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PATSY T. McDONALD  
REGISTER OF DEEDS  
RICHMOND CO., NC

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STATE OF NORTH CAROLINA  
COUNTY OF RICHMOND

**CAROLYN'S MILL CONDOMINIUMS**

**DECLARATION OF CONDOMINIUM**

THIS DECLARATION OF CONDOMINIUM is made the 28 day of October, 2003 by **CAROLYN'S MILL, INCORPORATED**, a North Carolina corporation (hereinafter "Declarant"), pursuant to the North Carolina Condominium Act, Chapter 47C, North Carolina General Statutes.

**WITNESSETH:**

**WHEREAS**, Declarant is the owner in fee simple of certain real estate situated in the County of Richmond and State of North Carolina, legally described in the Deed filed in Book 1108, Page 270 of the Richmond County Registry, together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate, which hereby is submitted to the Act by this Declaration (the "Property"); and

**WHEREAS**, Declarant desires to submit the Property to the Act. The plat or plan for the initial phase of the Condominium is filed in Condominium Slide Plat Book 1-A, B, C + D + E, of the Richmond County, North Carolina, Registry.

**NOW, THEREFORE**, Declarant, as the owner of the Property, hereby creates the Carolyn's Mill Condominiums as a condominium under Chapter 47C of the North Carolina General Statutes and makes the following Declaration:

**ARTICLE I**  
**DEFINITIONS**

**Definitions.** As used herein, the following words and terms shall have the following meanings:

1. **Act.** The North Carolina Condominium Act, as found in Chapter 47C, North Carolina General Statutes, as amended.
2. **Association.** Carolyn's Mill Condominium Association, Inc., a North Carolina nonprofit corporation organized under Chapter 55A, North Carolina General Statutes.
3. **Board.** The Board of Directors of the Association.
4. **Bylaws.** The Bylaws of the Association as shown in Exhibit A and as amended by the Board.
5. **Carolyn's Mill Condominium Association, Inc.** Carolyn's Mill Condominium Association, Inc., a non-profit corporation organized under Chapter 55-A of the North Carolina General Statutes, which maintains the Common Elements of Carolyn's Mill and which performs the duties and responsibilities as described in this Declaration.

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6. **Common Elements.** All portions of the Condominium other than the Units. The Common Elements shall include all components and piping of the sprinkler system wheresoever located.
7. **Common Expenses.** Expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.
8. **Condominium.** The condominium created by this Declaration herein called "Carolyn's Mill Condominiums " or "Carolyn's Mill".
9. **Declarant.** Carolyn's Mill, Incorporated, and any person receiving or purchasing from Declarant, by whatever method, a portion of the remaining land, uncompleted Units or unsold Units on the Property to be held for resale as the successor developer.
10. **Declarant Control Period.** The period commencing on the date hereof and continuing until the earlier of (i) five (5) years after the date of the first conveyance of a Unit to a Unit Owner other than Declarant, (ii) the date upon which Declarant surrenders control of the Condominium to the Association, or (iii) one hundred twenty (120) days after the Declarant has conveyed seventy-five percent (75%) of the Units to Unit Owners other than Declarant. For the purpose of computing the Declarant Control Period, Units shall include 28 Units.
11. **Limited Common Elements.** Those portions of the Common Elements so designated on the Plats and any related plan for the Unit, including any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lying partially within and partially outside the designated boundary of a Unit and serving only that Unit is a Limited Common Element allocated exclusively to that Unit. Any portion of said building components which serves more than one Unit or serves the Common Elements is a Common Element. Any shutters, awnings, window boxes, doorsteps, stoops, decks, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common

designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit. Limited Common Elements include any portion of the Condominium so designated on the Plats and Plans or within a Unit and necessary for the structural integrity of another Unit.

12. **Occupant.** Any person or persons in possession of a Unit, including Unit Owners, the family members, lessees, guests and invitees of the Unit Owners, and lessees, their family members, guests and invitees.

13. **Owner.** An Owner of a Unit in the Condominium.

14. **Person.** A natural person, corporation, partnership, trust or other entity, or any combination thereof.

15. **Plat.** The plats and plans filed in the Richmond County, North Carolina, Condominium Plat Book describing the Condominium and incorporated in this Declaration by reference.

