

After Recordation, please return to  
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**Declaration of Protective Covenants,  
 Conditions, Easements and Restrictions  
 for Lucas Point Hamlet**

The Waters at Waugh, LLC, an Alabama limited liability company (sometimes herein referred to as “Developer” or “Declarant”), as owner of the real property described on Exhibit “A” attached hereto (“Property”), hereby declares that the Property and the lots of the Property set forth in any plat thereof, including that certain plat of Lucas Point at The Waters at Waugh Plat No. 1, which plat is recorded in the Office of the Judge of Probate of Montgomery County, Alabama, in Plat Book 49 at Pages 096 and 097, as each may be amended and replatted from time to time (herein referred to as so amended or replatted as the “Initial Plat”, the Initial Plat together with any other plat of the Property shall be the “Plat”), are expressly made subject to the terms of this Declaration, the terms and provisions of the Articles of Incorporation (“Articles”) of The Waters Assembly, Inc., which are recorded in the Office of the Judge of Probate of Montgomery County, Alabama in Corporation Book 250, at Page 874 (hereinafter referred to as “Association”), and the accompanying Bylaws of the Association (herein “Bylaws”), which were recorded in the Office of the Judge of Probate of Montgomery County, Alabama, as Exhibit “A” attached thereto, as the Articles and Bylaws may be amended or modified from time to time as permitted therein. Capitalized terms not otherwise defined in this Declaration shall have the meaning ascribed to them in the Bylaws. This Declaration of Protective Covenants, Conditions, Easements and Restrictions, amended from time to time in accordance with the terms hereof, shall be deemed a Declaration, as such term is used in the Bylaws. Each Person owning a platted lot of the Property as reflected on a Plat shall be a member of the Association subject to the terms and conditions of this Declaration and the provisions of the Articles, the Bylaws and other aspects of the Association. References in this Declaration to the word “owner” and/or “homeowner” shall have the same meaning as a member as defined in the Bylaws. Lake Cameron shall mean the Lake established in accordance with that certain Declaration of Easements, Covenants and Restrictions for Lake Cameron dated August 9, 2004 recorded in said Probate Office in Real Property Book 2936, at Page 992 (“Lake Cameron Declaration”).

- Developer does hereby create, establish and impose the following covenants and restrictions upon the Property:
1. **USE OF PROPERTY.** Lots may only be used for the purpose(s) provided in any Pattern Book for the Architecture of the Waters, Lucas Point hamlet (“Pattern Book”).
  2. **TYPE DWELLING.** No Buildings, as hereinafter defined, or additions thereto, shall be erected, altered, placed or permitted to remain on any lot except as provided in the Pattern Book. The architecture of any single family residence, bed and breakfast structure, condominium structure, live/work structure, multifamily structure, garages, garage apartments, dwelling structures, buildings (including, without limitation all commercial, retail, civic, governmental, office and other buildings or structures), outbuildings, and attached buildings or structures (individually, a “Building”) to be erected, constructed or installed on any lot shall be in accordance with the Pattern Book with all construction being subject to prior review and approval of the Architectural Review Board, as established by the Board of Directors of the Association pursuant to authority under the Bylaws of the Association (hereinafter referred to as “ARB”).
  3. **ARB APPROVAL.** No construction or improvements, which terms shall include, but not be limited to, Buildings, fencing (of any kind or type), staking, clearing, excavation, grading, site work, landscape planting, removal of plants, trees or shrubs, shall take place or be erected, altered, or placed on any lot within the Property until and unless plans and specifications, including a site plan showing the location of the structure and any other improvements on or to the lot, have been approved in all respects by the ARB. Before any such construction or improvements take place, the ARB must approve such aspects of any and all construction and improvements on each lot within a Plat. Each request for approval must be accompanied by the payment of any fee required by the ARB, along with two sets of plans for the proposed construction, renovation, improvement or other action requiring ARB approval, one set of plans will be retained by the ARB and one set will be returned to the lot owner. The ARB shall establish its own requirements, procedures, policies, and time frames, which requirements shall be available, on request, to lot owners, their architects, or builders. All approvals by the ARB must be in writing, dated and signed by an authorized representative of the ARB, and where plans and specifications are required, said approval shall be reflected on two copies of the plans and specifications after approval is obtained from the ARB. The ARB may, in its unrestricted discretion, reduce, increase or waive any approval fee, and the ARB may periodically modify or amend its requirements, but in

no event shall its requirements be less restrictive than these covenants otherwise require. The ARB may set site standards, building design and materials standards, building construction standards, and other standards that it deems appropriate (all such standards so adopted from time to time by the ARB being sometimes referred to as "ARB Guidelines"). Approval of any plans or the setting of any requirement for approval does not constitute, and shall not be construed as, any representation or guaranty of building code compliance, safety or architectural integrity by the ARB or the Association, which instead shall be the sole responsibility of each lot owner.

4. BUILDING SETBACK REQUIREMENTS. No Building or any portion thereof shall be located on any lot nearer to the front lot line or nearer to the street line than as provided in the Pattern Book. No Building shall be located on a lot nearer to the back lot line or side lot line as provided in the Pattern Book. The area between Buildings on adjoining lots, if any, shall be available as a limited easement for roof eave overhangs, water drainage, and principal building maintenance as herein provided. The land surface area between such Buildings shall be subject to an easement for the use of the abutting owners, their agents, employees and invitees for the purpose of maintenance and decoration of their respective improvements and such areas, if any, shall also serve as a temporary construction easement during the construction period of new Buildings, at reasonable times during daylight hours, and for the drainage of water from the lots and the roofs of the Buildings. Except as specified herein, the abutting owner shall not have rights of ingress and egress and, subject to the other terms of this Declaration (such as, but not limited to, ARB approval), lot owners may fence, landscape and improve such area so long as drainage of water from said premises is not unreasonably impeded. For the purposes of this Declaration, eaves, steps, stoops or entrance platforms, and ornamental planting boxes shall not be considered as a part of a Building, provided, however, that this shall not be construed to permit any portion of a Building on any lot to encroach on, under or above any other lot.
5. RESUBDIVISION OR PARTITION OF LOTS. The lots of the Property shown on a Plat may be not further subdivided.
6. OVERHEAD FACILITIES. The owners of the lots within the Property will not erect or grant to any person, firm, entity or corporation, the right, license, or privilege to erect or use, or permit the use of, overhead wires, poles, or overhead facilities of any type or kind for electrical, electronic communication, or telephone service on said real estate (except such poles and overhead facilities as may be required at those places where distribution facilities enter and leave the Property). Nothing herein shall be construed to prohibit overhead street lighting fixtures, or ornamental yard lighting where such is serviced by underground wires or cables.
7. NUISANCE. No noxious or offensive trade or activity shall be carried on or upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighbors or the neighborhood.
8. TEMPORARY STRUCTURE. No structure of a temporary character (e.g., trailer, tent, mobile home, motor home, shack or barn) shall be used at any time as a residence, either temporarily or permanently.
9. SIGNS. No sign of any kind or nature, or advertising device of any kind or nature, shall be placed upon any part of the Property except as permitted herein or in accordance with the Pattern Book. Signs and other advertising devices, when in compliance with criteria established in the Pattern Book and by the ARB, may be erected and maintained upon an owner's lot. Notwithstanding the foregoing, the Declarant specifically reserves the right for itself, its successors and assigns and the Association, to place and maintain signs in connection with constructing, marketing, sales and rental of Buildings and identifying or informational signs anywhere on the property. The Developer, the Association and the ARB shall have the right to enter upon any part of the Property and remove or correct any such violation, provided, however, that prior notice is given of such action. Notice may be given orally or in writing.
10. MINING. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon, in or under any lot, nor shall oil wells, tunnels, tanks, mineral excavations or shafts be permitted on, upon, or under the Property.
11. ANIMALS. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, and other normal and common household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose, and provided that they are kept in reasonable numbers and under reasonable conditions so as not to create a nuisance, not to otherwise unreasonably disturb the neighbors or the neighborhood and in compliance with all laws, rules, regulations and ordinances relating thereto.
12. PLANTING AND OBSTRUCTIONS. Subject to the terms and conditions hereof, no fence, wall, hedge or shrub planting shall be allowed except as provided in the Pattern Book or as approved by the ARB. The Association and the ARB and their designees shall have the right to enter upon any part of the Property to trim or prune, at the offending owner's expense, any hedge or other planting which is prohibited by the Pattern

