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DECLARATION OF RESTRICTIONS AND MAINTENANCE COVENANTS
FOR CROSS CREEK ESTATES, A SUBDIVISION LOCATED IN
CANEEY FORK TOWNSHIP, JACKSON COUNTY, NORTH CAROLINA

THIS DECLARATION, is made this 16th day of December, 1994, by the Jack Williams Company, the successor in interest to D.E. Williams, Jr. and Nancy Williams Anderson and the owner of all of the real property shown on plat of "Cross Creek Estates", prepared by Moore's Land Surveying as recorded in Plat Cabinet 6 at Slide 803, in the office of the Register of Deeds for Jackson County, North Carolina, which is by reference incorporated in and made a part of these Restrictions and Maintenance Covenants. The property is hereinafter called the "Subdivision".

Pursuant to the provisions of Article IX of the Declaration of Restrictions and Maintenance Covenants for Cross Creek Estates, recorded in Book 809 at page 700 in the office of the Register of Deeds for Jackson County, North Carolina, to which reference is specifically made, said Declaration is hereby amended and restated.

ARTICLE I

DEFINITIONS:

The following words, when used in this Declaration shall have the following meanings:

(a) Association: Association means the Cross Creek Estates Homeowner's Association, Inc., a North Carolina non-profit corporation.

(b) Articles of Incorporation and By-Laws: The Articles of Incorporation and By-Laws means those of Cross Creek Estates Homeowner's Association, Inc.

(c) Board: The Board means the Board of Directors for Cross Creek Estates Homeowner's Association, Inc. It shall be elected by the Owners on an annual basis. The Owners, including the Developer, shall have one vote for every lot they own in the Subdivision.

(d) Common Areas: Common Areas means those areas of land, together with any improvements located thereon, which are deeded to the Association and designated in the deed as "Common Areas". All Common Areas are to be devoted to and intended for the common use and enjoyment of the owners, subject to the fee schedule and operating rules adopted by the Association.

(e) Cross Creek Estates: The term Cross Creek Estates will be used interchangeably with "the Subdivision" throughout this Declaration, and may refer to additional property which may be added to the Subdivision.

(f) Declaration: Declaration means this Declaration of Restrictions and Maintenance Covenants including such amendments as from time to time shall be made hereto.

(g) Developer: The Developer means the Jack Williams Company, and its successors and assigns. At times in this document the words "Developer" and "Association" will be used interchangeably, since the Developer will control the Association by virtue of its majority interest ownership of lots. Such control will eventually be relinquished by virtue of lot sales, and the Developer intends that this document be read as the context requires without later amendment in regards to the two words.

This instrument prepared by: J. K. Coward, Jr.
Attorney at Law, of the firm of Coward, Hicks & Siler, P.A.
43 West Main Street, Sylva, North Carolina 28779

(h) Improvements: Improvements include but are not limited to roads, fences, pipelines, electrical and communication lines, etc. and other physical construction located on the Common Areas as of the date of filing of this Declaration and such other physical construction as may thereafter be placed on the Common Areas by the Association.

(i) Lot: A Lot is an individual, numbered parcel as designated on the recorded plat of the Subdivision.

(j) Owner: Owner means the record fee simple title holder, whether one or more persons or entities, of a Lot including the Developer.

(k) Nature Preserve: Lot 20 (17.861 acres) will be set aside in perpetuity as a sanctuary for wildlife common to Western North Carolina. Formal agreements to protect and manage this area will be entered into with, but not limited to, the North Carolina Wildlife Commission and the North Carolina Soil Conservation Service.

ARTICLE II

COMMON AREAS:

Section 1. Title to Common Areas: Title to the Common Areas shall be held in the name of the Association for the use and benefit of all Lot Owners. Upon the sale of 70% of the lots in the Subdivision the Developer shall convey to the Association the fee simple title to said Common Areas and shall transfer and assign to the Association any additional easements required to provide good and insurable access from a public road to each Lot within The Subdivision.

Section 2. Each property owner shall have equal and undivided interest in designated common areas to run with the land. The undivided interest shall be developed with the development of lots. Each owner shall share in the cost of maintenance on a prorata basis (defined in ARTICLE V). Costs include mowing and maintaining the improvements, if any, and parking areas.