16. **Property.** The real estate described in the Deed filed in Book 1108, Page 270 of the Richmond County Registry, together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.

17. **Security Holder.** Any person owning an interest in a Unit as security for an obligation, including the seller's interest in an installment land sale contract, a mortgagee's interest in a mortgage, or a trustee's interest in a deed of trust.

18. **Special Declarant Rights.** The rights reserved herein and in the Bylaws for the benefit of Declarant, as follows: to exercise any development right to complete the improvements indicated on the plats and plans, to maintain sales offices, management offices, models and signs advertising the Condominium; to use easements through the Common Elements; and to elect, appoint or remove any officer of the Association and members of the Board during the Declarant Control Period. Declarant shall have no right to subdivide Units owned by Declarant.

19. **Unit.** A physical portion of the Condominium, whether or not contained solely or partially within a building, together with its percentage of undivided interest in the Common Areas and Common Elements as shown in Exhibit B. Each Unit is designated and delineated on the plats and plans. A Unit includes all spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit. All spaces and interior partitions (excluding any partition or structural component which is necessary for the structural integrity of another Unit) are a portion of the Unit.

20. **Unit Boundaries.** The boundaries of each Unit as shown on the plats and plans, are the undecorated surfaces of the perimeter walls, exterior doors and exterior windows facing the interior of the Unit, the undecorated surfaces of the ceiling facing the interior of the Unit, and the topmost surfaces of the flooring, and include the decoration on all such interior wall, floor and ceiling surfaces, including, without limitation, all paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the decorated surfaces thereof, and also including all spaces, interior partitions and other fixtures and improvements inside such boundaries.

Notwithstanding the general boundaries above the Unit boundaries shall be further defined as follows:

(a) The upper and lower boundaries of the Units are defined by the following:

**Lower** – the topmost surface of the flooring

**Upper** – a horizontal plane defined by lowest point on the bottom of the lowest ceiling beam in the Unit. The area above the said plane is considered a limited common element of each Unit.

(b) All pipes, valves, water lines, support beams, interior walls, electrical conduit and boxes, plumbing fixtures, and supported columns (including bearing blocks) are limited common elements.

(c) Each Unit is hereby granted an easement for utilities in the area between the lower boundary as defined in 20(a) shown above and the space below the lower boundary of the Unit as defined in 20(a) shown above.

(d) In the case of a sloped or cathedral ceiling, the upper boundary is the plane parallel to the joist or beam and originating at the bottom of the joist or beam.

21. **Unit Owner or Owner.** The person or persons, including the Declarant, owning a Unit in fee simple, or as installment land sale purchaser of a Unit, but excluding persons who hold an interest in a Unit as Security Holder.

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## ARTICLE II

### SUBMISSION OF PROPERTY TO THE ACT

1. **Submission.** Declarant hereby submits the Property to the Act.

2. **Name.** The Property shall hereafter be known as the Carolyn's Mill Condominiums.

3. **Division of Property into Separately Owned Units.** Developer, pursuant to the Act, and to establish a plan of condominium ownership for the Condominium, does hereby declare that the Property is hereby divided into Twenty Eight (28) Units and does hereby designate all such Units for separate ownership, subject, however, to the provisions of Section 4 hereof.

4. **Alterations of Units.** Units may be altered with approval of the Board of the Association as long as the alteration does not impair the structural integrity or the mechanical systems, lessen the support of any portion of the Condominium, or reduce the use and enjoyment of the other Units. Any alteration of the Unit as shown on the Plats and Plans shall be shown on an amendment to the Plat for the Unit and be filed in the Richmond County Registry.

5. **Limited Common Elements.** The Common Elements serving or designed to serve each Unit (Limited Common Elements) are hereby allocated solely and exclusively to each such Unit.

6. **Unit Allocations.** The percentage allocations to each Unit of its undivided interest in the Common Elements, and of its percentage of the Common Expenses, are as stated in Exhibit B. The percentage allocations will change as additions are made to the Property. The percentage allocation of undivided interest in the Common Elements and of the Common Expenses is determined by dividing the square footage of the Unit by the square footage of all the Units then subject to the Declaration. The votes in the Association are allocated equally to all Units so that each Unit has one (1) vote.