- Book, provided, however, that the offending owner shall be given fifteen (15) days prior written notice of such action.
13. OUTSIDE USES PROHIBITED. No rocks, rock gardens, bird baths, ponds or pools, lawn sculptures, artificial plantings, children's play equipment, basketball goals, lawn furnishings, or the like, shall be permitted except as provided in the Pattern Book or approved by the ARB. No vegetable, herb or similar gardens shall be planted or maintained except as provided in the Pattern Book or approved by the ARB.
  14. GARAGES. Garages shall be in conformity with the Pattern Book. Garage doors fronting on a street (not a rear service lane) must remain closed except when vehicles are entering and/or exiting the garage.
  15. VEHICLE PARKING. Vehicle parking in the street in front of houses shall be limited to temporary parking (less than twenty-four (24) hours) of guest or resident vehicles in current use and currently licensed. Other vehicles must be parked in garages, driveways, carports or other areas approved by the ARB. Vehicle parking in non-paved areas shall not be permitted.
  16. USE OF PROPERTY. No structure previously approved by the ARB shall be used for any purpose other than that for which it was originally designed and approved.
  17. RECREATIONAL VEHICLES. No boat, boat trailer, house trailer, horse trailer, trailer, camper, motor home or any similar items shall be located on or at any lot for a period of time in excess of twenty-four (24) hours, unless the same are stored in a carport or garage.
  18. SWIMMING POOL EQUIPMENT. Swimming pool equipment and housing must be underground or placed in walled-in or landscaped areas so as not to be visible from adjoining property.
  19. COMMERCIAL TRUCKS. No commercial truck, vehicle or equipment exceeding eight thousand (8,000) pounds in weight shall be permitted to be parked or to be stored at any place on a residential lot. This prohibition on parking and storage shall not apply to temporary parking of trucks and/or commercial vehicles used for pick-up, delivery or construction.
  20. ADDITIONAL REMEDIES FOR VEHICLE AND/OR RECREATIONAL EQUIPMENT VIOLATIONS Any such vehicle or recreational equipment parked in violation of regulations contained herein or in violation of the rules and regulations now or hereafter adopted by the Association or the ARB may be towed away by the Association or the ARB, at the sole expense of the owner of such vehicle or recreational equipment, if the violation of said restrictions remains for a period of more than twenty-four (24) hours. Neither the Association nor the ARB shall be liable to the owner of such vehicle or recreational equipment, nor to the respective lot owners, for trespass, conversion or otherwise, nor guilty of any criminal or quasicriminal act by reason of such towing, and neither its removal, its failure to remove, or the failure of the owner to receive any notice of said violation shall be grounds for relief of any type. The foregoing remedy is in addition to any other remedy which may exist whether at law or in equity.
  21. VEHICLE MAINTENANCE AND REPAIR. No vehicle maintenance or repair shall be performed on any vehicles upon any portions of a lot, unless performed in a garage, except in an emergency situation. Notwithstanding the foregoing, all repairs to disabled vehicles within the Property must be completed within twenty-four (24) hours from its immobilization or the vehicle must be removed. The Association shall be allowed to maintain and store its maintenance vehicles, if applicable, on specific areas of the Property as necessary for the operation and maintenance of the such vehicles.
  22. ACCUMULATION OF REFUSE. No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on any part of the Property, except building materials used during the course of original construction of any approved structure, or any approved renovation, repair or reconstruction. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers must only be placed in the open on any day that a normal pick up is to be made, at such place on the property to provide access to persons making such pick up. At all other times such containers shall be stored in such manner so that they cannot be seen from adjacent and surrounding property. The ARB, in its discretion, may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage of the same on the property. Furthermore, the Association, at its sole discretion, may require lot owners or builders, at any time, to provide dumpsters on the lot property during construction.
  23. BUSINESS ACTIVITY. No profession or home industry or other commercial venture shall be conducted in or on a lot except as provided in the Pattern Book and as approved by the ARB. This section may not be interpreted to authorize or permit any commercial activity which is in violation of local statute or zoning regulations. Any such approval granted by the ARB may be withdrawn if the ARB determines that such