ARTICLE III

EASEMENTS:

Section 1. Management Easement: The Association shall have an easement for access to all Lots and the Common Areas for ingress and egress as required by their respective officers, directors, employees and/or agents in order to perform their respective obligations and duties as set forth herein under this Declaration.

Section 2. Utility Easements and Drainage Easements: Easements are reserved by the Developer through each Lot as may be required for utility services in order to serve the Subdivision, individual Lots within the Subdivision and any facilities constructed thereon. Such easements shall be limited to the minimum requirements of the public utility providing service to the Subdivision and shall be confined if possible to outer perimeter Lot boundary lines. On the date of this declaration the electrical utility requires a 45 foot wide easement; the Department of Transportation requires a 60 foot wide easement.

Section 3. Reservation of Easement: The Developer reserves an express, non-exclusive easement to all Lots and Common Areas for public utilities (such as water, sewer, and gas), drainage, access, communications (such as cable T.V. and telephone), security, etc. The Developer also reserves the right to grant, without the necessity of joinder of any party, further easements over individual lots along boundary lines so long as it does not substantially increase the burden upon the lot owner and so long as it tends to benefit other owners in

the Subdivision. The easements described herein are by way of illustration and not limitation, and are meant to describe those conveniences and appurtenances which are necessary for a well maintained and modern residential area.

Section 4. Property Owners' Use Easements: Each Owner shall be granted a non-exclusive perpetual easement and right of use to all the Common Areas within The Subdivision.

ARTICLE IV

OWNERSHIP ASSOCIATION:

Section 1. Creation: Developer shall cause to be incorporated pursuant to North Carolina Statutes, a non-profit corporation to be known as Cross Creek Estates Homeowner's Association, Inc.

Section 2. Promulgation of Rules: The Association shall have the right from time to time to adopt and promulgate rules and regulations pertaining to the use of the Common Areas. Such rules and regulations shall be made and adopted in accordance with the Articles of Incorporation and By-Laws of the Association, and, when so adopted, shall be incorporated in and form a part of this Declaration to the same extent as if originally contained herein.

ARTICLE V

COVENANTS FOR MAINTENANCE ASSESSMENTS:

Section 1. Creation of the Lien and Personal Obligation for the Assessments: The Developer, for all of Cross Creek Estates, hereby covenants, and each Owner of any Lot (by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance) including any purchaser at a judicial sale, shall hereafter be deemed to covenant and agree to pay to the Association: (a) any annual assessments or charges; (b) any special assessments for capital improvements or major repair; and (c) general maintenance assessments (as set forth hereafter); such assessments to be fixed, established and collected from time to time as hereinafter provided. All such assessments, together with interest thereon from due date at the highest rate allowed by law and costs of collection thereof including 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. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment.

Section 2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of Cross Creek Estates and, in particular, for the improvement and maintenance of the Common Areas, including but not limited to the cost of taxes, insurance, labor, equipment, materials, management, maintenance and supervision thereof, as well as for such other purposes as are permissible activities of the Association and undertaken by it. It is not the intent of the Developer to impose through the Association special assessments for capital improvements such as clubhouses, swimming pools, golf courses, covered bridges, etc. However, the Developer will relinquish control of the Association at some time in the future and will no longer control whether the Association chooses to make such assessments, and therefore the Developer will not be liable for such later assessments, if any. No lot owner will be required to pay for an assessment for a capital improvement which does not benefit him.

