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STATE OF NORTH CAROLINA  
COUNTY OF PENDER

JOYCE M. SWICEGOOD  
REGISTER OF DEEDS  
PENDER COUNTY, NC

RESTRICTIVE COVENANTS  
OF  
CROSS CREEK SUBDIVISION

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JOYCE M. SWICEGOOD  
REGISTER OF DEEDS  
PENDER COUNTY, NC

FILED

THESE RESTRICTIVE COVENANTS OF CROSS CREEK SUBDIVISION are made this the 27th day of January, 1998 by P M & M, Inc., hereinafter referred to as the "Declarant", and any and all persons, firms, or corporations hereinafter acquiring any of the within described property and any of the property hereinafter made subject to these Restrictive Covenants of Cross Creek Subdivision, hereinafter "Restrictions."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Pender County, North Carolina known as Cross Creek Subdivision; and

WHEREAS, Cross Creek, Section I is more particularly described by map(s) thereof recorded in the following Map Book 31 at Page 118 in the Office of the Register of Deeds for Pender County to which reference is hereby made for a more complete description; and plat(s) for additional phases made a part of this subdivision may be recorded at a later date; and

WHEREAS, said Section I lots are so situated as to comprise a neighborhood unit, and it is the intent and purpose of the Declarant to convey the aforesaid lots to persons who will erect thereon residences to be used for family purposes, subject to the provisions hereinafter set forth; and

WHEREAS, Declarant has agreed to establish a general plan of development as herein set out to restrict the use and occupancy of the property made subject to these Restrictions, and the Bylaws of Cross Creek Homeowners Association, Inc. (hereinafter "Bylaws") recorded separately in the Office of the Register of Deeds for Pender County for the benefit and protection of the property and for the mutual protection, welfare and benefit of the present and the future owners thereof; and

WHEREAS, Declarant has filed and recorded separately with the Register of Deeds for Pender County a Subdivision Street Disclosure Statement, which is incorporated herein by reference as if fully set forth; and

Recorded and Verified  
Joyce M. Swicegood  
Register of Deeds  
Pender County, NC

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WHEREAS, Declarant desires to provide for the preservation of the value of Cross Creek Subdivision made subject to these Restrictions and the Bylaws and for the construction, maintenance and preservation of the Common Property established by the Bylaws and by the supplements thereto.

NOW, THEREFORE, in accordance with the recitals which by this reference are made a substantive part hereof, Declarant declares that all of the property described herein on above said recorded plat (and all future plat(s) that may be made a part hereof in the manner set forth below) is made subject to these Restrictions and the Bylaws and shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of Cross Creek Subdivision as it now exists and is hereafter expanded, and that such easements, restrictions, covenants and conditions shall burden and be appurtenant to and run with said property and be binding on all parties now or hereafter owning said real property and their respective heirs, successors and assigns, having any right, title or interest in the properties now or hereafter subjected to these Restrictions and the Bylaws, or any part thereof, and shall inure to the benefit of each owner thereof and their respective heirs, successors and assigns.

A. PROPERTY SUBJECT TO THESE RESTRICTIONS AND THE DECLARATION AND ADDITIONS THERETO.

1. PROPERTY PRESENTLY SUBJECT TO THESE RESTRICTIONS. Cross Creek, Section I, the real property which is, and shall be held, transferred, sold, conveyed and occupied subject to these Restrictions and the Bylaws, irrespective of whether there may be additions thereto as hereinafter provided, is located in Topsail Township, Pender County, North Carolina, and is shown on map recorded in Map Book 31 and Pages 118 in the Office of the Register of Deeds for Pender County.

2. ADDITIONS TO EXISTING PROPERTY. Additional property, including any additions (including real property and/or improvements) to the common property, which may be made by Declarant at its sole and complete discretion, and property adjacent thereto may be brought within the scheme of these Restrictions and the Bylaws and the jurisdiction of the Cross Creek Homeowners Association, Inc., hereinafter referred to as the "Association," in the following ways:

a) The Declarant reserves the right to develop and subject to these Restrictions and the Bylaws any or all of the Property described in Schedule A, which is attached hereto and incorporated herein by reference. Each, any or all of this Property may be annexed to the properties by Declarant, at its sole and absolute discretion, and brought within the scheme of these Restrictions and the Bylaws and within the jurisdiction of the Association, in future stages of development without the consent of the Association or its members; provided, however, that said

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annexations, if any, must occur within twenty (20) years after the date of this instrument.

b) At Declarant's sole and absolute discretion, additional residential property and common area, consisting of not more than four hundred (400) acres, outside of the area described in the aforementioned Schedule A may be annexed to the properties and brought within the scheme of these Restrictions and the Bylaws and the jurisdiction of the Association in future stages of development without the consent of the Association or its members; provided, however, that said annexations, if any, must occur within twenty (20) years after the date of this instrument.