7. **Condominium Ordinances.** The Condominium is not subject to any code, real estate use law, ordinance, charter provision, or regulation (i) prohibiting the condominium form of ownership, or (ii) imposing conditions or requirements upon a condominium which are not imposed upon substantially similar developments under a different form of ownership. This statement is made pursuant to Section 47C-1-106 of the Act.

8. **Reservation of Special Declarant Rights.** Declarant hereby reserves all Special Declarant Rights as those rights are defined or allowed by the Act.

9. **Restriction Against Separation and Partition of Common Elements.** The use of a Unit by a Unit Owner or Owners is dependent upon the use and enjoyment of the Common Elements in conjunction with all other Unit Owners and, therefore, ownership of the Common Elements must be retained in common by the Unit Owners. The proportional undivided interest in the Common Elements appurtenant to each Unit shall remain undivided and appurtenant to the Unit and no Unit Owner shall have any right to bring any action for partition or division of the Common Elements or the separation of his Unit from the Condominium.

10. **Leases.** The Association shall have the right to approve all leases of Units, which approval shall not be unreasonably withheld.

### ARTICLE III

#### OWNERSHIP OF CONDOMINIUM UNITS AND COMMON ELEMENTS

**Percentage Ownership of Common Elements.** Each Condominium Unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Owner of each Unit also shall own, as an appurtenance to the ownership of each said Condominium Unit, an undivided interest in the Common Elements. The undivided interest appurtenant to each Condominium Unit as of the date of this Declaration is as set out on Exhibit B attached hereto and made a part hereof. The proportional interest in the Common Elements that is appurtenant to each Condominium Unit has been determined by dividing the square footage of the individual Unit by the square footage of all the Units then subject to the Declaration and also shall be the proportional responsibility of the Unit Owner for his percentage of the Common Expenses. The percentages of ownership for all Owners shall add to 100%.

### ARTICLE IV

#### EASEMENTS

1. **Encroachments.** In the event that, by reason of the construction, reconstruction, rehabilitation, alteration or improvement of the buildings or improvements comprising a part of the Property, any part of a Unit, Limited Common Element, or the Common Elements now or hereafter encroaches upon any part of any other Unit or upon any part of the Common Elements, an easement for the continued existence and maintenance of such encroachment is hereby declared and granted for such encroachment and shall continue for so long as each such encroachment exists; provided that in no event shall an easement for such encroachment be created if such encroachment is detrimental to or interferes with the reasonable use and enjoyment of the Common Elements or Units so encroached upon. The intention of this paragraph is to cure minor mislocations of structures, heating and air conditioning units, steps, porches, overhangs, and similar building parts.

2. **Easements Through Walls.** Easements are hereby declared and granted to the Association and to such persons as are authorized by the Association, to install, lay, maintain,



repair and replace any chutes, flues, ducts, vents, pipes, wires, conduits, other utility installations, and structural components running through the walls of the Units, whether or not such walls lie in whole or in part within the boundaries of any Unit.

3. **Easements to Repair, Maintain, Restore and Reconstruct.** Wherever this Declaration, the Bylaws or the Act authorizes a Unit Owner, the Association, the Board, or any other person, to enter upon a Unit or the Common Elements to repair, maintain, restore or reconstruct all or any part of a Unit or the Common Elements, such easements as are necessary for such entry and such repair, maintenance, restoration or reconstruction are hereby declared and granted.

4. **Declarant's Easements.** Declarant hereby reserves such easements through the Common Elements as are reasonably necessary for the purpose of discharging its obligations, exercising Special Declarant Rights, and completing the sale, development, and construction of the Condominium, which easements shall exist as long as reasonably necessary for such purposes. Notwithstanding any use restriction or any other contrary provision of the Declaration or Bylaws, Declarant's easements shall include:

(a) **Sales Offices and Models.** Declarant may maintain one (1) sales office for sales of Units in the Condominium on the Property and not more than five (5) models as Declarant, from time to time, shall designate.