Section 3. Annual Assessments: The annual assessment, including funds for special improvement projects, for capital improvements, for insurance shall be determined on a yearly basis by the Board of Directors of the Association, shall cover a calendar year, and shall be in an amount calculated to represent a prorata share in the costs of maintaining the Subdivision. The prorata share shall be determined by calculating the ownership interest in the Subdivision, without regard to the amount of time that each owner actually spends there. The assessments shall be payable annually, in advance, on the first day of January, in accordance with the projected financial needs of the Association. The annual per Lot assessment for calendar year 1994 and calendar year 1995 shall be One Hundred Fifty (\$150.00) Dollars and all years thereafter until 70% of the lots in the subdivision are sold and thereafter the annual assessment shall be set by the Board of Directors of the Association as herein provided. An exception to the foregoing is that any owner, who owns more than one lot, which lots are contiguous to each other, shall be assessed only one annual assessment, unless he owns more than 10 contiguous lots (in which case he will be assessed an additional assessment and thereafter in blocks of ten). By way of illustration, the owner of 30 contiguous lots would be assessed \$450.00 in 1994 and \$450 in 1995. Notwithstanding the foregoing, if at any time the owner of any contiguous lots divides his property and in any manner transfers ownership of that divided property, then the assessments that were not paid by virtue of this paragraph shall become due and immediately payable in the total amount that would have been due and payable but for the foregoing contiguous lot exception. Beth Jones can subdivide her property at any time beginning 7 (seven) years after the effective date of this instrument without this provision applying to her; if however, she does subdivide her property prior to the expiration of that time, this provision does apply.

Section 4. Duties of the Board of Directors: In addition to such duties as are set forth in the By-Laws and Articles of Incorporation, the Board has the duty to fix the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at the time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the association and shall be open to inspection by any Owner upon request and reasonable notice to the Board of Directors. All Owners in the Subdivision shall be assessed. Written notice of the assessment shall be sent to every Owner subject thereto not later than fourteen (14) days after fixing the date of commencement thereof. The Association shall, upon demand, at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 5. Effect of Non-Payment of Assessment - The Lien, Remedies of Association: If the assessments are not paid on the date when due, such assessments shall then become delinquent and shall, together with such interest thereon and cost of collection thereof, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the highest rate allowed by law, and the Association may bring an action, in law or equity, including but not limited to collection on delinquent assessments or foreclosure on the lien. By acceptance of a deed subject to this Declaration, the Owner contracts with the Association to pay all assessments herein and otherwise comply with this Declaration. Non-compliance with this Declaration shall constitute a breach of this Declaration, and shall entitle the Association, in addition to all other remedies available to it, to institute an action pursuant to N.C.G.S. 44A; the date from which any such action shall run insofar as the last furnishing of labor and materials is concerned, shall be thirty (30) days from the date of any written demand for payment. There shall be

added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee together with the costs of the action. Although no public authority shall be obligated to do so, in the event the Department of Transportation for the State of North Carolina, or any other public authority, is called upon to maintain the streets or roads lying within The Subdivision, or otherwise expend public money on behalf of The Subdivision, such funds shall constitute a lien and shall be due and payable from the Association and the individual property Owners to the same extent as an assessment for such purposes made by the Association.

Section 6. Subordination of the Lien to Mortgage: The Developer or the Association has the option of subordinating the lien of the assessments provided for herein to any mortgage(s) now or hereafter placed upon the Lot subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. No sale or transfer shall relieve any Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 7. Exempt Property: The Common Areas as herein defined shall be exempted from the assessments, charges and liens created hereby.

Section 8. Development Expenses. Neither the Developer nor the Association shall levy assessments for development expenses. All assessments shall be for maintenance of developed property.

ARTICLE VI

INSURANCE:

Section 1. Insurance: The Association may obtain through a reputable insurance agency authorized to conduct business within the State of North Carolina, hazard, public liability and workmen's compensation insurance, and such additional coverage as may be required by law or as it deems advisable. The premiums for such insurance shall be paid by the Association and charged to the Owners of Lots as part of the total annual assessments as hereinbefore provided.

(a) Hazard Insurance: The Association may obtain insurance commonly known as hazard insurance providing coverage on all buildings and improvements comprising part of the Common Areas, if any, and on all tangible personal property owned by the Association, such insurance to be in an amount equal to the maximum insurable replacement value thereof, and to insure against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, the insurable value to be fixed and determined on an annual basis. Such insurance shall be for the benefit of the Association, Lot Owners and Mortgagees, and the Developer, its successors and assigns, as their interests appear, and each such Owner and Mortgagee, and the said Developer, shall be entitled to a certificate showing the respective interests of all parties. The original policy shall be held by and shall name the Association.

(b) Individual Coverage: The Owner of each Lot shall carry hazard insurance on individually-owned property, and such additional public liability insurance as each Owner desires.