c) The additions authorized under subsections (a) and (b) shall be made by filing of record Supplementary Restrictive Covenants of the Cross Creek Subdivision and by filing of record Supplementary Bylaws of Cross Creek Homeowners Association, Inc. with respect to the additional properties which shall extend the scheme of the Restrictions and the Bylaws of and the jurisdiction of the Association to such properties, and thereby subject such additions to assessments for their just share of the Association's expenses. Said Supplementary Restrictive Covenants and Bylaws may contain such complementary additions and modification of these Restrictions and the Bylaws as may be necessary to reflect only the different character and density of housing planned on the added properties and as are not inconsistent with the provisions of these Restrictions and the Bylaws. For example, other phases may contain Townhouse Lots, which will be smaller lots with an increased amount of proportionate common area which will be used for the sole benefit of the Townhouses and will be maintained by a separate homeowner's association.

d) The Declarant, for itself and the Association, reserves the right to grant onto property owners of properties adjacent to or near Cross Creek Subdivision, the right to ingress, egress, regress and utilities through Cross Creek Subdivision as it now exists or as it may be expanded as set forth herein. The Declarant and/or the Association, may cause any and all roads constructed in this development, or which may be constructed, to become a servient estate to other real property for the sole purpose of ingress, egress, regress and utilities to said dominant estate property. The Declarant may grant said easement without the consent of the Association.

#### B. GENERAL USE RESTRICTIONS.

Declarant does hereby covenant and agree with all persons, firms or corporations hereafter acquiring title to any portion of the Property that the Property is hereby subject to these Restrictions as to the use thereof and do agree, publish and declare that the deeds hereinafter made by it to purchasers of the Property shall be made subject to the Bylaws and to the following Restrictions:

1. Except as otherwise provided in these Restrictions, the lots

shall be used for residential purposes only, and no structure shall be erected, placed, altered or permitted to remain on any lot other than one detached, single-family dwelling and related structures incidental to the residential use of the lot, such as garages and out buildings, which otherwise comply with these Restrictions, except that Declarant reserves the exclusive right to construct a roadway over any lot owned by it in order to grant access to other property acquired by Declarant and in such cases, the remainder of any such lot not used for the roadway shall still be subject to these Restrictions. Provided further, however, garage apartments or other living accommodations located in approved out buildings for use by house guests only shall be permitted.

2. Each single-family dwelling shall have an enclosed, heated living area (exclusive of open porches, garages, and other ~~Three~~ unheated spaces) not less than One Thousand ~~Eight~~ Hundred Fifty (1,350) square feet, regardless of the number of stories unless otherwise hereinafter specified; further each single-family dwelling shall have a front porch, architecturally consistent with the main dwelling, of not less than sixty (60) square feet and a rear or side porch of not less than 25 square feet, unless the rear or side door opens into a garage or covered carport. However, Declarant reserves the right, at its sole and absolute discretion, to designate "townhouse lots" on any area, the dwelling on which must have a heated living area not less than One Thousand Two Hundred Fifty (1,250) square feet. NJB

The design, location and complete construction plans (hereinafter "plans") of all improvements on each lot (regardless of when such improvements are made) and the landscaping of each lot must be approved in advance by the Architectural Review Committee, hereinafter referred to as the "Committee," which Committee is established pursuant to the Bylaws. No building, fence, wall, bulkhead, dock, pier, pool, outbuilding, driveway or any other accessory feature to the dwelling or any other structure upon any lot shall be commenced, erected, placed, maintained or altered on any lot or combination of contiguous lots, nor shall the grade or elevation or physical characteristics of any lot, combination of contiguous lots, or portions of a lot or lots thereof be altered in any way whatsoever, until the proposed building plans, specifications, exterior colors and finishes, site and grading plans (showing the proposed location of such building or structure, drives, parking areas and proposed alterations to the grade, elevation or physical characteristics of the site) and the construction schedule have been approved in writing by the Committee. Exposed exterior walls composed of the following materials shall be prohibited from Cross Creek Subdivision: concrete block, imitation asphalt siding, imitation asphalt stone siding and tar paper. The Committee's refusal to approve any such plans, location or specification may be based by the Committee upon any ground, including purely aesthetic and environmental considerations, that it, in its sole and uncontrolled discretion, shall deem sufficient. Without prior written consent of the

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Committee, no changes or deviations in or from such plans or specifications as approved shall be made. No alterations in the exterior appearance of any building or structure, or changes in the grade, elevation or physical characteristics of any lot shall be made without like approval by the Committee.

The Plans shall include the complete construction plans, the plot plan (showing proposed location and elevation of such building, fences, walks, drives, parking area, etc.), proposed building plans and specifications, exterior color, finish and materials. One (1) copy of all plans and related data shall be furnished to the Committee for its records. The Committee shall not be responsible for any structural or other defects in plans and specifications submitted to it or in any structure erected according to such plans and specifications. The Committee may require additional data from any lot owner, including data relating to adjacent and related lots and related matters such as water well engineering plans and specifications, and may include in its approvals reasonable terms and conditions to apply to groups of lots such as water well standards and surface water effluent requirements, and to apply to construction site sanitary maintenance and clean up. If no action is taken by the Committee within thirty (30) days after plans are submitted to it, the owner may proceed to build without approval, but in any event all improvements must be in accordance with these Restrictions. However, the thirty day period shall not begin to run until all requested data is received by the Committee.