~~Declarant shall have the right to relocate the sales office, from time to time, and to discontinue and reestablish, from time to time, such sales office and models within the Condominium, until all of the Units have been conveyed to a Unit Owner other than a Declarant. Declarant also shall have the right to change the use or combination of uses of such offices or models, provided that such offices or models shall be used only for sales offices or models. The total number of such offices or models maintained at any time by a Declarant shall not exceed the number set out above, and the size of any such relocated or reestablished office or model shall not exceed the size of the largest Unit in the Condominium.~~

(b) **Declarant Signs.** Declarant also may maintain signs on the Common Elements advertising the Condominium until all of the Units have been conveyed to Unit Owners other than Declarant. Declarant shall remove all such signs not later than thirty (30) days after all of the Units have been conveyed to Unit Owners other than Declarant and shall repair or pay for the repair of all damage done by removal of such signs.

5. **Association Office.** The Association may maintain an office in the Condominium for management of the Condominium and is hereby granted an easement for access.

6. **Easements to Run with the Land.** All easements and rights described in this Article IV are appurtenant easements running with the land, and except as otherwise expressly provided in this Article IV shall be perpetual and shall inure to the benefit of and be binding upon Declarant, the Association, Unit Owners, Occupants, Security Holders and any other person having any interest in the Condominium or any part thereof, their heirs, successors and assigns. The Condominium and every part thereof shall be conveyed and encumbered subject to and together with all easements and rights described in this Article IV, whether or not specifically mentioned in the Owner's deed.

**ARTICLE V**  
**CONDEMNATION**

**Condemnation.** In the event that a part or all of any Unit is acquired by eminent domain, the award will be distributed according to North Carolina General Statute 47C-1-107. Interests in the Common Elements will be reallocated according to said statute.

**ARTICLE VI**  
**RESTRICTIONS, CONDITIONS AND COVENANTS**

1. **Compliance with Declaration, Bylaws, and Rules and Regulations.** Each Unit Owner and Occupant shall comply with all applicable provisions of the Act, this Declaration, the Bylaws, the Articles of Incorporation of the Association, and rules and regulations promulgated by the Association.

2. **Enforcement.** The Association, the Declarant during the Declarant Control Period, and any aggrieved Unit Owner, are entitled to commence an action to enforce compliance with the covenants of this Declaration or to an action to recover damages and penalties as provided in this Declaration and the Bylaws. The Association, the Declarant during the Declarant Control Period, and any Unit Owner shall have a right of action against Unit Owners and any Unit Owner shall have a right of action against the Association for failure to comply with the provisions of this Declaration, the Bylaws, and the rules, regulations, and decisions of the Association made pursuant to authority granted to the Association in this Declaration or the Act. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

3. **Administration of Condominium.** The Condominium shall be administered by the Association through its Board and Officers in accordance with the provisions of the Act, this Declaration and the Bylaws. The Association may hire agents to administer and carry out its duties as contained herein and in the Bylaws.

4. **Restrictions on Use.**

(a) **Residential Use.** The Units shall be occupied and used by Unit Owners and Occupants for residential purposes only.

(b) **Owner Signs.** No "For Sale" or "For Rent" signs or other window displays or advertising shall be maintained or permitted by any Unit Owner or Occupant on any part of the Condominium without the prior written consent of the Board.

(c) **Hazardous Use and Waste.** No hazardous materials shall be kept on the property and no use shall be made of the property which would be hazardous to any Unit, its occupants or the Common Elements.

Nothing shall be done to or kept in any Unit or the Common Elements that will increase the cost of insurance maintained with respect to the Condominium without the prior written consent of the Board. No Unit Owner or Occupant shall permit anything to be done to or kept in his Unit or the Common Elements that will result in the cancellation of insurance maintained with respect to the Condominium, or that would be in violation of any law, or that will result in the commitment of waste (damage, abuse or destruction) to his Unit, any other Unit or the Common Elements.

(d) **Parking.** Use of and restriction on parking facilities within the Common Elements shall be governed by the rules and regulations established by the Association.

(e) **Pets.** Pets shall be allowed in the Condominium as provided by the rules and regulations promulgated by the Association.

(f) **Nuisances.** No Owner shall permit a nuisance on the Property. No inoperable vehicles, mobile homes, campers or commercial vehicles (business autos excepted) shall remain on the Common Elements.

(g) **Window Treatments.** The Association will determine approved window treatments and only window treatments chosen or approved by the Association shall be affixed to or adorn windows of the Units.

