

This Instrument was prepared by:

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STATE OF ALABAMA)
COUNTY OF SHELBY)

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR STONE CREEK**

THIS DECLARATION is made on the date hereinafter set forth by STONE CREEK, LLC, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of CALERA, County of Shelby, State of Alabama, which is more particularly described as: STONE CREEK, as recorded in Map Book 32 PAGE 79.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restriction, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner.

ARTICLE I. DEFINITIONS

Association Defined

1.01. "Association" shall mean and refer to STONE CREEK Homeowners' Association, Inc., an Alabama Not for Profit Corporation, its successors and assigns.

Owner Defined

1.02. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot that is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Properties Defined

1.03. "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

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Common Area Defined

1.04. "Common Area" shall mean all real property (including the improvements) owned by the Association for the common use and enjoyment of the Owners.

Lot Defined

1.05. "Lot" shall mean and refer to any plot of land or parcel shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Declarant Defined

1.06. "Declarant" shall mean and refer to STONE CREEK, LLC, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Architectural Committee

1.07 Members approved by Board of Directors to review plans and specifications to insure compliance of covenants conditions and restrictions.

ARTICLE II. PROPERTY RIGHTS

Owners' Easements of Enjoyment

2.01. Every Owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot.

Restrictions on Use

2.02. RESIDENTIAL USE. The said property shall be used for single family residence purposes only and not for any purpose of business or trade.

2.03. FLOOR AREAS. No single family residence shall be constructed without the approval of the Architectural Committee. All 1 story dwellings shall conform to minimum heated living space of not less than 1100 square feet. All 1 ½ story dwellings shall conform to minimum heated living space of not less than 1250 square feet with the main level containing at least 900 square feet and the second story containing at least 350 square feet. All 2 story dwellings shall conform to minimum heated living space of not less than 1400 square feet with the main level containing at least 700 square feet and the second story containing at least 700 square feet.

2.04. SETBACKS. All single family residences or other authorized structures shall comply with the following setback requirements: Minimum front line setbacks as shown on the recorded map, or designated by Declarant, side-line setback on each side to be 0 feet from the property line but there must be at least 10 feet between the outside wall of each house and 25 feet set back from the rear lot line unless a variance to setback is granted by the municipality and /or the Declarant. Other setbacks will be as designated by

record map or Declarant. The Declarant may not grant a variance in violation of the city's minimum requirements, without permission from the city.

2.05. TEMPORARY STRUCTURES. Except for the construction and development activities of Declarant and Builder, no temporary structure of any kind shall be used, or placed upon the lot, including, but not limited to trailers, campers, shacks, tents, outbuildings, or auxiliary structures without permission of the Architectural Committee or Declarant.

2.06. UTILITIES. The lot owner shall be solely responsible for the cost and expense of the installation of all utilities used on any lot up to the lot line. Declarant shall not be responsible for the cost and expense of installing or maintaining any utilities, including underground electrical power, used on any lot up to the lot line.

2.07. DRAINAGE. The lot owner shall be responsible for the drainage of all surface waters on the lot so as not to increase the natural drainage across neighboring lots. The lot owner shall also be responsible for drainage and silt control during the construction and landscaping of his/her residence. Any lot that violates ADEM requirements for storm water runoff will be required to remedy the problem immediately. If the Declarant brings lot into compliance, the lot owner shall immediately reimburse Declarant for any and all costs incurred. If ADEM fines are imposed because of said violations, lot owner will pay all fines and attorneys fees incurred.

2.08. LOT MAINTENANCE. Each Owner of any lot shall at all times keep and maintain said lot and improvements thereon in a clean, orderly, and attractive condition, maintaining and repairing the residence promptly as conditions may require. All trash, rubbish, garbage, grass, leaves, tree limbs, weeds, vines, and other waste materials shall be removed for proper disposal from a lot as soon as is practical, and prior to removal, the same shall be stored on the lot out of sight and in a neat and orderly manner so as not to interfere with the aesthetics, health or welfare of other homeowners. No such material shall be placed or stored on any street or public right of way. No open burning shall be permitted on any lot or any other part of the development, except that outdoor fireplaces, grills and chimneys may be used provided they are so constructed and equipped with fire screens as to prevent the discharge of any ashes, embers, or other particulate matter, and in compliance with local, state, and federal laws.

2.09. SIGHT EASEMENTS. No fence, wall, tree, shrub, or bush shall be erected or planted in such a way as to prevent any pedestrian or operator of a motor vehicle from having clear, open and safe scope of vision at any intersection, corner, or other adjoining of streets, or as to obstruct passage on public right of way. Height of shrubbery near intersections shall not exceed 30 inches.