Further, the following use restrictions shall be applicable to the lots in the Subdivision:

a) No site built or modular home shall be approved unless it meets the following criteria:

i) It is purchased from and/or constructed by a dealer and/or contractor approved by the Declarant or the Committee, as the case may be.

ii) Two story or higher homes shall have a footprint of not less than 1,050 square feet of enclosed heated living area; the upper stories maybe unfinished, however all upper story windows must have window treatments.

b) No manufactured home shall be approved unless it meets the following criteria:

i) It is purchased from a dealer approved by the Declarant or the Committee, as the case may be.

ii) It must have a minimum of 1,350 square feet of enclosed heated living area on the ground floor.

iii) It must have vinyl siding, cedar siding or such other siding as is approved by the Declarant or the Committee, as

the case may be.

iv) It must have a roof pitch of a minimum of "48 inch roof rafters" or 4/12.

c) No plans shall be approved unless they meet the following criteria:

i) All service utilities, fuel tanks, clothes lines, wood piles, animal fodder, animal waste, trash and garbage accumulations are to be enclosed within a fence, wall or plant screen of a type and size approved by the Declarant or the Committee so as to preclude the same from causing an unsightly view from any street and other residence within the Subdivision.

ii) No fence shall be installed closer to the front of the property than the rear of the main residential dwelling. All fences shall be constructed of an approved type as kept on file by the Declarant or the Committee; additional types of fences may be submitted for approval of the Declarant or the Committee. No fence higher than five (5) feet shall be erected. Any fence which is installed at an adjacent property line shall have the written approval of the adjacent property owner or the fence must be installed no closer than three (3) feet from the adjacent property line. If a fence is installed on a lot which permits horses then the fence must be of sufficient strength and height to retain the horse and must be installed no closer than three (3) feet to an adjacent property line which does not permit horses. Any lot owner who elects to have a horse shall be responsible for the installation and maintenance of a gate in the fence immediately to the rear of the lot.

iii) For any lot designated approved for a horse, a shelter for said horse must be constructed prior to arrival of the animal. The shelter for the horse must conform to one of the approved shelters as kept on file by the Declarant or the Committee; other styles may be submitted for approval of the Declarant or the Committee. All horse shelters must have siding and roofing similar to the main residential dwelling located on the lot.

iv) The residential dwelling located on the lot must have a concrete or brick sidewalk extending from the front porch to the driveway.

v) All lots must be cleared of all undergrowth and must be landscaped with a minimum of four thousand (4,000) square feet of grass sod. The sod must be either Centipede, Bermuda or other type approved by the Declarant or the Committee. At least three thousand (3,000) square feet of sod must be placed in the front of the residential dwelling. Additional open ground may be seeded with a perennial grass. There must be a minimum of thirty (30) ornamental shrubs planted adjacent to the residential dwelling.

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vi) All dwelling which are not built with a slab on grade must have a finished brick foundation/curtain wall built from ground level to the underside of the dwelling. A slab on grade dwelling must have a minimum of six (6) inches of opening between the siding and the ground level.

vii) Wherever possible and as limited by the septic tank location, all water wells shall be located on the rear of the property. All well heads, pressure tanks and pumps shall be covered by a well house or located within an out building.

viii) All out buildings, including but not limited to sheds, pump houses, garages, screen rooms, etc., shall be approved by the Declarant or the Committee and shall conform to the architectural style of the residential dwelling.

3. The actual construction shall be the responsibility of the Owner of the lot and his builder. Any permission granted for construction under this covenant and any designation of approved licensed contractors shall not constitute or be construed as an approval, warranty, or guaranty, expressed or implied, by the Declarant or the Committee or its designated agent of the structural stability, design or quality of any building or other improvements or of the contractor who constructs such buildings or other improvements.

4. Except within the building site or within twelve (12) feet of the main dwelling, no trees of any kind (other than pine trees) in excess of six (6) inches in diameter at the ground level may be removed from any lot without the prior approval of the Committee. No pine trees that lie twenty (20) feet or more from the main dwelling may be removed from any lot without the prior approval of the Committee. The Association may issue a fine to a lot owner in the amount of One Hundred dollars (\$100.00) for each tree removed without permission from the Committee, said fine representing the decrease in value to other property.

5. All improvements to the lot must comply with Pender County setback requirements for the applicable zoning. The establishment of inflexible building setback lines for location of houses on lots tends to force construction of houses directly to the side of other homes with detrimental effects on privacy, view, preservation of important trees and other vegetation, ecological and related considerations. In order to assure, however, that the foregoing considerations are given maximum effect, the site and location of any house or dwelling or other structure upon any lot shall be controlled by and must be approved absolutely by the Committee, however, all requirements imposed by the Committee must be in accordance with the Pender County Zoning Ordinance, Subdivision Ordinance, or the Planning Board's approval. Further, absent the extraordinary circumstances set forth below, the Committee shall approve no plans unless the following minimum setback requirements are met:

