

STATE OF ALABAMA)

COUNTY OF SHELBY

LAKE COVENANTS

THIS DECLARATION is made and entered into as of the 7<sup>th</sup> day of March, 1996 by WEATHERLY LANDS, L.L.C., (hereinafter referred to as the "Developer").

R E C I T A L S :

Developer is the owner of Lots 338 through 361 in Sector 24 and Lots 1305 through 1315 in Sector 13 according to the Survey of Weatherly, as recorded in the Office of the Judge of Probate of Shelby County, Alabama (hereinafter referred to individually as a "Lot" and collectively as the "Lots").

Developer desires to construct a lake and dam (collectively, referred to as the "Lake") on those portions of Lots lying at or below the high water mark as shown on each record map, and, in connection therewith, desires to establish various easement rights and maintenance obligations with respect to the Lake on each of the Lots in the manner hereinafter provided.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, Developer does hereby agree, for Developer's benefit and the benefit of each of the Lots, as follows:

1. Easement for Lake. Developer does hereby establish and reserve for itself, all present and future owners of each of the Lots (hereinafter referred to individually as an "Owner" and collectively as the "Owners") and their respective agents, employees, representatives, invitees, successors and assigns, forever, a permanent and perpetual easement over, across, through, under and upon that portion of each Lot lying at or below the high water mark as shown on each record map, for the purpose of constructing, installing and maintaining the Lake and for the rise, fall, flow and drainage of water thereon.

2. Easement for Use of Lake. Developer does hereby establish and reserve for itself and all Owners and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual non-exclusive easement over, across, through and upon the Lake Easement Property, which non-exclusive easement shall: (a) be used and enjoyed by each Owner of a Lot in common with all other Owners of the Lots; and (b) be subject to the terms and provisions of this Declaration and all rules and regulations which may be adopted from time to time by a majority of the Owners of the Lots as provided in Paragraph 6 below.

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3. Flood Easement. Developer does hereby establish and reserve for itself, the Owners of each of the Lots and their respective successors and assigns, forever, a permanent and perpetual easement over, across, through, under and upon that portion of each Lot lying at or below the high water mark as shown on each record map, which easement is to utilized for the flow and drainage of the surface water accumulating in, upon or as a result of the construction and maintenance of the Lake on the Lake Easement Property, which easement shall specifically include the right to flood that portion of any of the Lots lying on or below the elevation specified above.

4. Maintenance Responsibilities.

(a) The Owner of each of Lot, by acceptance of a deed to such Lot, shall be deemed to covenant and agree to pay his or her pro rata share of all Lake Expenses, as hereinafter defined. The Owners of the Lots shall, collectively, be solely responsible for (collectively, the "Maintenance Responsibilities") the maintenance, upkeep and repair of the Lake, the Lake Easement Property and all dams, spillways, pipes, lines, conduits, drainage swells, equipment, machinery, fixtures, appurtenances and any other improvements of any nature (other than docks and piers constructed by Owners on their respective Lots) situated in or upon the Lake Easement Property and shall also include all storm drainage, pipes, lines and storm sewers not located within the Lake Easement Property but through which excessive water is drained from the Lake to adjacent storm sewers.

(b) All costs and expenses relating to the performance of the Maintenance Responsibilities, including, without limitation, the removal of trash, debris, rubbish and other unsightly materials (including dead or diseased trees form on or within the Lake or the Lake Easement Property), the maintenance, repair and replacement, if necessary, of any dams or spillways relating to the Lake, the establishment of siltation, sedimentation and erosion programs for the Lake and Lake Easement Property, the establishment of reasonable reserves or reserve accounts for any of the Maintenance Responsibilities, the implementation of any necessary or required programs to eliminate insects or to otherwise comply with any and all public safety standards applicable to the Lake or the Lake Easement Property and all other costs and expenses relation to the maintenance, repair, upkeep, operation, replacement and use of the Lake by the Owners of the Lots (collectively, the "Lake Expenses") shall be paid "pro rata", as herein defined by each Owner of a Lot. As used herein, the term "prorate" shall mean the amount determined by dividing the Lake Expenses for any applicable period by the total number of Lots. All Lake Expenses shall be determined on an annual or other basis and shall be agreed to by at least fifty-one percent (51%) of the Owners of all of the Lots.