(h) **Restrictions on Changes to Aesthetic Elements.** The following are restrictions intended to preserve the aesthetic appearance of the property:

(1) No brick walls on the property, including those in the Units, shall be painted.

(2) Windows installed on the property including those in Units shall not be changed or modified. Any necessary window replacement shall be with windows of the same style and quality.

5. **Alterations of Common Elements.** No Unit Owner or Occupant, except Declarant during the Declarant Control Period, shall alter, construct upon, or remove anything from, the Common Elements, or paint, decorate, landscape or adorn any portion of the Common Elements, without the prior written consent of the Association.

6. **Lease of a Unit.** Any lease or rental of a Unit shall be for the entire Unit, shall be in writing, and shall be subject to this Declaration and the Bylaws. Any failure of the Lessee to comply with the terms of such documents shall be a default under the lease. Other than the foregoing restrictions, each Unit Owner shall have the full right to lease his Unit. Lessees under short and long term leases shall comply with the rules and regulations of the Association and Owner shall be responsible for any noncompliance or damage to Common Elements caused by Lessee.

7. **Rules and Regulations.** In addition to the foregoing restrictions, conditions and covenants concerning the use of the Condominium, reasonable rules and regulations may be promulgated and amended from time to time by the Association.

8. **Restrictions, Conditions and Covenants to Run with Land.** Each Unit Owner and Occupant shall be subject to all restrictions, conditions and covenants of this Declaration, and all such restrictions, conditions and covenants shall be deemed to be covenants running with the land, and shall bind every person having any interest in the Property, his heirs, successors and assigns and shall inure to the benefit of every Unit Owner.

**ARTICLE VII**  
**CAROLYN'S MILL CONDOMINIUM ASSOCIATION, INC.**

Declarant shall form the Carolyn's Mill Condominium Association, Inc. for the purpose of administering the Condominium. The membership of the Association shall consist exclusively of



Unit Owners and Unit Owners shall be members at all times during which they own a Unit in the Condominium.

1. **Purpose of the Association.** The Association is formed to administer and maintain the Condominium. Maintenance shall include the exterior of structures, private streets and driveways, Common Elements, and any common facilities of the Condominium. The Association shall maintain, replace, repair, and improve the Common Elements so as to present an attractive well-maintained appearance and assure marketability of the Units.

2. **Management of the Association.** The Association shall conduct its business through its Board which shall be elected by the Members and elect the officers according to the Bylaws. The Board shall be deemed to stand in a fiduciary relationship to the Association and the Unit Owners and members of the Board shall discharge their duties in good faith and with the diligence and care which ordinarily prudent men would exercise under similar circumstances and in like positions. The Board shall have the power to amend the Bylaws as contained in the Bylaws, but nothing herein shall be construed to give the Board the right to amend this Declaration or to terminate the Condominium.

3. **Powers of the Association.** The Association, through its Board and Officers, shall have the following powers and authority:

~~(a) To hire managing agents, employees, and other contract workers as are necessary to carry out the purposes of the Association.~~

(b) To institute, defend, or intervene in its own name in litigation or administrative proceedings on matters affecting the Condominium.

(c) Determine the level of maintenance, repair, replacement, and improvement of the Common Elements and Limited Common Elements in conformance with the purposes set forth in this Declaration.

(d) Acquire, hold, encumber, and convey in its own name any real or personal property purchased by the Association as a Common Element.

(e) Mortgage the Common Elements, incur liabilities and other debt as necessary to operation of the Association and in the best interest of the Members.

(f) Determine any fees or charges for use or operation of the Common Elements and collect said fees or charges.

(g) Impose charges for late payment of assessments and collect past due assessments as provided in this Declaration.

(h) Provide statements on the current status of assessments, late payment charges, fines, and any other fees or payments to contract purchasers of a Unit. A reasonable charge may be made for such statements.

(i) Provide indemnification to and maintain liability insurance for directors and officers of the Association for actions taken in their capacity as officers and directions.

(j) Adopt and amend Bylaws and establish rules and regulations for the Association.

(k) Determine and adopt budgets for revenues, expenditures, and reserves and collect assessments for common expenses from Unit Owners as established by this Declaration. It is specifically authorized that the Association may place funds from current assessments in reserve accounts to provide for future maintenance of Common Elements and Association property.