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- a) Front setbacks for conventional lots shall be forty (40) feet.
- b) Rear setbacks for conventional lots shall be thirty (30) feet.
- c) Side setbacks for conventional lots shall be twenty (20) feet.
- d) No swimming pool on any lot shall be located nearer than twenty (20) feet from the side or rear lot line, and must be located behind the main residential dwelling.
- e) Setback lines for fences and walls shall be set on a case-by-case basis.
- f) Setbacks for out buildings of more than six hundred (600) square feet at ground level shall be a minimum of twenty (20) feet from the side and rear property lines.
- g) Setbacks for out buildings of less than six hundred (600) square feet at ground level shall be controlled by the Declarant or the Committee, as the case may be.
- h) Front, rear and side setbacks for townhouse lots shall comply with the Pender County Zoning Ordinance, Subdivision Ordinance and Planning Board approval.

The Committee shall have the right to approve deviations from each of these setback requirements upon application of an individual lot owner if, for reasons of topography or well or septic approvals, strict compliance creates a hardship if such approval does not violate the Pender County Zoning Ordinance, Subdivision Ordinance or Planning Board approval. If required by Pender County, each plot plan must receive zoning approval prior to the commencement of any construction.

6. More than one lot may be combined to form one or more lots by (or with the written consent of) Declarant, its successors and assigns. No lot may be subdivided by sale or otherwise, except by (or with the written consent of) Declarant, its successors and assigns. Upon combination or subdivision of lots, the building line requirements prescribed herein shall apply and the easements reserved herein shall be applicable to the rear, side and front lot lines of such lot as combined or subdivided. The resulting building site and structures erected thereon must otherwise comply with these Restrictions and the new property line of the resulting building site shall be used to compute the setback lines as set forth herein.

7. All connections of private driveways to the Cross Creek road system shall be constructed, by the lot owner, and maintained, by the lot owner, in accordance with the rules, regulations and specifications of the Committee. However, in order to insure fire



protection is readily available to all lots, all driveways which connect residences or other structures that are more than fifty (50) feet from the subdivision road must be at least eleven (11) feet in width, with a clearance of no less than eleven (11) feet in height. Further, all driveways must be constructed from concrete, aggregate concrete, brick, asphalt or Type 78M gravel.

8. There shall be no signs, fencing or parking permitted within the road right-of-way.

9. Construction of new residential buildings (site built homes, modular homes and manufactured homes) only shall be permitted, it being the intent of this Covenant to prohibit the moving of any existing building or portion thereof on a lot and remodeling or converting the same into a dwelling unit in this subdivision, excepting, however, Declarant's mobile offices provided for hereinbelow.

10. With the exception of construction which is interrupted or delayed due to physical damage to the work in progress (such as damage due to fire, lightning, windstorm, hail, riot or civil commotion, explosion or theft), any dwelling constructed upon a lot must be completed within one (1) year subsequent to commencement of construction, except with the written consent of Declarant, its successors or assigns, or, if the Declarant so designates, by the Committee. The normal period of completion time for outbuildings or other improvements shall be presumed to be five (5) months from the issue date of the building permit. In the event that completion of the dwelling, outbuildings, or other improvements on any lot is not completed within one (1) year, and it is determined by the Declarant, its successors and assigns, or if the Declarant so designates, by the Committee, that construction progress has diminished to such an extent that completion of the dwelling, outbuildings, or other improvements is unlikely within one hundred fifty (150) days, the Association will be advised of this determination. The Association shall then have the right to give notice to the owner that the owner has the obligation, within thirty (30) days, to complete the removal of all the construction work in progress, including without limitation, the foundation and all building improvements and all stored building materials, and fill and grade the lot so that it is restored to its natural grade level, and the Association shall have the right to undertake this work upon owner's failure to do so and charge the cost to the owner and place a lien upon the lot upon the owner's failure to pay these charges.

11. Owners of the lot shall be responsible to insure that all construction equipment will be moved from any lot within ten (10) days of completion of construction.

12. No truck, van, single wide trailer, single wide mobile home, tent, camper, barn, garage, or other outbuilding or temporary structure parked or erected on lots in this subdivision shall at any time be used as a residence, temporarily or permanently, nor

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shall any structure of a temporary character be used as a residence, provided, however, that this prohibition shall not apply to shelters used by the contractors during the construction of the main dwelling house, it being clearly understood that these temporary shelters will not be permitted to remain on any lot after completion of construction. The Committee shall have the right to approve or disapprove at its sole and absolute discretion, these temporary construction shelters or vehicles. The Committee, upon approval of a temporary construction shelter or vehicle, will issue a letter stating the length of time such shelter will be allowed to remain upon such lot and where such shelter is to be located upon such lot. Modular homes and double wide manufactured homes are permissible.

13. All homes constructed in Cross Creek Subdivision must be supplied with water for normal domestic use from individual privately drilled wells, or from a public utility company, if available. Each individual owner shall locate the well drilled on such owner's lot so as to comply with all the governmental regulations regulating the minimum distance between such well and septic fields proposed or approved for the owner's lot and all lots adjoining such owner's lot. No well shall be drilled or constructed without the prior written approval of the Committee.