(c) Public Liability Insurance: The Association may obtain such public liability insurance as the Board of Directors deems proper to insure against damage to persons and property as a result of accident or occurrence. Such policy shall provide for claims of third persons

against the Association and the members. The original policy shall be taken in the name of and held by the Association.

Section 2. Damage or Destruction: If any improvement to the Common Areas is destroyed by fire or other casualty, the Board of Directors shall collect the proceeds from the insurance and the Board of Directors shall make sole determination as to whether such damage improvements should be repaired or rebuilt. It shall be the duty of the Board to take the steps necessary to have such damage improvements repaired or rebuilt, including but not limited to hiring the necessary workers, ordering material, supervising the work and making the disbursements of insurance proceeds to the proper parties.

ARTICLE VII

LAND USE:

(a) These covenants run with the land and are binding on all parties and all parties and all persons claiming under them until January 1, 2010, at which time said covenants shall be automatically extended for successive periods of ten (10) years unless by vote of the majority of the then Owners of the Lots it is agreed to change said covenants in whole or in part.

(b) If the parties hereto, or any of them or their successors or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for the Developer, the Association and any Owner in the Subdivision to initiate proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant to enjoin him or them from so doing or to recover damages or other dues for said violation. The party bringing such proceedings shall be entitled to recover, in addition to damages, all costs and reasonable attorney's fees incurred in bringing such action.

(c) No structure or septic tank drain field shall be constructed nearer than 35 feet from the centerline of any road right of way located in the Common Areas, nor shall any structure (excluding fences) be located within 22 1/2 feet to any lot line common to any other lot, except for contiguous lots owned by one owner. No septic tank drain field shall be constructed nearer than 100 feet from any water source on or adjoining any Lot, or as regulated by the Jackson County Health Department, whichever has precedence.

(d) No permanent dwelling shall be permitted on any Lot which has an area, exclusive of open porches, decks, patios, garages or carports, of less than one thousand five hundred (1,500) square feet of heated living space. All buildings shall be completed within one year of the obtaining of a building permit and the issuance of a certificate of occupancy, unless they are incomplete due to natural disasters or acts of God.

(e) No house trailer, camper, mobile home, motor home, shack, outhouse, or barn (other than for horses) shall be placed on any Lot at any time and used as a residence, either temporary or permanent unless for and during the construction of a permanent dwelling.

(f) The herein-described property shall not be, in any manner, divided or subdivided into lots less than 4.75 acres per lot except for lots 1 & 62 as shown on the Subdivision map described in the Preamble and which is recorded in the office of the Register of Deeds for Jackson County, North Carolina, in Plat Cabinet 6 at Slide 803. The owner of lots 2, 3, 4, 5, 6, 7, 8, & 10 may subdivide, but only to the extent that the subdivision conforms to the lots shown on Subdivision map described in the Preamble and which is recorded in the office of the Register of Deeds for Jackson County, North Carolina, in Plat Cabinet 6 at Slide 803.

(g) All Lots shall be used solely and only for residential purposes and no structures, permanent or temporary, shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached, single-family dwelling except for lots 1 & 62 (Plat Reference 6/803). Accessory buildings, such as private garages or storage buildings, barns or cabins, may be erected on the premises for use only in connection with and to serve the single-family dwelling, except for lots 1 & 62 (Plat Reference 6/803).

(h) No trade or business requiring customers to come to the subdivision, except for lots 1 & 62 (Plat Reference 6/803), shall be carried on upon the herein-described Lots, nor shall anything be done thereon which may be or may become an annoyance, nuisance, noxious or offensive activity to the Owners of Lots within the Subdivision. Notwithstanding any of the forgoing or following paragraphs, the Developer reserves the right to use lots 1 & 62 (Plat Reference 6/803) for a barn lot and for possible storage, rental and distribution of hay, feed, or for office, sales or residence, etc. and for a possible trout pond bordered by log cabins for family use and possible lease. It is the intent of the Developer to create a picturesque and scenic setting for lots 1 & 62 (Plat Reference 6/803), including the possible erection of a covered bridge. After construction, any and all construction material, equipment, supplies, etc. shall be kept inside the barn so as to be hidden from view. The cabins which may be erected on lots 1 or 62 shall be constructed in a style which is consistent with log cabin construction of the Southern Appalachians or with the farmhouses on Caney Fork Creek. A maximum of 6 (six) cabins will be erected, each having a heated floor space of 400 square feet.