(c) In the event any Owner fails to pay his or her pro rata share of the Lake Expenses as and when the same are due and payable, then the unpaid portion thereof shall accrue simple interest at the lesser of eighteen percent (18%) per annum or the highest rate which may be charged to such Owner by law from and after the due date of the same until the same has been paid in full. Furthermore, in the event the remaining Owners (or any one of them) employ an attorney otherwise take any legal action in attempting to collect any amounts due from any defaulting Owner, such defaulting Owner agrees to pay all attorney's fees, court costs and other expenses paid or incurred by the Owners (or any one of them) in collecting any unpaid amounts due from such defaulting Owner.

5. Lake Restrictions. The following restrictions, rules and regulations shall be applicable to each Lot and, each Owner, by acceptance of a deed to his or her Lot, shall be deemed to have consented to and agreed to be bound by the following:

(a) No improvements, including, without limitation, docks, piers, gazebos and other structures shall be built on or within the Lake Easement Property without the prior written approval of the same by the Architectural Review Committee of Weatherly.

(b) Only canoes, rowboats and other manually powered watercraft and boats utilizing electric trolling motors (with a horsepower rating not to exceed 5.0) shall be allowed on the Lake. No boats or watercraft in excess of 14 feet in length and no gasoline (or diesel) powered watercraft including, without limitation, jetskis, shall be allowed on the Lake. No swimming, waterskiing or similar activities shall be conducted on the Lake. Notwithstanding the foregoing, electric or gasoline powered watercraft may be utilized on the Lake in performing any maintenance obligations or activities thereon.

(c) Fishing shall be permitted on a limited basis on the Lake; provided, however, that the Owners may, in their sole and absolute discretion, enact rules and regulations at any time which limit, restrict or prohibit fishing in the Lake. No trot lines or similar devices shall be placed in or upon the Lake Easement Property.

(d) Drainage flow into the Lake from any of the Lots shall not be obstructed or diverted or otherwise rerouted outside of the natural drainage swells existing on any of the Lots.

6. Additional Rules and Regulations. The Owners of the Lots may, in the manner provided in (and subject to the provisions of) Paragraph 8 below, modify, alter or abolish any of the restrictions set forth in Paragraph 5 above or impose further or different requirements, restrictions, rules and regulations concerning the

use of the Lake and Lake Easement Property

7. Release of Liability.

(a) THE OWNER OF EACH LOT, BY ACCEPTANCE OF A DEED TO SUCH LOT, FOR HIMSELF OR HERSELF AND FOR HIS OR HER RESPECTIVE FAMILY MEMBERS, HEIRS, EXECUTORS, SUCCESSORS, ASSIGNS, GUESTS AND INVITEES, DOES HEREBY FOREVER WAIVE AND RELEASE DEVELOPER AND ITS SUCCESSORS AND ASSIGNS FROM AND AGAINST ANY AND ALL LIABILITY OF ANY NATURE ARISING OUT OF OR ON ACCOUNT OF ANY LOSS, DAMAGE OR INJURY TO PERSON OR PROPERTY, INCLUDING DEATH, WHICH MAY RESULT FROM: (i) ANY ENTRY ONTO THE LAKE OR THE LAKE EASEMENT PROPERTY BY SUCH OWNER, HIS OR FAMILY MEMBERS, HEIRS, EXECUTORS, SUCCESSOR, ASSIGNS, GUESTS AND INVITEES; (ii) THE EXERCISE OF ANY OF THE EASEMENTS AN OTHER RIGHTS GRANTED HEREIN; AND (iii) THE RISE AND FALL OF THE WATER LEVEL OF THE LAKE, INCLUDING, WITHOUT LIMITATION THE FLOW OF WATER INTO AND OUT OF THE LAKE WHICH RESULTS AND/OR CAUSES DAMAGE BY FLOODING OR OTHERWISE, TO ANY IMPROVEMENTS OF ANY NATURE CONSTRUCTED ON OR ADJACENT TO THE LAKE EASEMENT PROPERTY OR TO ANY PERSONAL PROPERTY OR WHICH RESULTS IN OR CAUSES ANY SUCH IMPROVEMENTS OR PERSONAL PROPERTY TO BE UNUSABLE DUE TO HIGH OR LOW WATER LEVELS.