14. Declarant shall be permitted to erect one mobile office on any lot that it owns for the purpose of maintaining a sales information center and construction office.

15. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. No animals or poultry of any kind may be kept or maintained on any of said lots, except a reasonable number of dogs, cats and birds that are kept on the owner's property and except for horses on the designated lots as is hereinafter set forth. No dogs shall be permitted to roam the property, and the Association may have strays and dogs that are not leashed and are found off their owner's lot removed by government authorities. The throwing or dumping of trash, garbage and waste materials shall not be permitted. The interference of any stream or future waterways so as to cause pollution or stagnation in these waterways is prohibited. No clearing, filling or disturbing of the wetlands in violation of the governmental regulations shall be permitted. No clearing of any type shall be permitted without prior approval from the Committee. There shall be no excavation which does not pertain to the building or construction of a home. Bottled gas containers and oil tanks shall be screened from public view. No heating or cooling system shall discharge surface water from any lot without prior approval from the Committee. There shall be no above-ground swimming pools, unless approved by the Committee.

Lots 2, 3, 7, 8, 13 and 14 are designated as horse lots and are located adjacent to a Horse Exercise Area. Owners of lots designated as horse lots may keep and board one (1) horse. The

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horse must be stabled in an approved barn. Any fences erected on the lot must meet the criteria detailed in other sections of these Restrictions. The owner is responsible for the removal of any manure and/or debris generated by the horse; the removal must be done on a timely basis so as not to create any noxious odor, health hazard or breeding place for insects. The horse may roam within an enclosed fence area on the rear of the lot. Certain areas have been established as Horse Exercise Areas and only bridled horses shall be allowed in these areas and no horse shall be permitted to roam freely within these areas. The Maintenance of the Horse Exercise Areas shall be the responsibility of the Association and the Association shall establish a maintenance assessment to be paid by the owners of the lots utilizing the Horse Exercise Areas; said assessment to be in addition to the regular assessments and special assessments of the Association.

16. Off street parking for not less than two (2) passenger automobiles must be provided on each lot prior to the occupancy of any dwelling constructed on said lot, which parking areas and the driveways thereto shall be constructed of concrete, aggregate concrete, brick, asphalt or Type 78M gravel.

17. It shall be the responsibility of each lot owner to prevent any unclean, unsightly or unkempt condition of buildings or ground on such lot. No portion or part of any lot shall be used or maintained as a dumping ground for rubbish or other refuse. Trash, garbage or other waste shall not be kept, except in sanitary containers screened from view from all roads, all other lots and from the Common property provided that the Declarant, prior to the sale of such lot, may use portions of such lot as a burial pit in accordance with governmental regulations.

18. Easements of Access and Open Space:

a) Subject to the conditions set forth herein, each and every lot owner is hereby granted an easement to pass over, use and enjoy open spaces now or subsequently designated on recorded plats as community open space, and all roads, bridges, and rights of way provided, however, that Declarant its successors or assigns, and the Association shall retain the right to establish rules or regulations for the use and enjoyment of such easements.

b) The Declarant further reserves to itself, its successors and assigns, the right to erect and maintain utilities, drainways and other public conveniences in common lands, including the right to cut any trees, bushes or shrubbery, make any grading in the soil, build buildings or take any similar action reasonable and necessary or desirable to provide economical and safe installation or service.

c) The Declarant further expressly reserves to itself, its successors and assigns, and upon formation of the Association, to the Association, its successors and assigns the right to construct, operate and manage any club, or other like facility

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with associated amenities, upon any of the property not designated as a residential lot for the mutual enjoyment of the owners and to establish reasonable fees, rules and regulations for the use thereof. The Declarant specifically reserves the right to transfer these facilities to the Association with the common properties.

d) The Declarant makes no representation in these covenants as to the type, quality or amount of common areas and improvements other than shown on the Final Plat as approved by the Pender County Planning Board and subject to any contractual arrangements entered into by Declarant prior to the filing and approval of said Final Plat and/or subject to any contractual arrangements between the Association and a third party. However, every lot 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, subject to the aforesaid and the following provisions:

i) The right of the Declarant to modify the lot lines and adjacent common areas shown on any plat of the property. Said modifications of common area must be reasonable in type and amount.

ii) The right of the Declarant, prior to the filing and approval of a Final Plat, and the Association, after the filing and approval of said Final Plat, to enter into contractual arrangements with a third party for the construction of amenities and management of said amenities. Prior to the filing and approval of said Final Plat, the Declarant and, after the filing and approval of said Final Plat, the Association may also enter into a lease agreement with a third party of the common areas. This lease agreement must be for the sole purpose of constructing and maintaining amenities on the common area and may not be for a term that is greater than fifty (50) years. Further, while any of the aforementioned agreements with third parties may contain provisions allowing the use of said amenities by non-lot owners, said agreement must provide for the perpetual use of the amenities by the lot owners, although said use may be subject to fees and contributions, which must be equal to or less than those fees and contributions required of non-lot owners. Further, these agreements with third parties may contain an assignment of any and all rights and obligations that the Association may have, or that the Declarant may have, if any, to the common areas and the amenities to be constructed or maintained thereon. The purpose of this provision is to give the Declarant and the Association flexibility in causing high quality amenities to be constructed and maintained on the common areas and assuring the lot owners the perpetual right to use those amenities at a fair and reasonable fee. Any portion of a third party contract that violates this provision shall be void and of no effect, and any dedication occurring by reason of the filing and approval of any plat, if any, shall be subject to this provision allowing third party contracts.