2.10. FENCES and CLOTHES LINES. No fence, wall (above the grade of the lot), or hedges may be installed in front of a residence. All walls and fences on the property are to be approved in writing by the Declarant or by the Architectural Committee, its successors, or assigns, prior to installation. Chain link fences are not permitted. No clothes lines are permitted.

2.11. PETS. No animals, birds, or reptiles shall be kept or be possessed in the development by any person owning a lot, except for commonly accepted household pets. Any such pet shall be kept by any homeowner within the limitations of the lot and residence thereon, and no pet shall be permitted to leave said lot or residence without being controlled at all times by the owner. No kennels will be allowed. Maximum number of outdoor pets is limited to two per household.

2.12. SIGNS. No signs, billboards, posters or other advertising matter or displays of any kind shall be permitted anywhere in the development except as provided herein. The Declarant or Architectural Committee may, in its discretion, adopt and promulgate rules and regulations relating to signs which may be employed. The Declarant and builders shall be permitted to install their signage. A sign for the rent or sale of a home is allowed but is limited to 6 square feet.

2.13. EASEMENTS. Declarant, or any entity authorized by it, reserves a 10 foot easement across the back of each lot, for the purpose of constructing, maintaining, and repairing utility lines and equipment and for water mains and storm drains, and other general use facilities; provided, however, that said easement area shall be maintained by the lot owner, except for those obligations of public authorities or utility companies. This easement may be modified and /or enlarged by Declarant if it is deemed necessary by Declarant, at his sole discretion.

2.14. NUISANCES. No substance, thing, or material shall be kept upon any lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort, or serenity of the occupant of surrounding property. No boat, boat trailer, house trailer, trailer, motor home, commercial vehicle, motorcycle, golf cart, recreational vehicle or any other similar item shall be stored on the premises unless inside the residential structure. Basketball goals shall be located to the side or rear of the residential structure. No satellite dishes are permitted on any lot, except those 18" or smaller which are located as to not to be visible from the street.

2.15. RESTRICTIONS ON ACCESS. No vehicular access be permitted from any lot to public roads outside the boundaries of the subdivision except by roads constructed by the Declarant in the development, without written approval of Declarant.

2.16. MAILBOXES. All mailboxes and posts must be of a designed specified by the Declarant.

2.17 BUILDING REQUIREMENTS

- a. the roof pitch on any residence shall not be less than 8 and 12 unless first approved in writing by the Architectural Committee.
- b. All dwellings will have brick, stone, vinyl siding, or other product approved by the Architectural Committee on all four sides of the foundation, and no exposed block. All homes are to be of traditional styling unless approved in writing by the Architectural Committee.
- c. No cantilevered chimney chases shall be allowed on the front of any structure. All chimney chases on the front of the structure shall be supported by the foundation of the structure. Any cantilevered chimney chases on the side of any structure shall first be approved by the Architectural Committee.
- d. Outside air conditioning units may not be located in the front yard of any lot or the front yard or side yard facing the street of any corner lot unless adequately screened.
- e. Windows shall be wood frame, vinyl or wood clad. No aluminum windows are allowed unless approved in writing by the architectural committee.
- f. No concrete block work, including foundations, concrete block steps, walkways, walls or any other concrete block work, whether painted, stuccoed or otherwise, shall show above ground or from the exterior of any building.
- g. When the construction or improvement to any building is begun, work thereon must be prosecuted diligently, continuously and must be completed within 12 months.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

Membership

3.01. Every Owner of a Lot that is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment. The purpose of the Association shall be to promote community integrity, maintain the entrance and common areas and for other purposes determined by the Association. The Declarant shall be a member of the Association.

Voting Classes

3.02. Every Owner shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. 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 one Lot.

ARTICLE IV. COVENANT FOR MAINTENANCE ASSESSMENTS

Creation of Lien and Personal Obligation of Assessments

4.01. Each Owner of any Lot by acceptance of a deed, whether or not it shall be so expressed in the deed, is deemed to covenant and agrees to pay to the Association: annual assessments or charges and special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall be also the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. Lots owned by declarant or homebuilders shall not be subject to assessments until such time that a residence is constructed thereon and either the declarant or builder occupies or sells the lot and residence.

Purpose of Assessment

4.02. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area as well as administrative expenses including but not limited to hiring contractors, management companies, taxes, insurance, etc.

Maximum Annual Assessment

- 4.03. Beginning January 1, 2004, the maximum annual assessment shall be \$275 per Lot.
- (a) The Board of Directors may fix the annual assessment for future years.

Special Assessments for Capital Improvements

4.04. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of 2/3 of the membership who are voting in person or by proxy at a meeting duly called for this purpose.