(i) No garbage shall be permitted to accumulate on any Lot, and all trash, junk, garbage and abandoned automobiles shall be removed by the Owner within thirty (30) days of receipt of written notice from the Association, mailed to Owner by certified or registered mail.

(j) The Owners may keep and maintain upon their property normal household pets and horses (maximum of 1 per 2 acres). No swine, goats, sheep or poultry of any kind are permitted.

(k) In the event any Lot Owner makes a driveway connection with any road, said Owner shall install a culvert of sufficient size in the ditch line along said road to carry the normal flow of water of the ditch line through said culvert, and the same shall comply with all regulations of the North Carolina Department of Natural Resources pertaining to the same. Any driveway which has gravel that consistently washes onto a Subdivision road will be notified by the Association in writing that the driveway must be improved to prevent erosion. The Association is authorized to correct the problem itself if the Owner fails to do so and the Owner will be liable for cost thereof and subject to assessment.

(l) Each Lot Owner shall be responsible for clearing all rubbish from the Lot before, during and after construction, and to seed and/or gravel any disturbed earth within thirty (30) days after the construction of the home is completed. All disturbed slopes, banks and road sides shall be seeded or covered with burlap netting to prevent erosion until permanent seeding is done, and shall comply with all regulations of the North Carolina Department of Natural Resources pertaining to grading, draining and seeding. Each property Owner shall also comply with all rules and regulations of the Jackson County Health Department and the Jackson County Department of Construction and Standards.

(m) Each home or dwelling shall provide off-street parking for at least two (2) vehicles after completion of construction, and shall provide for off-street parking at the commencement and during construction of the dwelling on said Lots.

(n) No Lot Owner shall grant any form of easement across any Lot that would have the effect of creating ingress or egress to and from any properties adjoining The Subdivision.

ARTICLE VIII

NOTICES:

Any notices required to be sent to any member or owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as member or owner on the records of the Association at the time of such mailing.

ARTICLE IX

AMENDMENT:

This Declaration of Restrictions and Maintenance Covenants may be amended by the Developer at any time up and until 70% of the lots have been sold and thereafter, by the Owners as determined by the Association. Any such amendment must be recorded in the office of the Register of Deeds of Jackson County, North Carolina, and shall contain a certificate acknowledged by the President and Secretary of the Association that the required written approval has been obtained and filed with the records of the Association.

IN WITNESS WHEREOF, JACK WILLIAMS COMPANY 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, this the 16th day of December, 1994.

CORPORATE SEAL

JACK WILLIAMS COMPANY.

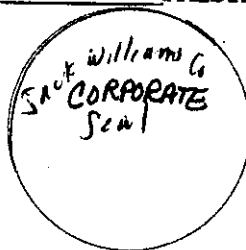
BY:

David E. Williams Jr.
PRESIDENT

ATTEST:

Kathryn A. Geer
Notary Public

STATE OF Florida
COUNTY OF Pinellas



I, Kathryn A. Geer, a Notary Public of the aforesaid County and State, do hereby certify that David E. Williams Jr. personally came before me this day and acknowledged that he is President of JACK WILLIAMS COMPANY, a Florida 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 him as its President.

WITNESS my hand and Notarial Seal, this 16th day of December, 1994.

My Commission Expires:
10-13-96
NORTH CAROLINA
JACKSON COUNTY

KATHRYN A. GEER
My Comm Exp. 10/13/96
Bonds by Service Inc
No. CC228403
Kathryn A. Geer
NOTARY PUBLIC
(SEAL)

The foregoing certificate(s) of Kathryn A. Geer, notary(ies) public, is/are certified to be correct. This instrument was presented for registration and recorded in this office in Book 876 at page 20.

This the 20 day of December, 1994, at 2:21 o'clock P.M.

Benjamin
REGISTER OF DEEDS

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