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iii) The Association, or its assigns, and/or any third party with contractual rights described in paragraph 18 (d) (ii) above, shall have the right to permit to any person the use of the common areas and amenities constructed thereon and may charge reasonable fees and contribution amounts for the use of the common areas and any amenities constructed thereon.

iv) The Association, or its assigns and/or any third party with contractual rights described in paragraph 18 (d) (ii) above, shall have the right to suspend any person's use of the common areas and amenities constructed thereon.

v) The Association shall have the right to dedicate or transfer all or any part of the common area and/or amenity constructed thereon to any public or private entity for such purposes and subject to such conditions as it deems appropriate.

vi) The Association, shall have the right to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property, including common areas and any amenities contracted thereon, for money borrowed or debts incurred.

vii) The Association, or its assigns and/or any third party with contractual rights described in paragraph 18 (d) (ii) above, shall have the right to impose regulations for the use and enjoyment of the common area and amenities constructed thereon, which regulations shall further restrict the use of the common areas.

viii) The Declarant and/or the Association reserves the right to subject the Subdivision to a contract with Four County Electric Membership Corporation for the installation of street lighting, which contract requires or will require a monthly payment by each lot owner for the street lighting service.

19. Absence of Dedication to Public Use. Nothing in these restrictions, nor in the recording of any plat or deed pursuant hereto, shall dedicate (or be deemed to dedicate) to public use any of the streets, bridges, common lands or other grounds within Cross Creek Subdivision.

20. No night lights of a wattage greater than one hundred (100) watts and located on poles not to exceed six (6) feet in height shall be permitted. All light bulbs or other lights installed in any fixture located on the exterior of any building shall be of a wattage not more than one hundred (100) watts, including clear, white or yellow insect type bulbs; however this exterior bulb limitation shall not apply to Christmas decoration during the period December 1 through January 15.

21. No firearms may be discharged within the subdivision.

22. In addition to the easements that are shown on the recorded plats of Cross Creek Subdivision, easements ten (10) feet in width

along the lot lines of all lots are reserved by Declarant, its successors and assigns, for installation, repair, replacement and maintenance of utilities, including the right to keep said easements free and clear of all obstructions. An easement of twenty (20) feet is reserved for such purposes along the rear lines of all lots that do not adjoin other lots or properties within the Cross Creek Subdivision. As between the easements reserved by these Restrictions and the easements that are located in the same area as shown on the record maps, the easements that are greater in width shall be the easements that are in effect.

23. Declarant reserves a temporary construction easement of twenty-five (25) feet in width along both sides and running parallel to all streets or roads, which easements shall expire the earlier of twelve (12) months after the particular road construction commences, or upon the acceptance of such street or roads for maintenance by governmental authority.

Further, Declarant reserves a permanent easement, including the right to grant permanent easements, over and upon all streets and roads and ten (10) feet in width along both sides and running parallel to all streets and roads, said permanent easement being for the construction and maintenance of utilities to service the lots and adjoining properties.

Further, Declarant reserves the right to grant to all adjacent and adjoining property owners permanent easements for ingress, egress, regress and utilities over and upon all of the roads and streets located within Cross Creek Subdivision.

24. No outside clotheslines shall be permitted. No satellite dishes, more than twenty-four (24) inches in diameter shall be permitted. Mailboxes shall be of a design, color and choice of materials as designated by the Declarant, or, if the Declarant so designates, by the Committee, and may not violate North Carolina Department of Transportation standards. No separate newspaper boxes are permitted. Newspaper boxes may be combined with mail boxes on one post when the design of the boxes, post and the placement thereof has been approved by the Committee.

25. There shall be no junk automobiles, junk of any sort, unservicable vehicles or salvage stored or placed or allowed to remain on or in any portion of the Subdivision. Unless located within enclosed garages, no large boat and/or boat trailer (over 28 feet in length), travel trailer, motor home, tractor trailer truck, or any other such vehicle shall be kept or maintained or located upon any lot unless and except with prior approval of the Committee. Other boats and/or boat trailers (less than 28 feet in length) must be stored behind the building set back line. No vehicles that are disabled or under repair shall be kept upon any lot unless located within enclosed garages. Unlicensed automobiles, including antique cars, if present, must be stored out of sight in a garage. Large trucks shall not be parked on a regular, or constant basis, or at fixed intervals within the

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Subdivision. No lot shall be used for storage of building materials prior to the issuance of the building permit for the Primary residence. Large truck shall be defined as any non-passenger vehicle larger than a pick-up truck.