- authorized or permitted activity is unreasonably interfering with the rights of the other owners in general or any individual lot owner within said subdivision.
24. AIR CONDITIONING UNITS AND SOLAR COLLECTORS. No wall or window air conditioning units nor solar collectors shall be permitted except with the prior written approval by the ARB, which may be withheld in the ARB's sole discretion.
25. PIPES AND CLOTHESLINES. No water pipes, gas pipes, sewer pipes, drainage pipes or clotheslines may be installed or maintained on the property so as to be visible from adjoining property or public view except hoses and movable pipes used for temporary irrigation purposes.
26. REAL ESTATE OFFICE OR SUBDIVISION OFFICE. The Declarant may, in The Declarant's sole discretion, use any lot or lots within the Property for the construction of and/or use of a building constructed thereon as a subdivision office, real estate office or model home, and as such the same shall not be subject to the terms, provisions and requirements of these covenants until such time as all other lots within the Property have been sold and upon that occurrence said lot and building constructed thereon shall, as soon as reasonably possible and to the extent reasonably and economically practical, be brought into compliance with these covenants.
27. MACHINERY. No machinery shall be placed on or operated upon any portion of the Property (i) except such machinery as is normal and usual in the maintenance of a private residence, (ii) except such as is necessary during the development of the Property or original construction of a Building or other improvements thereon or a major renovation or improvement thereto, and (iii) except such machinery as may be located within a Building as approved by the ARB.
28. FENCING. No fence or walls of any kind shall be erected except as provided in the Pattern Book or as approved by the ARB. Such approval by the ARB shall not substitute for or eliminate the need to obtain any other approvals.
29. WASTEWATER TREATMENT. Declarant is constructing an on-site wastewater system (the "Wastewater System") for the Property to provide wastewater treatment service for all lots. Each owner shall be responsible for the costs, materials and installation of: (i) an individual storage tank on each lot; (ii) the service lateral line that connects the individual storage tank to the common Wastewater System line located in the right-of-way adjacent to each lot; and (iii) piping within the dwellings to enable the provision of wastewater treatment service using the Wastewater System. All such installation shall be accomplished in accordance with the specifications for equipment and installation set forth by the system utility manager.
30. NATURAL GAS. Under a separate agreement between Declarant and The Southeast Alabama Gas District ("Gas District"), the Gas District has agreed, at its expense, to install natural gas service lines from its mains and distribution lines to a meter for each lot in the Property (the meter to be supplied by owner). In addition, the Gas District agrees to furnish, at a minimum, at its cost and expense, one (1) forty (40) gallon water heater for such home. In return for these benefits, owner agrees to install, in each of the dwellings constructed by owner on the Property, a natural gas water heater.
31. LAKE CAMERON.  
 (a) No Buildings (other than Marinas permitted by the Lake Cameron Declaration, and other Buildings or structures approved by the ARB) shall be constructed or erected within fifteen (15) feet of Lake Cameron which is established such that the level of Lake Cameron is approximately 218 feet above sea level. The fifteen (15) foot area within which permanent structures (except as provided above) may not be built shall begin at the 218 foot contour line and extend fifteen (15) feet up to the bank of Lake Cameron.  
 (b) All structures nearest Lake Cameron shall face Lake Cameron (i.e., the front of the structure shall be closest to Lake Cameron and the rear of the structure shall be furthest from Lake Cameron).
32. PROHIBITED USES. No person shall, without the written approval of the Association or the ARB, as the case may be, do any of the following on any part of the Property or the Common Areas (as hereinafter defined): (1) permit the running of animals except when on a leash; (2) fell any trees or injure or damage any landscaping within the Property; (3) interfere with or obstruct any drainage, utility or access easement; (4) build or assemble any structures, recreational or common facilities, other than those approved by the ARB; (5) discharge any liquid or other materials other than natural water drainage into any lake, pond or water course; (6) alter or obstruct any lakes, ponds or water courses; (7) interfere with any water control structures or apparatus; or (8) light any fires except in designated areas. No person or entity shall violate any rules and regulations that may be established by the Association governing the use of the Association Property or the rules or requirements that may be established by the ARB.

33. STORM DRAINAGE OVERFLOW EASEMENT. All lots adjacent to water shall be subject to a drainage overflow easement. No permanent structure shall be placed over any part of the drainage overflow easement without prior written approval from the ARB. The owner of each lot subject to drainage overflow easements will hold the County of Montgomery, Alabama, the Declarant, the Association, and the ARB, their successors and assigns, harmless for any damages or injury by storm water runoff to physical property or life, human or animal. The County of Montgomery, Alabama, will not be responsible for installation and/or maintenance of the drainage overflow easement or any private storm drainage easement.
34. ACCESS CONTROL. The Association may own and provide for the maintenance of an entrance gatehouse and, if manned, the salary for the same. The Association may also install and maintain electronic gates. This is not intended to obligate the Declarant or the Association to provide any form of security to the residents, their properties or the Association's properties.
35. NOTIFICATION TO UTILITY COMPANIES. In order to beautify said subdivision for the benefit of all lot owners and to permit the utility companies to install underground utility services to each lot in said subdivision, no owner of any lot within such subdivision will commence construction of any improvements on any lot until such owner (1) notifies the utility companies that such construction is proposed, and (2) grants in writing to said companies such rights and easements as they request in connection with their construction, operation, maintenance and removal of the underground service laterals on each lot. To the extent of the interest of the owner of each lot, such owner agrees to connect utility service lines (including, but not limited to, gas, water, sewer & electricity) at points designated by the Declarant.
36. COMMON AREA. Every owner shall have a right and nonexclusive easement of use, access, and enjoyment and into the Common Areas (as denoted from time to time on a Plat or as conveyed to the Association), subject to: (a) this Declaration and any other applicable covenants; (b) any restrictions or limitations contained in any deed conveying such property to the Association; (c) the right of the Board of Directors of the Association to adopt rules regulating the use and enjoyment of the common areas, including rules limiting the number of guests who may use the Common Areas; (d) the right of the Board of Directors of the Association to suspend the right of a owner to use recreational facilities within the Common Area (i) for any period during which any charge or assessment against such owner's lot remains delinquent, and (ii) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation of the Declaration, the Bylaws, or the Rules of the Association; (e) the right of the Association to impose reasonable membership requirements and charge reasonable admission and other use fees for the use of any recreational facilities situated upon a Common Area; (f) the right of the Association to mortgage, pledge, or hypothecate all or any of its real or personal property as security for money borrowed or debts incurred.
- Any owner of a lot within the Property may extend his or her right of use and enjoyment to his spouse and dependent lineal descendants, lessees, and social invitees, as applicable, subject to reasonable regulation by the Association. There shall be no judicial partition of the Common Areas. The Association, subject to the right of the owners set forth in this Declaration and in the Bylaws, shall manage and control the Common Areas within the Property and all improvements thereon, including keeping it in a good, clean, attractive and sanitary condition pursuant to this Declaration and the Bylaws. The Association may dedicate portions of the Common Areas to Montgomery County, Alabama, or to any other local, state, or federal governmental or quasi-governmental entity. [NOTE: Plat to show Common Area extending to water line of bodies of water, i.e. includes shoreline but does not include right to access by boat, etc.).
37. OPEN-AIR MARKET AND FESTIVALS. The Declarant further reserves, for itself, its agents, employees, representatives, invitees, successors and assigns, the permanent and perpetual right to use any portions of the Common Areas as an open-air market for the rental of space for pushcarts, kiosks, stands or similar temporary sales structures. Such uses may be for special events or on a recurring or daily basis. The Declarant also reserves, for itself, its agents, employees, representatives, invitees, successors and assigns, the right to use portions of the Common Areas for festivals or other events intended to enrich and enliven the community. The Declarant further reserves a right of access through the Common Areas for all such purposes. The Declarant may, but is not obligated to, assign such rights to the Association at any time.
38. ASSOCIATION RESPONSIBILITY. The Association shall maintain and keep in good repair the Common Areas and the following: (a) all landscaping, rambles (unless such ramble has been conveyed to a group of owners in which case the ramble shall be maintained and kept in good repair by such owners), parks, lakes (excluding Lake Cameron which shall be maintained by The Marina Club, Inc. in accordance with the Lake Cameron Declaration), structures and improvements, including any private street, bike and pedestrian pathways or trails, situated upon a Common Area; (b) landscaping within public rights-of-way within or abutting the

