer, the Committee, or the Association whichever applies.

ARTICLE 10. Miscellaneous.

10.1 **Developer.** Whenever the word "Developer" is used herein, it shall mean The Preserve at Deer Creek of Ixonia, LLC or those persons or entities that The Preserve at Deer Creek of Ixonia, LLC specifically designates in writing as its assignee or assignees. All of the rights and privileges of The Preserve at Deer Creek of Ixonia, LLC as the Developer shall be assigned and transferred to those persons or entities which The Preserve at Deer Creek of Ixonia, LLC specifically designates as its assignee or assignees.

10.2 **Town Requirements.** The owners of each lot within the subdivision and/or a legally created homeowners association shall have the joint responsibility of properly landscaping and maintaining the outlots, open space and common areas, all island areas, median breaks, sewer easement areas and stormwater facilities on the Subject Property. In the event the owners do not properly maintain these areas, following reasonable notice, the Town of Ixonia may do so, and assess the costs against each property owner as a special charge.

10.3 Enforcement. The Developer, the Committee, the Board, or any Lot owner shall have the right to enforce by a proceeding at law or in equity or both all of the terms and provisions of these Covenants and Restrictions. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant or restriction either to restrain the violation or to recover damages for such violation. By accepting a deed to any Lot in the Subdivision, a Lot owner stipulates and agrees that damages for a violation or an attempted violation shall include but not be limited to all expenses and costs incurred to remove any residence or improvement constructed on a Lot and all expenses and costs necessary to remodel, repair, or alter any residence or improvement including liquidated damages of \$50 per day for each day that a violation remains uncorrected and all expenses and costs including reasonable attorney's fees incurred in order to bring any such residence, improvement, or violation into compliance with all of the terms and conditions of these Covenants and Restrictions. Except as limited or restricted hereby, Developer, the Committee, the Board, and the owners of each Lot shall have the easement and right to have each and all of the foregoing restrictions, conditions and covenants herein faithfully carried out and performed with reference to each and every portion of land within the Subdivision, together with the right to bring any suit or undertake any legal process that may be proper to enforce the performance thereof, it being the intention hereby to attach to each Lot, without reference to when it was sold, the right and easement to have such restrictions, conditions and covenants strictly complied with, such right to exist with the owner of each Lot and to apply to all Lots in the Subdivision. Failure by any owner, Developer, Committee, Board, or any Lot owner to enforce any covenant or restriction herein contained or to take any action herein permitted shall in no event be deemed a waiver of the right to do so thereafter. The rights granted Developer under this Declaration are personal rights and may not be amended or changed without the express written consent of the Developer. Damages shall further include all reasonable attorney's fees and costs incurred by the party seeking to enforce these Covenants and Restrictions and any person violating or attempting to violate the terms and provisions of these Covenants and Restrictions shall be liable for and shall pay all such damages, attorney's fees, and costs. All such damages and costs shall constitute a lien against the Lot of the Lot owner.

10.4 Validity. Invalidation of any one or more of these Covenants and Restrictions by judgment or court order shall in no way affect any of the other provisions which remain in full force and effect.

10.5 Amendment. So long as Developer owns any Lots in the Subdivision, Developer may amend these Covenants and Restrictions at any time as they apply to any Lots owned by them. Any amendments so made shall be binding upon the recording of the amendments at the office of the Register of Deeds. At such time as Developer no longer hold title to any Lots in the Subdivision, these Covenants and Restrictions may be amended at any time upon approval of two-thirds (2/3) of the "then owners" of the Lots.

10.6 Headings. All headings are for convenience only and should not be construed as having any additional meaning.

**AMENDMENT TO DECLARATION OF
COVENANTS AND RESTRICTIONS**

WHEREAS, The Preserve at Deer Creek of Ixonia, LLC (as Developer) and Brookstone Homes, Inc. (as Successor and Assignee of Developer) previously recorded a Declaration of Covenants and Restrictions for Lots 77 to 133, both inclusive, all in The Preserve at Deer Creek III, a Subdivision in the Town of Ixonia, Jefferson County, Wisconsin (the Subdivision), as Document No. 1214429; and