(b) THE OWNER OF EACH LOT, BY ACCEPTANCE OF A DEED TO SUCH LOT, FOR HIMSELF OR HERSELF AND HIS OR HER RESPECTIVE FAMILY MEMBERS, HEIRS, EXECUTORS, SUCCESSORS, ASSIGNS, GUESTS AND INVITEES, DOES HEREBY ACKNOWLEDGE AND AGREE THAT: (i) SUPERVISORY PERSONNEL OR ASSISTANCE IN CONNECTION WITH THE CONDUCT OF ANY ACTIVITIES ON OR ABOUT THE LAKE OR THE LAKE EASEMENT PROPERTY; (ii) THE USE OF THE LAKE EASEMENT PROPERTY BY SUCH OWNER, HIS OR HER FAMILY MEMBERS, HEIRS, EXECUTORS, SUCCESSORS, ASSIGNS, GUESTS AND INVITEES SHALL BE AT THE SOLE RISK AND EXPENSE OF THE PERSON USING THE LAKE AND THE LAKE EASEMENT PROPERTY; (iii) NEITHER DEVELOPER NOR IS SUCCESSORS AND ASSIGNS SHALL BE OBLIGATED TO TAKE ANY ACTION WHICH WOULD MAINTAIN A SPECIFIC WATER LEVEL FOR THE LAKE; AND (iv) NEITHER DEVELOPER NOR ANY OF ITS SUCCESSORS AND ASSIGNS SHALL BE OBLIGATED OR RESPONSIBLE FOR ANY OF THE MAINTENANCE RESPONSIBILITIES DESCRIBED IN PARAGRAPH 4 ABOVE.

8. Action by Owners. This Declaration may not be modified or amended and no additional rules and regulations affecting the Lake Easement Property may be adopted pursuant to Paragraph 6 above unless, and only to the extent that such action has been approved in writing by: (a) at least fifty-one percent (51%) of all of the Owners of the Lots; and (b) Developer.

9. Covenants Running With the Land. This Declaration and each term and provision hereof shall be binding upon and inure to the benefit of the Owner of each Lot and his or her respective heirs, executors, successors and assigns and shall be, and hereby is, a covenant running with the land. The easements, rights and obligations created, established and reserved pursuant to this

Declaration are and shall be appurtenant to and shall pass and run with title to each Lot and may not be severed, transferred or assigned separate or apart for a Lot.

10. Miscellaneous.

(a) If any provision of this Declaration or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this Declaration of the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision shall be valid and enforceable to the fullest extent permitted by law.

(b) The captions and headings contained in this Declaration are for convenience of reference only and shall not be used in the construction or interpretation of any provisions of this Declaration.

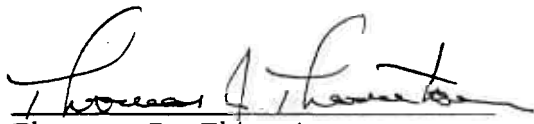
(c) All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders. The use of the singular tense shall include the plural and the use of plural shall include the singular.

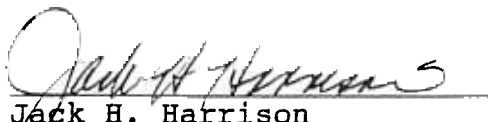
(d) This Declaration shall be recorded for the benefit of the Owners of the Lots and by such recording, no other adjoining property owner or third party (other than Developer) shall have any right, title or interest hereunder.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be executed as of the day and year first above written.

DEVELOPER:

WEATHERLY LANDS, L.L.C.

By:   
Thomas J. Thornton  
Managing Member

By:   
Jack H. Harrison  
Managing Member

STATE OF ALABAMA

COUNTY OF SHELBY

I, the undersigned, a notary public in an for said County in said State, hereby certify that Thomas J. Thornton and Jack H. Harrison whose names as Managing Members of Weatherly Lands, L.L.C. are signed to the foregoing instrument and who are known to me, acknowledge before me on this day that being informed of the contents of said instrument, they, as such officers with full authority, executed the same voluntarily for and as the act of said Weatherly Lands, L.L.C..

Given under my hand and official seal, this the 7<sup>th</sup> day of March, 1996.

  
Notary Public

My Commission Expires: 7-15-99

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