- Property; (c) all ponds, streams and/or wetlands located within the Property which serve as part of the drainage and storm water retention system for the Property, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lightning, pumps, conduits and similar equipment installed therein or used in connection therewith; and (d) any properties and facilities owned by Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its members which facilities are to be identified by written notice. In connection therewith, there are hereby reserved to the Association easements over the lots constituting a part of the Property as necessary to enable the Association to fulfill such responsibilities. Except as otherwise specifically provided in the Declaration or in the Bylaws, all costs associated with the maintenance, repair and replacement of the items described above by the Association shall be a common expense to be allocated among the lot owners as a part of assessments, without prejudice to the right of the Association to seek reimbursement from the owners of, or other persons responsible for, certain portion of the Property pursuant to this Declaration.
39. CONSTRUCTION OF IMPROVEMENTS. Construction of all Buildings must be completed within nine (9) months of the commencement date thereof. In the event any Building is partially or totally damaged due to fire, other casualty, or any other reason it must be razed within a reasonable time or if such Building is to be reconstructed, then the reconstruction must be completed within nine (9) months of the date of damage to the Building.
40. ANTENNAS AND DISHES. No visible ham radios, cell phone transmission towers, radio transmission equipment, television antennas, radio antennas or television satellite dishes in excess of twenty-four (24) inches in diameter shall be permitted on the Property. The location of all of the foregoing must be approved by the ARB.
41. MEMBER OF ASSOCIATION; LIABILITY FOR ASSESSMENTS. Each owner of a lot in the Property reflected on a Plat shall automatically become a member of the Association as an appurtenance to the ownership of said lot and shall be fully and completely bound by all of the terms and conditions of the Articles and the Bylaws of the Association, as they may be modified and amended from time to time, including without limitation, the obligation to pay any and all applicable assessments levied from time to time by the Association on each lot. All of the terms and provisions of the Articles and the Bylaws applicable with respect to each platted lot of the Property as reflected on a Plat and to the owner of such lot by virtue of being a member of the Association are incorporated herein by reference as if more fully set forth. Any owner of an interest in a platted lot which has multiple owners shall be jointly and severally liable with each other owner of an interest in that lot for assessments hereunder.
42. LIEN FOR ASSOCIATION ASSESSMENTS. The Association is hereby granted a lien upon each lot and its appurtenances and on each member's interest in the Association, which lien shall secure and does secure the monies due for all assessments now or hereafter levied or subject to be levied against each member as owner of a lot under the Bylaws, and shall also secure interest, if any, which may be due on the account of any delinquent assessment, and which lien shall also secure all costs and expenses, including a reasonable attorney's fee which may be incurred by the Association in enforcing this lien. Said lien being prior to all other liens except only tax liens in favor of the United States, the State of Alabama, Montgomery County, Alabama or Montgomery, Alabama or any other applicable municipality and shall cover all sums unpaid and due for dues or assessments, whether in the form of a base assessment or a special assessment. No lot owner may escape or avoid responsibility for assessments of the Association by waiver of the use of or enjoyment of any of the property or assets owned by the Association or by the abandonment or non-use of such owner's lot, or by any other means. The lien provided for herein shall be foreclosable by the Association as provided in the Bylaws of the Association.
43. LIMITATION OF LIABILITY. Notwithstanding anything provided herein to the contrary, (a) neither the Declarant, the ARB, the Association nor any agent, employee, representative, member, shareholder, partner, manager, officer or director thereof shall have any liability of any nature whatsoever for, and (b) each owner by acceptance of a deed to any lot, does hereby irrevocably and unconditionally waive and release the Declarant, the ARB, the Association and each agent, employee, representative, member, shareholder, partner, manager, officer and director thereof from, any and all damage, loss, action, cause of action, liability, expense or prejudice suffered, claimed, paid or incurred by any owner on account of (i) any defects in any plans and specifications submitted, reviewed or approved by any of them, (ii) defects, structural or otherwise, in any work done according to such plans and specifications, (iii) the failure of the ARB to approve of, or the disapproval of, any plans, drawings, specifications or other data submitted by any such owner for approval to the ARB, (iv) the approval or disapproval of any builder for as an approved contractor, (v) the construction or performance of any

work relating to such plans, drawings and specifications, including, without limitation, any actions or omissions of any builder approved by the ARB, (vi) bodily injuries (including death) to any owner or occupant and any damage to any improvements or any personal property of any owner or occupant which may be caused by, or arise as a result of, any defect, structural or otherwise, in any improvements or the plans and specifications therefore which may be or have been approved by the ARB and (vii) any other loss, claim, damage, liability or expense, including court costs and attorneys' fees, suffered, paid or incurred by any owner arising out of or in connection with the construction, use and occupancy of any Building or any other improvements situated on a lot.

44. INDEMNIFICATION. The Association has agreed to indemnify and hold harmless every officer, director and committee member of the Association, including, but not limited to, the Board and the ARB, from and against any and all costs and expenses, including trial and appellate attorney's fees and costs, reasonably incurred by or imposed upon any officer, director or committee member in connection with any action, suit or other proceedings to which he or she may be a party, by reason of being or having been an officer, director or committee member of the Association, the Board or the ARB. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful malfeasance, misconduct or bad faith, with regard to the business of the Association or the ARB. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, except to the extent as members of the Association, and the Association shall indemnify and forever hold each of said officers and directors free and harmless against any and all liability to others on account of any such contract or commitment. Any right of indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association may, as a part of the common expense, maintain adequate general liability insurance, and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available and felt to be appropriate by the Association.
45. DEVELOPER AND RIGHTS. Wherever the term "Developer" or "Declarant" is used herein it shall mean The Waters at Waugh, LLC, and its successors and assigns. These covenants and restrictions touch and benefit all of the Property reflected on a Plat and shall run with the land and shall be binding upon the land and all owners of the lots reflected on a Plat, their heirs, successors and assigns, the utilities referenced herein either specifically or generally, and their successors and assigns. Notwithstanding anything contained herein to the contrary the Declarant expressly reserves the sole and exclusive right and privilege, both for itself and its successors and assigns, to change, alter, modify or amend any of the terms, covenants and provisions of this Declaration and the Common Areas until the earlier of (i) December 31, 2034 or (ii) the Class E Membership Termination Date, as defined in the Bylaws.
46. APPROVED CONTRACTORS. All improvements constructed on any lot located within the Property shall be made by a contractor or builder approved by the ARB. The ARB shall, at its sole discretion, establish criteria and requirements upon which a contractor or builder may or may not be approved to construct improvements on the Property. This covenant is not to be construed as an attempt to show prejudice, malice or favor toward any person or entity, but only to attempt to discourage unscrupulous and/or undesirous business in connection with the development of the Property.
47. EASEMENTS.
- (a) Easement for Lake and Pond Maintenance and Flood Water. The Declarant reserves for itself, the Association, and their successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon the lakes, ponds, streams, and wetlands located within the Property to (a) install, keep, maintain, and replace pumps in order to provide water for the irrigation of any of the Common Areas; (b) construct, maintain, and repair any bulkhead, wall, dam, or other structure retaining water; and (c) remove trash and other debris therefrom and fulfill their maintenance responsibilities as provided in this Declaration. The Declarant, the Association, and their respective successors, assigns and designees shall have an access easement over and across any of the Property abutting or containing any portion of any of the lakes, ponds, streams, or wetlands to the extent reasonably necessary to exercise their rights under this Section.
- There is further reserved herein for the benefit of Declarant, the Association, and their respective successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Areas and lots (but not the Buildings thereon) adjacent to or within fifty (50) feet of lake beds, ponds, streams and wetlands within the Property, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Property; (b) fill, drain, dredge, deepen, clean, fertilize, dye, and generally maintain the lakes, ponds, streams, and wetlands within Common Areas; (c) maintain and landscape