WHEREAS, Developer may amend the Covenants and Restrictions at any time as they apply to any Lot owned by Developer, as provided in Article 10.5 of The Preserve at Deer Creek Phase I Declaration of Covenants and Restrictions recorded in the Register of Deeds Office for Jefferson County on December 7, 2004, as Document No. 1165739; and

WHEREAS, Developer desires to amend the provisions of Article 4.1 of the Covenants and Restrictions with respect to Lots owned by Developer as set forth herein;

NOW, THEREFORE, the Declaration of Covenants and Restrictions for the Subdivision is hereby amended as follows:

1. Article 4.1 is deleted and replaced with the following:

4.1. Appointment. The Architectural Control Committee (the Committee) shall consist of one or more representatives of The Preserve at Deer Creek of Ixonia, LLC (The Preserve), with respect to Lots 78, 79, 82-88, 90-92, 95, 99, 100, 104, 109, 115-117, 121, 125, 126, 128-133. The Preserve may, at any time, resign as the Committee and upon such resignation, The Preserve shall notify the owners of the above-referenced Lots in writing of such resignation. At that time, the majority of the owners of the above-referenced lots shall elect the Committee consisting of three persons who shall establish its rules and procedures for operating. Notwithstanding the fact that The Preserve may resign as the Committee, The Preserve shall act as the Committee for any Lots owned by The Preserve.

The Committee shall consist of one or more representatives of Brookstone Homes, Inc. (Brookstone) for all other Lots in the Subdivision (which are owned by Brookstone). Brookstone may, at any time, resign as the Committee and upon such resignation, Brookstone shall notify the owners of such Lots in writing of such resignation. At that time, the majority of the owners of such Lots shall elect the Committee consisting of three persons who shall establish its rules and procedures for operating. Notwithstanding the fact that Brookstone may

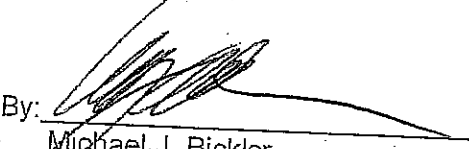
resign as the Committee, Brookstone shall act as the Committee for any Lots owned by Brookstone.

When neither The Preserve nor Brookstone owns any Lots in the Subdivision, the majority of all of the Lot owners in the Subdivision shall elect the Committee consisting of three persons who shall establish its rules and procedures for operating.

2. In all other respects, the provisions of the Declaration of Covenants and Restrictions for the Subdivision shall remain unchanged and in full force and effect.

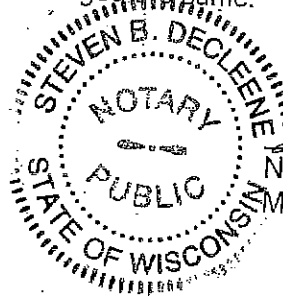
Dated 5-23-08

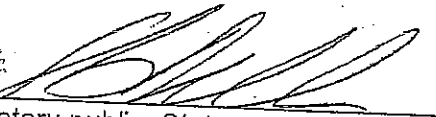
THE PRESERVE AT DEER CREEK
OF IXONIA, LLC

By: 
Michael J. Bickler
Member Manager

STATE OF WISCONSIN)
) ss
WAUKESHA COUNTY)

Personally came before me this 23rd day of May, 2008, the above-named Michael J. Bickler, to me known to be the person who executed the foregoing instrument and acknowledged the same.



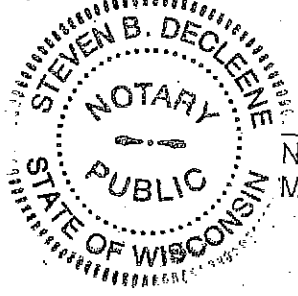

Notary public, State of Wisconsin
My Commission: 9/18/11

BROOKSTONE HOMES, INC.

By: [Signature]
Scott B. Thistle, President

STATE OF WISCONSIN)
) : ss
COUNTY OF WAUKESHA)

Personally came before me this 23rd day of May, 2007,
the above-named Scott B. Thistle to me known to be the person who executed the
foregoing instrument and acknowledged the same.



[Signature]
Notary public, State of Wisconsin
My Commission: 9/18/11

This document was prepared by
and should be returned to:
Attorney Robert B. Peregrine
Peregrine & Roth, S.C.
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