26. All signage shall be in conformance with the Pender County Zoning Ordinance, as amended, Subdivision Ordinance and Road Naming, Housing Numbering Ordinance. No billboards or signs of any description, except "for sale" or "for rent" signs, shall be displayed upon any lot. The Declarant reserves the right to place and maintain development and "for sale" signs in the subdivision in the manner and place that it deems appropriate. All sign colors must be blue and white, except "for sale" or "for rent" signs, unless otherwise approved by Declarant, or if Declarant so designates, by the Committee. Declarant also reserves the right to erect and maintain signs designating streets, creek access, recreational areas, and any other signs that will aid in the development of Cross Creek Subdivision. During periods of construction, the general contractor shall be allowed a sign of a design and substance approved by the Declarant, its successors or assigns, or if the Declarant so designates, by the "Committee", but no sub-contractor signs shall be permitted.

27. No dwelling unit on any lot shall be leased for transient or hotel purposes, nor may any owner lease less than the entire building unit, nor shall any lease be for any period less than ninety (90) days. Any lease must be in writing and provide that the term of the lease and occupancy of this dwelling shall be subject in all respects to the provisions of these Restrictions and Bylaws, and the failure of any lessee to comply with the terms of such documents shall constitute a default under the lease.

28. As provided for herein, it is understood that Declarant, its successors and assigns, may develop, subdivide, or sell additional tracts or parcels of land. Declarant reserves the right for its successors or assigns to connect such additional property to this Subdivision and to grant easements to use the roads and community access to cross Creek Subdivision and recreational areas of this Subdivision.

29. The Declarant and purchasers of lots in Cross Creek Subdivision understand that the vesting of rights relating to a lot owners pier, dock, boat access ramp or any type of disturbance of the shoreline buffer is subject to the terms and conditions set out by the Coastal Area Management Authority (CAMA).

30. In order to enable the Pender County Board of Education the ability to provide school bus service within Cross Creek Subdivision, it is hereby understood that the Association shall release the Board of Education of any responsibility for damages to roads. Such release will be sent by the Association in writing to the Board of Education, and will be binding on the Declarant and lots owners.

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31. Each owner of Section I lots, which lots may lie in an area of environmental concern, by acceptance of a deed for a lot, agrees that the total built upon area for each lot, inclusive of right of ways, structures, pavement, walkways, or patios of brick, stone or slate, not including wood decking or walkways, shall not exceed twenty-four (24%) percent of the total area of said lot. Further, in order to protect adjoining watercourses from harmful nitrogen, loading and herbicide runoff, those lots bordering watercourses shall maintain a buffer satisfactory to the committee along said creek of an area not less than thirty (30) feet. This buffer shall be maintained in a natural state except for certain alterations and improvements that are approved by the Committee for purposes of improving the view of such watercourses. However, in no event shall any impervious coverage, inclusive of right of ways, structures, including wood decking or walkways, be erected within this thirty (30) foot buffer area, except as approved by the Committee and the regulating governmental authorities. Each owner hereby specifically agrees that this Covenant will be binding on all parties and persons claiming under them, shall run with the land, and its benefits enforced by the State of North Carolina, and may not be deleted, changed or modified without the consent of the State of North Carolina. Each owner, prior to the commencement of construction, will verify the accuracy of any built upon area calculations with the Association or the State of North Carolina.

32. The Association shall have the duty to repair, replace and maintain all common property, including recreational areas and improvements located thereon, and all streets, roads, road right of ways, and other Common Property. The Association shall have the right, from time to time, to establish a reasonable assessment, which assessment shall be paid by each Owner in such periodic installments as the Association may determine, to be used to pay: (1) the operation and administrative expenses of the Association; (2) the costs of maintenance, upkeep, replacement and repair of all streets, roads, road right of ways and other Common Property; (3) other expenses necessary or useful to maintain and operate the Association and the recreational facilities (including, without limitation, the procuring, maintenance and paying the costs of insurance related to the Common Property and of surety and other bonds related to the management of the Common Property and the Association); (4) the costs of exercising any rights or obligations that arise by reason of an agreement referred to in paragraph 18 (d) of these Restrictive Covenants.

33. Declarant reserves the right to assign its rights to a successor including the Association, who also assumes the Declarant's responsibilities.

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34. Each owner, by acceptance of a deed for a lot, the Cross Creek Homeowners Association, Inc. and Declarant agree that the total built upon area for each lot (including that portion of the right of way between the edge of the pavement and the front lot line, and all structures, including asphalt, gravel, concrete, brick, stone, slate or similar materials not including wood decking or the water surface of swimming pools shall not exceed twenty-four (24%) of the total square footage of a lot.

Each owner, the Declarant and the Association hereby specifically agree that this Covenant is intended to insure continued compliance with storm water runoff rules adopted by the State of North Carolina, and therefore, benefits may be enforced by the State of north Carolina. These Covenants are to run with the land and be binding on all persons and parties claiming under them. The Covenants pertaining to storm water may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Environmental Management. No lot owner is allowed to pipe or fill in any swell or ditch used to meet the storm water regulations, except for driveway culverts. For curb and gutter projects, no one may pipe, fill in, or alter any lot line swell used to meet North Carolina Stormwater Management Permit requirements.