the slopes and banks pertaining to such lakes, ponds, streams, and wetlands; and (d) enter upon and across such portions of the Property for the purpose of exercising their rights under this Section. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make The Declarant or any other Person liable for damage resulting from flooding due to hurricanes, heavy rainfall, or other natural occurrences.

(b) Utilities. Easements for installation and maintenance of utilities and private drainage, beautification and access are reserved as shown on a Plat and utilities may also be located within the Private Streets, as such term is defined below. The easement areas reserved on a Plat shall be maintained continuously by the owners of the respective lots, except for those improvements for which a public authority, utility company or the Association is responsible.

(c) Private Streets. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to, over and across any Private Streets and roads within the Property ("Private Streets"), whether or not such Private Streets are Common Area, for the purpose of ingress and egress to public rights-of-way. The rights and nonexclusive easements granted herein are appurtenant to the title to each lot, subject to:

(i) This Declaration and the Bylaws;

(ii) The right of the Declarant or the Association, so long as the Declarant or the Association owns the Private Streets, to adopt, amend and repeal rules regulating the use and enjoyment of the Private Streets, provided that the Declarant or the Association shall not by the adoption of any rule or regulation bar access of the owners across the Private Streets;

(iii) The right of the Declarant or the Association to dedicate all or any part of Private Streets;

(iv) The right of the Declarant or the Association to mortgage, pledge, or hypothecate any or all of the Private Streets as security for money borrowed or debts incurred, provided that the Declarant or the Association shall not subject the Private Streets to any security instrument without obtaining the agreement of the lender to subordinate its interest in the Private Streets to the easements for the owners contained in this Section; and

(v) The rights of the Declarant or the Association to maintain the Private Streets.

(vi) Private Streets shall be subject to the provisions of this Declaration regarding use of Common Area. Additionally, owners of lots and other permitted users of the Private Streets shall be obligated to refrain from any actions which would deter from or interfere with the use and enjoyment of the Private Streets by other authorized users of the Private Streets. Prohibited activities shall include, without limitation, obstruction of any of the Private Streets.

Any owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable.

(d) Structural Party Walls. The owner of each lot upon which the exterior wall of a Building has been constructed on the property line of such lot does hereby grant to the owner of the adjacent lot the permanent and perpetual right and easement to maintain and utilize the exterior wall of any such Building which forms a party wall between the two lots for both vertical and lateral support and the construction and attachment thereto of another Building. A wall will be considered a party wall only if it provides structural support for two (2) or more Buildings on more than one lot and is situated on the property line of adjoining lots. Maintenance of the surface of the party wall shall be the sole responsibility of the owner of each Building which abuts such wall. Each owner shall be liable and responsible if, in connection with that owner's use and maintenance of the party wall, the owner damages the adjacent owner's lot or the party wall itself. The costs of any other repairs to the party wall shall be shared equally by the adjacent owners.

(e) Exterior Building. An exterior wall which supports a Building on any one lot or which encloses a courtyard on one lot which has been constructed along the property line of such lot (a "Side Yard Wall") shall not be considered a party wall or subject to the provisions of Section 47(d) above unless and until the owner of the adjacent lot elects to construct and attach another Building thereto. To the extent the party wall easement created and granted pursuant to Section 47(d) above is not exercised by the owner of the adjacent lot, then the provisions of this Section 47(e) shall be applicable to the use of the Side Yard Wall. The owner of any Building whose exterior wall constitutes a Side Yard Wall does hereby grant to the owner of the adjacent lot the permanent and perpetual right and easement to erect and maintain on and along the Side Yard Wall trellises, landscaping and other landscaping-related improvements as well as attaching to such Side Yard Wall additional walls or fencing subject to the following terms and conditions:



(i) If any such trellises, landscaping or other landscaping-related improvements or any additional walls or fencing are attached to such Side Yard Wall, then (1) the Owner of the adjacent Lot installing the same shall (aa) be responsible for any damage to the Side Yard Wall caused by or resulting from such landscaping or other landscaping-related improvements or any additional walls or fencing attached to such Side Yard Wall and (bb) be solely responsible for routine, non-structural maintenance and repairs (including painting) of that portion of the Side Yard Wall which fronts any portion of such owner's lot; and (2) any such landscaping or other landscaping-related improvements or additional fencing or walls installed on or adjacent to the Side Yard Wall shall not (aa) block the view from any windows of the Building which constitutes part of the Side Yard Wall and (bb) be allowed to grow along or onto any windows or roofing on any such Building which constitutes part of such Side Yard Wall; and

(ii) Notwithstanding anything provided to the contrary in this Section 47(e), in the event the owner of any Building whose exterior wall constitutes a Side Yard Wall elects to make any structural alterations or repairs to the Building or to the Side Yard Wall, such owner shall be entitled to make such alterations and repairs and to otherwise enter upon the adjoining lot to undertake the same including, if reasonably necessary or required for such structural repairs, removing any and all landscaping or other landscaping-related improvements and any additional fences or walls which the adjoining owner may have constructed or installed on or attached to the Side Yard Wall (with no obligation to replace any such landscaping matters removed from such Side Yard Wall).