Notice and Quorum for Any Action Authorized Under Sections 4.03, 4.04

4.05. Written notice of any meeting called for the purpose of taking any action authorized under Section 4.03 or 4.04 shall be sent to all members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. Upon proper notice, the presence of any number of members or proxies entitled to cast a vote shall constitute a quorum.

Uniform Rate of Assessment

4.06. Both annual and special assessments must be fixed at a uniform rate for all Lots, except those owned by the developer or builders, and may be collected on a yearly basis. Lots owned by developer or builders shall not be subject to assessments until such time that a residence is constructed thereon and either the developer or builder occupies or sells the lot and residence.

Date of Commencement of Annual Assessments: Due Dates

4.07. The annual assessments provided for herein shall commence on the first day of January each calendar year. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Effect of Nonpayment of Assessments: Remedies of the Association

4.08. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen (18) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, in accordance with the laws of the state of Alabama. No owner may waive or otherwise escape liability for the assessments by nonuse of the Common Area or abandonment of the Lot.

Subordination of Lien to Mortgages

4.09. The lien of the assessments shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of assessment as to payments that became due prior to the sale or transfer. No sale or transfer shall relieve the Lot from liability for any assessments thereafter becoming due.

Conveyance of Subdivision Property

4.10 The Declarant may convey property to the Home Owners Association for the common benefit of the lot owners.

ARTICLE V. ARCHITECTURAL CONTROL

Architectural Restrictions

5.01 No building, fence, wall, landscaping, tree removal or structure shall be commenced, erected, placed, moved on to, permitted, or maintained upon the Properties, nor shall any exterior addition, change, or alteration be made until the plans and specifications (including a description of any proposed new use) have been submitted to and approved in writing as to harmony or external design and location in relation to surrounding structures and topography by the Declarant until such time as the Declarant shall turn this responsibility over to the Association, and thereafter either the Board of Directors of the Association or an Architectural Committee composed of three (3) or more representatives appointed by the Board. In the event the Declarant, Board, or its designated committee, as the case may be, fails to approve or disapprove the design and location within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Such plans and specifications shall be in such form and shall contain such information as may be required by the Declarant, Board or its designated committee, but in any event shall include: (a) a site plan of the lot showing the nature, exterior color scheme, kind, shape, height, materials, and location with respect to the particular lot, including proposed front, rear, and side setbacks and free spaces, if any are proposed, of all

structures, the location thereof with reference to structures on adjoining portions of the property, and the number and locations of all parking spaces and driveways on the lot, (2) a clearing plan for the particular lot showing the location of sanitary sewer service lines, and such other information required by the Declarant or the Architectural Committee, (3) a drainage plan, including a construction drainage plan for silt control, and (4) a plan for landscaping. The Declarant or the Architectural Committee may create and revise policies as to architectural guidelines as necessary.

ARTICLE VI. GENERAL PROVISIONS

Enforcement

6.01. In the event of a violation or breach of any of these general covenants, restrictions, and easements or any amendments thereto by a lot owner, or family or agent of such lot Owner, the Association, the owners of lots, Declarant, its successors and assigns, or any party to whose benefit these general covenants, restrictions, and easements inure shall have the right to proceed at law or in equity to compel the compliance with the terms and conditions hereof, to prevent the violation or breach of said general covenants, restrictions, and easements, to sue for and recover damages, or take all such courses of action at the same time, or such other legal remedy it may deem appropriate. No delay or failure on the part of the aggrieved party to initiate an available remedy set forth herein shall be held to be a waiver of that party or an estoppel of that party or of any other party to assert any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation. No lot Owner may sue the Declarant for its actions in this development. Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof, but any person or entity entitled to enforce any provision hereof shall be entitled specifically to relief by way of injunction as well as any other available relief at law or in equity. Any party to a proceeding who succeeds in enforcing a general covenant, restriction, or easement or enjoining the violation of the same against a lot owner may be awarded a reasonable attorney's fee against such lot owner.

Severability

6.02 Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Amendment

6.03 The Declarant, its successors and assigns, reserve the right to modify, release, amend, void, transfer or delegate any and all of their rights, reservations and restrictions herein set forth, or the right to modify, release, amend, void or transfer any one or more of the said herein set forth general covenants, restrictions and easements on lots in said subdivision, at their sole discretion.

6.04 The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. In addition to the rights reserved by the declarant to amend, this declaration may be amended by an instrument signed by not less than two thirds of the lot Owners. Any amendment must be recorded.

Zoning and Specific Restrictions

6.05 The general covenants, restrictions, and easements herein shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, or the laws, rules or regulations of any governmental authority, or by specific restrictions imposed by any deed. In the event of conflict, the most restrictive provision of such laws, rules, regulations, deeds, or the general covenants, restrictions, and easements shall be taken to govern and control.