The State of North Carolina is hereby made a beneficiary of these Restrictions to the extent necessary to enforce its storm water runoff regulations and as the same may be amended from time to time.

35. Judicial invalidation of one or more of the provisions hereof shall not adversely affect the remainder hereof which shall remain in full force and effect.

36. The Declarant, the Association, or any owner shall have the right to enforce these Restrictive Covenants, including all conditions, covenants, and restrictions contained herein.

37. Enforcement of these Restrictions may be at law or in equity against any person or persons violating or attempting to violate any covenant, condition or restriction herein contained. In the event of enforcement of the Restrictions at law or in equity and a violation hereof is judicially determined, then the violator shall be assessed with the costs of such action, including, without limitation, reasonable attorneys fees. The failure to enforce any right, reservation, restriction, or conditions herein contained, however long continued, shall not be deemed a waive of the right to do so thereafter as to the same breach, or to a breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. In addition to remedies and damages arising by law and in equity, the Association is empowered to assess a reasonable fine to a lot owner or their lessee for violations of theses Restrictive Covenants in an amount not to exceed Fifty and 00/100 Dollars (\$50.00) per day.

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C. THESE RESTRICTIONS RUN WITH THE LAND.

These Restrictive Covenants of Cross Creek Subdivision are to run with the land and shall benefit and be binding on all parties and persons (and their respective heirs, representatives, successors and assigns) claiming title to any of the property herein described for a period of twenty-five (25) years from the date these Restrictions are recorded, after which time said restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a sixty-six percent (66%) majority of the then owners, and signed by the Declarant or its successors or assigns, has been recorded agreeing to change said Declaration in whole or in part. These restrictions may be amended from time to time by an instrument signed by a sixty-six percent (66%) majority of the then owners, and upon approval of the Declarant or its successors or assigns.

IN TESTIMONY WHEREOF, P M & M, INC., a North Carolina Corporation, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

P M & M, INC.  
a North Carolina Corporation

By: Jeff Morris  
Jeff Morris,  
President

Attest: Nora F. Morris  
Nora F. Morris, Secretary

STATE OF NORTH CAROLINA, COUNTY OF PENDER.

I, MARY A. EDENS, a Notary Public in and for the aforesaid County and State do hereby certify that Nora F. Morris personally appeared before me this day and acknowledged that she is Secretary of P M & M, INC., a North Carolina Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by herself as its Secretary.

Witness my hand and official stamp or seal this the 27th day of January, 1998.

My Commission Expires:

4/20/12

Mary A Edens  
Notary Public

(Notary Stamp or Seal)



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BK 1310PG225

BK 1303PG321

The foregoing certificate(s) of Mary A. Edens

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By Joyce M. Spivey Register of Deeds for Pender County  
Annie Shapler Deputy/Assistant - Register of Deeds

W. JAMES BRANDON  
ATTORNEY AT LAW

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## Schedule A

Lying and being in Topsail Township, Pender County, North Carolina and more particularly described as follows:

Being all of the following Tax Parcel Numbers:

N110-019 containing approximately 91 acres

N110-021 containing approximately 156.27 acres

N110-037 containing approximately 42 acres

and a portion of

N110-022 containing approximately 18 acres

N110-023 containing approximately 83 acres

The same being all that certain property bounded as follows:

Adjoining and lying on the west side of NC 210

Adjoining and lying on the northwest side of SR 1574

Adjoining and lying on the north side of SR 1002

Adjoining and lying on the east side of Spring Branch

Adjoining and lying on the south side of Harrison Creek

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EXPLANATION STATEMENT TO CORRECT OBVIOUS MINOR ERROR(S) MADE IN  
AN INSTRUMENT AS ORIGINALLY RECORDED

BK 1310 PG 227

RE: BOOK 1303  
PAGE 303

RECORDED IN THE PENDER COUNTY REGISTRY

NAMES OF ALL PARTIES TO THE ORIGINAL INSTRUMENT:

GRANTOR: P M & M, INC.

GRANTEE: \_\_\_\_\_

STATE OF NORTH CAROLINA

COUNTY OF PENDER

I/We the undersigned, hereby certify that the following corrections are made in the above named recorded instrument in accordance with the provisions of G. S. 47-36.1 ratified June 30, 1986.

DESCRIPTION OF CORRECTION(S): \_\_\_\_\_

PAGE 4. SECOND PARAGRAPH, THIRD LINE.

"EIGHT" CORRECTED TO "THREE"

THIS THE 18TH DAY OF FEBRUARY, 1998.

SR (SEAL)  
W JAMES BRANDON  
DRAFTSMAN (SEAL)  
\_\_\_\_\_  
(SEAL)  
\_\_\_\_\_  
(SEAL)

This explanation statement together with the attached instrument duly rerecorded at 4:02 o'clock PM this the 18 day of February, 1998 in the Book and Page shown on the first page hereof.

**JOYCE M. SWICEGOOD**

\_\_\_\_\_  
Register of Deeds

by: Sylvia Jacobs  
Deputy/Asst. Register of Deeds