(f) Common Fences. Any fence or wall (other than party walls and Side Yard Walls as described in Sections 47(d) and 47(e) above), including the posts and any footings poured for the posts and columns for such fence or wall, which is constructed along the common property line of any two (2) lots (a "Common Fence") shall not be considered a party wall or subject to the provisions of Sections 47(d) and 47(e) above. Except as specifically provided below, the reasonable costs and expenses of maintaining, repairing or replacing a Common Fence shall be shared equally by the owners of each lot on either side of the Common Fence provided, however, an owner initially constructing a Common Fence shall not be allowed to charge or recoup any cost thereof from the owner of the adjacent lot sharing the Common Fence. Notwithstanding the foregoing, if a Common Fence is damaged or destroyed through the acts of the owner of either lot abutting the Common Fence or by such owner's agents, employees, servants, tenants, guests, family members, invitees, licensees or pets, whether such act is willful, negligent or accidental, then such owner shall forthwith proceed to rebuild, repair and replace the same to as good a condition as which such Common Fence existed immediately prior to such damage or destruction without the owner of the adjoining lot having any obligation to pay any such costs or expenses. To the extent any Common Fence is damaged or destroyed by fire or other casualty, then each adjoining owner shall share equally in the costs to repair or replace the same regardless of whether insurance proceeds are available or are sufficient to pay for such restoration and repair. In the event of any disagreement between the owners of any lots on either side of a Common Fence with respect to their respective rights and obligations as to such Common Fence, then such dispute or disagreement shall be submitted to binding arbitration to the ARB (or any designee thereof) whose decision shall be final, conclusive and binding upon the parties and shall be a condition precedent to any fight of legal action that either party may have against the other with respect to the maintenance, repair and replacement of any Common Fence.

(g) Easement for Encroachments for Attached Single-Family Residential Structures. With respect to all lots which, pursuant to the Pattern Book, are designated for townhouses or attached single family residential structures, the Declarant does hereby declare and establish a permanent and perpetual reciprocal appurtenant easement for encroachments of up to 12 inches (measured from the common property line of any lots so designated for townhouses or attached single family residential structures) by which the Building on one lot may encroach onto the adjacent lot to the extent such encroachment results from the unintentional placement, settlement or shifting of a Building on a lot. The foregoing easement for encroachments shall only be applicable to lots and Buildings within the Property, which, pursuant to the Pattern Book, are designated for townhouses or attached single family residential structures.

(h) Easement for Side Yard Wall and Common Fence Encroachments. The Declarant does hereby establish and declare a permanent and perpetual reciprocal appurtenant easement for encroachments of up to 12 inches (measured from the common property line of all lots) for any Side Yard Wall or Common Fence

constructed on any lot. The foregoing encroachment easement is created in order to allow encroachments by any Side Yard Wall or Common Fence constructed on any lot onto the adjoining lot (subject to a maximum encroachment of 12 inches).

(i) Right of Entry. The Association shall have the right, but not the obligation, to enter upon any lot for emergency, security, and safety reasons, to perform maintenance required hereunder, and to inspect for the purpose of ensuring compliance with this Declaration, the Bylaws, and rules. Such right may be exercised by any member of the Board, the Association's officers, agents, employees, and managers, the members of the ARB, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the owner. This right of entry shall include the right of the Association to enter upon any lot to cure any condition which may increase the possibility of a fire or other hazard in the event an owner fails or refuses to cure the condition within a reasonable time after requested by the Board, but shall not authorize entry into any improvements upon a lot without permission of the owner, except by emergency personnel acting in their official capacities.

48. CONSTRUCTION ACTIVITIES OF THE DECLARANT. All owners and occupants within the Property do hereby acknowledge and agree that the Declarant and its employees, agents, contractors, subcontractors, licensees and other designees will, from time to time, be conducting construction and other development activities within the Property and the real property situated adjacent to or in close proximity with thereto. By acceptance of a deed to any lot, each owner, for such owner and such owner's heirs, executors, personal representatives, administrators, successors, assigns and occupants, does further acknowledge and agree (a) that no construction or development activities undertaken by the Declarant with respect to the Property or any real property situated adjacent to or in close proximity with the Property shall be deemed a nuisance or noxious or offensive activity under the terms and provisions of this Declaration or applicable law, (b) not to enter upon or allow their family members or occupants to enter upon (regardless of whether such entry is a trespass or otherwise) any real property within or in proximity to the Property where such construction or development activities, are being conducted by the Declarant (even if such development or construction activities are not being conducted at the time of their entry, such as at night or during non-working hours) and (c) that neither the Declarant nor its employees, agents, contractors, subcontractors, licensees, designees, affiliates, subsidiaries, successors or assigns shall be liable for any losses, damages (compensatory, consequential, punitive or otherwise), injuries or deaths arising from or relating to any such entry by such owner or such owner's family members or occupants upon any portion of the Property or any real property situated adjacent to or in close proximity with the Property upon which the Declarant or any of its employees, agents, contractors, subcontractors, licensees and other designees are conducting any construction or other development activities.

49. COMMERCIAL USE OF IMAGES.

(a) The Declarant shall have the following rights:

(i) The exclusive right to grant permission for the Common Areas to be photographed, sketched, painted or otherwise reproduced for promotional, publishing, academic or commercial use (including, without limitation, its use as a background for the display of fashions or other goods); and

(ii) The right to grant permission for similar reproduction of the exteriors of any other part of the Property and any improvements thereto which can be viewed from streets, alleys or Common Areas. Such exteriors may be reproduced without the consent of, or payment to, the owner of such lot, but the above right is not intended to prevent any owner from granting independent reproduction rights for any lot and any improvements thereto owned exclusively by that owner, in which case the consent of the Declarant shall not be required.

(b) The exercise of the rights set forth in Section 49 shall not interfere with normal and customary rights of architects as to structures designed by them. The Declarant may collect a fee for its consent to the use of Common Areas or images thereof or for the providing of support services to photographers or others.

50. TRADEMARK. The logo of The Waters is a registered trademark owned by the Declarant and Declarant intends to register the name "The Waters" as a registered tradename. An owner may use the name "The Waters" to describe the location of a home or business, and may advertise a business as being located in "The Waters." If requested by the Declarant, any such owner shall accompany such business use with a symbol or explanation concerning trademark or service mark registration of the name "The Waters". Owners may not use the name "The Waters" in any other manner without the express permission of the Declarant, which may be arbitrarily denied.

51. CONSTRUCTIVE NOTICE AND ACCEPTANCE. Every person, corporation, partnership, limited partnership, limited liability company, trust, association or other legal entity, who or which shall hereafter own or acquire any right, title, interest or estate in or to any lot, whether or not such interest is reflected of record in the Office of the Judge of Probate of Montgomery County, Alabama, shall be conclusively deemed to have consented and agreed to each and every covenant, condition, restriction, reservation and easement contained or by reference incorporated herein, including, but not limited to, each and every covenant, condition, restriction, reservation and easement contained in or established pursuant to the authority granted in the Articles and the Bylaws, whether or not any reference to this Declaration is contained in the document or instrument pursuant to which such natural person, corporation, partnership, limited partnership, limited liability company, trust, association or other legal entity shall have acquired such right, title, interest or estate in the Property or any portion thereof.

52. ATTORNEYS' FEES. Notwithstanding anything herein contained to the contrary, in the event of litigation arising out of the interpretation or enforcement of the rights or obligations under this Declaration, the Declarant shall be entitled to recover its costs and expenses in connection with such litigation, including, but not limited to, reasonable attorneys' fees, which may be awarded by the Court before whom such litigation is brought.