Grantees' Acceptance of Deed

6.06 The grantee of any lot subject to the coverage of these general covenants, restrictions, and easements, by acceptance of the deed or other instrument conveying an interest in or title to, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of such lot, shall accept such deed or other contract upon and subject to each and all of these general covenants, restrictions, and easements herein contained.

Indemnity for Damages

6.07 Each and every lot owner and future lot owner, in accepting a deed or contract for any lot subject to these general covenants, restrictions, and easements, agrees to indemnify and defend The Association, the Declarant against and hold The Association and the Declarant harmless from any damage caused by such lot owner, or the contractor, agent or employees of such lot owner, to the roads, streets, gutters, walkways, or other aspects of public ways, including all surfacing thereon, or to water drainage or storm sewer lines or sanitary sewer lines.

Interpretation by Declarant

6.08 Declarant shall have the right to construe and interpret the provisions hereof, and in absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefitted or bound by the provisions hereof.

Assignment by Declarant

6.09 In the event that Declarant should sell the development to a third party, Declarant shall be empowered to assign its rights hereunder to said third party and, upon such assignment said third party shall have all the rights and be subject to all the duties of Declarant hereunder.

Rules and Regulations

6.10 All homeowners shall at all times comply with all rules and regulations, orders, laws, ordinances, statutes, and decrees of any governmental or political entity or persons, and any rules and regulations adopted by the Association, Declarant, or their successors, assigns, or designees.

ARTICLE VII. EXTERIOR MAINTENANCE

7.01. In the event an Owner of any Lot in the Properties shall fail to maintain the premises and improvements in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2 /3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon the parcel and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements. The cost of this exterior maintenance shall be added to and become part of the assessment to which the Lot is subject.

Declarant hereby declares that said provisions shall run with the land and be binding upon, and shall inure to the benefit of, the Subject Property, and any future additions thereto, and all parties having or acquiring any right, title or interest in and to the Subject Property or any part thereof, and their successors in interest.

IN WITNESS WHEREOF, the undersigned, **Albert L. Weber**, as the Managing Member of **STONE CREEK, LLC**, has hereunto set his hand and seal on this 15th day of December, 2003.

ATTEST:

STATE OF ALABAMA)
COUNTY OF SHELBY)

Declarant

STONE CREEK, LLC

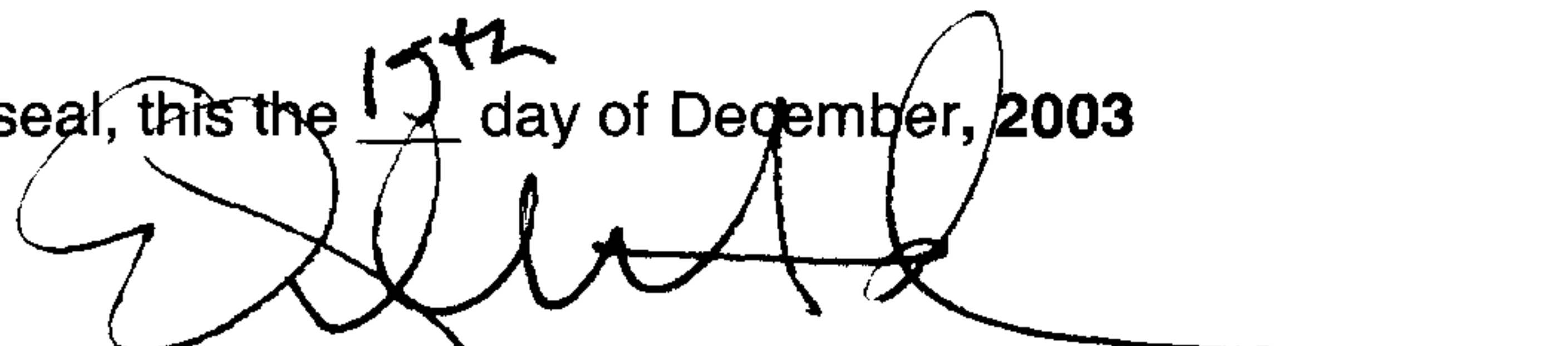


Albert L. Weber,

President

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **Albert L. Weber**, whose name as the Member of **STONE CREEK, LLC**, is signed to the foregoing instrument and who is known to me, acknowledged before me that, being informed of the contents of the instrument, he, as such Member, and with full authority, executed the same voluntarily for and as the act of said corporation, on the day the same bears date.

Given under my hand and official seal, this the 15th day of December, 2003



Notary Public

My Commission Expires:

10.2.05