53. PARAGRAPH HEADINGS. Paragraph headings, where used herein, are inserted for convenience of reference only and are not intended to be a part of this Declaration or in any way define, limit or proscribe the scope and intent of the particular sections or paragraphs in which they are contained or to which they refer.

54. EFFECT OF INVALIDATION. If any particular provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

55. TERM OF DECLARATION. The above and foregoing covenants and restrictions shall continue in force and effect for a period of fifty (50) years from and after the date this Declaration is recorded in the Office of the Judge of Probate of Montgomery County, Alabama. Thereafter, the above and foregoing covenants and restrictions shall be automatically renewed for successive periods of ten (10) years each; provided, however, that following the expiration of the time period established in Section 45 in which period the Declarant may change, modify or amend these covenants and restrictions in its sole discretion, said covenants and restrictions may be modified, amended or terminated in whole or in part by a written instrument that (i) has been signed and acknowledged by two-thirds (2/3) or more of the members of the Association who then own platted lots that are subject to this Declaration, (ii) has been signed and acknowledged by the Association, and (iii) has been recorded in the Office of the Judge of Probate of Montgomery County, Alabama. This paragraph shall not limit or restrict Developer's right to amend or modify this Declaration from time to time as otherwise provided herein.

56. DEEMED CONSENT BY LOT OWNER. Each lot owner, by owning or acquiring the title to any lot that is subject or is made subject to this Declaration, shall be conclusively deemed to have consented and agreed to all of the terms and provisions of this Declaration, the Articles and the Bylaws. All of the terms and provisions of this Declaration, the Articles and the Bylaws shall run with the land and shall be binding upon and shall inure to the benefit of all of the lot owners, including, without limitation, their respective heirs, personal representatives, successors and assigns in title in and to their respective lots; provided, however, notwithstanding anything to the contrary provided herein, it is understood and agreed that the various approval rights reserved to The Declarant and/or the Association and/or the ARB under and pursuant to this Declaration shall be and are hereby reserved exclusively to such parties so designated, and that the owners of lots shall not have or exercise any of the approval rights reserved to such parties hereunder. In addition, the Declarant, the Association, and the ARB shall have the non-exclusiveright, but not the obligation, to enforce all of the terms and provisions of this Declaration.
57. NO COMMON SCHEME. Notwithstanding anything to the contrary provided herein, it is understood and agreed that the covenants and restrictions imposed hereunder shall not be deemed to create a common scheme or to restrict any other property now or heretofore or hereafter owned by The Declarant other than the lots shown on a Plat which are made subject to this Declaration by the execution, acknowledgment and recordation of this Declaration. In no event shall The Declarant be required to subject additional property to this Declaration or otherwise acquire additional property in connection herewith; provided, that, The Declarant may by amendment hereunder subject additional property to this Declaration.
58. AMENDMENT/WAIVER. None of the terms or provisions of this Declaration can be waived, modified or amended except by a written instrument duly signed by the party against whom such waiver, modification or amendment is sought to be enforced. Notwithstanding anything provided in this Declaration to the contrary, the Declarant reserves the right at any time and from time to time to amend this Declaration, without the consent or approval of any owner or mortgagee, to the extent necessary, as determined by the Declarant, in its sole discretion, to (i) comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Administration, the Veteran's Administration or any other government agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by the above-named entities, (ii) induce any of the foregoing described agencies or entities to make, purchase, sell, insure, guarantee or otherwise deal with mortgages covering any lot, and (iii) correct clerical or typographical errors in this Declaration or any exhibit hereto.
59. NO REVERTER. No provision of this Declaration is intended to create, or shall be construed as creating, a condition subsequent to or a possibility of reverter.
60. GENDER. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.
61. MORTGAGE PROVISIONS. The following provisions are for the benefit of holders, insurers and guarantors of first mortgages on lots in the Property.
- (a) Notices of Action. An institutional holder, insurer, or guarantor of a first mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the lot to which its mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:
- (i) Any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any lot on which there is a first mortgage held, insured, or guaranteed by such Eligible Holder;
- (ii) Any delinquency in the payment of assessments or charges owed by a lot subject to the mortgage or such Eligible Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Declaration or Bylaws relating to such lot or the owner thereof which is not cured within sixty (60) days; or
- (iii) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.
- (b) No provision of this Declaration or the Bylaws gives or shall be construed as giving any owners priority over any rights of the first mortgagee of any lot in the case of distribution of such owner insurance proceeds or condemnation awards for loss to or taking of the common area.

(c) Upon request each owner of a lot shall be obligated to furnish to the Association the name and address of the holder of any mortgage encumbering such owner's lot.

IN WITNESS WHEREOF, the Declarant has hereunto caused this Declaration to be executed as of the 6 day of August, 2004, by its duly authorized Manager.

**THE WATERS AT WAUGH, LLC,**  
an Alabama limited liability company

By: **WALKER MANAGEMENT, INC.,**  
an Alabama corporation, its Manager

By: *Dale Walker*  
Dale Walker  
Its President

STATE OF ALABAMA            )  
  :  
COUNTY OF MONTGOMERY    )

I, the undersigned, a notary public in and for said county in said state, hereby certify that **Dale Walker**, whose name as President of **Walker Management, Inc.**, an Alabama corporation, as Manager of **The Waters at Waugh, LLC**, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer of the corporation and with full authority, executed the same voluntarily for and as the act of said limited liability company acting in his capacity as such officer of said corporation.

Given under my hand and official seal this the 6 day of August, 2004.

(SEAL)

*Kathy H. Shaheen*  
Notary Public  
My Commission Expires: *April 5 2008*

**JOINDER AND CONSENT**

The undersigned, Linda J. Blackman, being the owner of Lot 178 according to the Plat of Lucas Point at The Waters at Waugh Plat No. 1 recorded in the Office of the Probate Judge of Montgomery County, Alabama, in Plat Book 49, at Pages 096 and 097 ("Lot 178"), does hereby join in the execution and filing of this Declaration for the purpose of subjecting Lot 178 to the force and effect of this Declaration on this the 6 day of August, 2004.

Linda J. Blackman (L.S.)  
Linda J. Blackman

STATE OF ALABAMA            )  
  :  
MONTGOMERY COUNTY        )

I, the undersigned authority, a Notary Public in and for said State at Large, do hereby certify that Linda J. Blackman, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 6 day of August, 2004.

(SEAL)

Volke H. Blackwell  
Notary Public  
My commission expires: April 5, 2008

JOINDER AND CONSENT

The undersigned, Community Bank & Trust, an Alabama state banking corporation, being the holder of a mortgage on the Property pursuant to that certain Mortgage dated December 18, 2004, recorded in the office of the Probate Judge of Montgomery County, Alabama, in Real Property Book 2795, at Page 0423, does hereby provide its consent to the filing and join in this Declaration on this the 27 day of July, 2004.

COMMUNITY BANK & TRUST

By: [Signature]  
As Its President

STATE OF ALABAMA            )  
  :  
Montgomery COUNTY        )

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that Dave Bryant, whose name as President of **Community Bank & Trust**, a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the 27 day of July, 2004.

(SEAL)

[Signature]  
Notary Public  
My Commission Expires: April 5 2008

## EXHIBIT "A"

## Lucas Point Hamlet

Commence at a 4' x 6' concrete marker known as the Northwest Corner of Section 26, T-16-N, R-20-E, Montgomery County, Alabama; thence South 274.07' to a calculated point; thence East 465.61' to the POINT OF BEGINNING for the herein described parcel of land; thence N 46°56'01" E 667.56' to a point located at the beginning of a curve; thence along said curve Chord Bearing N 49°16'32" E, Chord Distance 5.31', Radius 65.00' to a point; thence leaving said curve N 51°37'04" E 192.88' to a point located at the beginning of a curve; thence along said curve the following seventeen (17) courses: (1) Chord Bearing N 40°09'56" E, Chord Distance 7.94', Radius 20.00'; (2) Chord Bearing N 27°28'41" E, Chord Distance 5.96', Radius 138.19'; (3) Chord Bearing N 80°05'09" E, Chord Distance 95.47', Radius 59.12'; (4) Chord Bearing S 88°30'42" E, Chord Distance 136.32', Radius 101.00'; (5) Chord Bearing N 34°36'27" E, Chord Distance 9.97', Radius 20.00'; (6) Chord bearing N 75°06'44" E, Chord Distance 453.51', Radius 277.00'; (7) Chord Bearing N 58°30'26" E, Chord Distance 109.00', Radius 379.27'; (8) Chord Bearing N 80°17'33" E, Chord Distance 168.02', Radius 359.26'; (9) Chord Bearing S 74°40'44" E, Chord Distance 114.71', Radius 287.55'; (10) Chord Bearing S 51°51'26" E, Chord Distance 94.14', Radius 239.88'; (11) Chord Bearing S 17°52'56" E, Chord Distance 167.43', Radius 217.31'; (12) Chord Bearing S 16°19'57" W, Chord Distance 111.60', Radius 278.55'; (13) Chord Bearing S 38°42'17" W, Chord Distance 119.62', Radius 318.71'; (14) Chord Bearing S 53°48'44" W, Chord Distance 62.16', Radius 415.39'; (15) Chord Bearing S 65°53'24" W, Chord Distance 93.84', Radius 346.29'; (16) Chord Bearing S 76°46'10" W, Chord Distance 46.64', Radius 432.31'; (17) Chord Bearing S 22°21'20" W, Chord Distance 512.29', Radius 707.32' to a point; thence leaving said curve S 44°18'56" W 18.00' to a point located in a curve; thence along said curve Chord Bearing S 22°51'55" W, Chord Distance 2.27', Radius 3.10' to a point; thence leaving said curve S 00°41'09" W 778.02' to a point located at the beginning of a curve; thence along said curve the following two (2) courses: (1) Chord Bearing S 06°20'06" E, Chord Distance 69.20', Radius 348.33'; (2) Chord Bearing S 24°08'07" E, Chord Distance 120.30', Radius 323.00' to a point; thence leaving said curve S 34°52'08" E 370.17' to a point located at the beginning of a curve; thence along said curve Chord Bearing S 32°11'22" E, Chord Distance 71.47', Radius 1107.90' to a point; thence leaving said curve S 61°40'31" W 78.46' to a point located at the beginning of a curve; thence along said curve the following thirteen (13) courses: (1) Chord Bearing S 68°30'23" W, Chord Distance 218.31', Radius 687.67'; (2) Chord Bearing S 70°41'17" W, Chord Distance 96.67', Radius 814.00'; (3) Chord Bearing S 80°20'45" W, Chord Distance 150.17', Radius 349.00'; (4) Chord Bearing S 70°26'41" W, Chord Distance 268.91', Radius 207.96'; (5) Chord Bearing N 63°01'57" W, Chord Distance 46.87', Radius 119.47'; (6) Chord Bearing S 77°42'07" W, Chord Distance 292.80', Radius 578.36'; (7) Chord Bearing N 79°42'51" W, Chord Distance 143.09', Radius 73.00'; (8) Chord Bearing N 50°45'05" W, Chord Distance 517.05', Radius 701.29'; (9) Chord Bearing N 17°29'13" W, Chord Distance 187.30', Radius 481.14'; (10) Chord Bearing



N 02°50'39" W, Chord Distance 100.76', Radius 628.49'; (11) Chord Bearing N 10°17'45" W, Chord Distance 245.71', Radius 588.49'; (12) Chord Bearing N 05°00'40" E, Chord Distance 706.06', Radius 768.24'; (13) Chord Bearing N 17°22'58" E, Chord Distance 182.23', Radius 352.38' to a point; thence leaving said curve N 01°13'32" E 84.63' to the point of beginning. Containing 80.70 acres, more or less.

LESS AND EXCEPT THE FOLLOWING:

Commence at a 4" x 6" Concrete Monument known as the Northeast Corner of Section 26, T-16-N, R-20-E, Montgomery County, Alabama; thence South 457.43' to a point; thence East 829.33' to an iron pin and POINT OF BEGINNING for the herein described parcel of land (said point being located at the intersection of "D" Lane and Pier Street); thence along said intersection N 45°41'27" E 11.31' to an iron pin located on the South Right-of-Way (20') of Pier Street; thence along said Right-of-Way S 89°18'57" E 121.19' to an iron pin located on the West Right-of-Way (Varies) of Avenue of The Waters; thence along said Right-of-Way S 03°13'55" W 54.00' to an iron pin; thence leaving said Right-of-Way N 89°18'57" W 126.79' to an iron pin located on the East Right-of-Way (20') of "D" Lane; thence along said Right-of-Way N 00°41'05" E 45.95' to the point of beginning. Containing 0.16 acres, more or less, and lying in and being a part of the NW 1/4 of the NW 1/4 of Section 26, T-16-N, R-20-E, Montgomery County, Alabama.

Also known as Lot 178 according to the Plat of Lucas Point at The Waters of Waugh Plat No. 1 as said Plat is recorded in the Office of the Judge of Probate of Montgomery County, Alabama, in Plat Book 49, at Pages 096-097.

Exhibit A  
Page 3  
PLAT BK 49 Pg 100

STATE OF ALABAMA  
MONTGOMERY CO.  
I CERTIFY THIS INSTRUMENT  
WAS FILED ON

2004 AUG -9 PM 4:15

REESE MCKINNEY, JR.  
JUDGE OF PROBATE

08-09-2004 #1

INDEX	5.00
RECORD FEE	1.00
RECORD FEE	2.50
RECORD FEE	40.00
RECORD FEE	20.00
CASH	68.50

ITEM	5	
1CL		6130 16:09TM

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4250  
20.00 Plat  
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