(l) Make contracts on behalf of the Association as are necessary to perform the Association's business.

(m) Grant easements over the Common Elements as are necessary and for the benefit of the Members.

(n) Make additional improvements to the Common Elements.

(o) After notice and an opportunity to be heard, levy reasonable fines as set by the Board of the Association for violations of the Declaration, Bylaws and Rules and Regulations of the Association.

(p) Exercise all powers necessary and proper for administration of the Association and perform any ancillary functions necessary to the operation of the Association and in conformance with its purposes.

(q) Exercise any powers given to condominium associations by North Carolina General Statute 47C-3-102 or any successor statute dealing with the same purpose and not in conflict with the above powers.

4. **Bonding.** The Association shall maintain a fidelity bond to protect the funds of the Association equal to the maximum funds held by the Association or three (3) months assessments, whichever is greater.

5. **Reserve Accounts and Working Capital.** The Association will collect a working capital assessment equal to the regular assessment for two (2) months at the initial sale of each Unit. Said working capital shall be held by the Association to meet its requirements for working capital and shall not be depleted to meet expenses of the Association or make up deficiencies in the budget during the Declarant Control Period. The Association, in addition, shall establish and maintain reserve accounts with additions collected as part of the annual assessment. Each year an addition shall be made to the reserve accounts sufficient to accumulate an amount over the years sufficient to pay the cost of repairs and improvements to the Property as they arise.

6. **Right of Termination of Contracts.** After the Declarant Control Period, the Association shall have the right to terminate contracts pursuant to North Carolina General Statute 47C-3-105, "Termination of Contracts and Leases of Declarant."

7. **Voting Rights.** The election, removal, terms of office, and meetings of the Board of Directors shall be governed by the Bylaws. Each Unit shall have one (1) vote for all voting purposes.

**ARTICLE VIII**  
**COVENANT FOR ASSOCIATION ASSESSMENTS**

1. **Creation of the Lien and Personal Obligation for Assessments.** The Declarant hereby covenants for each Unit owned within the Property and each Owner of any Unit by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Any such assessment or charge, together with charges, interest, late fees, fines, costs of collection, court costs, and reasonable attorney's fees, shall be a continuing lien on the Unit against which such assessment is made. If the assessment is thirty (30) days past due, the Association may file of record a notice of the lien in the office of the Richmond County Clerk of Superior Court. Each such assessment or charge, together with charges, interest, late fees, fines, costs of collection, court costs, and reasonable attorneys fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments or charges shall not pass to his successors in title unless expressly assumed by them. The Declarant shall be an "Owner" for Units it owns as soon as the Unit is occupied under a rental or lease.
2. **Use of Assessments.** The assessments, along with any fees, charges, fines, and interest which become part of the assessment, shall be used by the Association to pay the ~~common expenses and achieve its purposes as described in this Declaration.~~ In addition to using the assessment directly for the purposes of the Association, the Association may use such of the assessment as is necessary for the administration and operation of the Association. The Association shall pay all income taxes of the Association and any property taxes levied against the Common Elements.
3. **Annual Assessments.** The Association shall commence assessments on the first day of the month following conveyance of the first Unit to an Owner. Assessments will be made annually for the calendar year by the Association and may be billed and collected on any schedule adopted by the Board. All assessments for common expenses will be assessed against all the Units in accordance with the allocations set forth in this Declaration.
4. **Special Assessment for Capital Improvements.** 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, reconstruction, repair, or replacement of capital improvements on the Common Elements, including fixtures and personal property related thereto. Said assessment may include improvements to the streets, driveways, and parking areas on the Common Elements. Any special assessment shall be approved by the Members at a meeting properly called for said purpose and shall have the consent of the Members entitled to vote at least 2/3 of the votes present in person or by proxy at the meeting.
5. **Procedure for Setting Annual and Special Assessments.** The Board of Directors of the Association shall annually adopt a proposed budget and annual assessment for each Unit for the following year. The annual assessment must be fixed for each Unit according to the allocations in Article III and each Owner shall be assessed his allocated share of the proposed budget. Written notice of any meetings of members of the Association called for the purpose of taking any action on annual or special assessments as described in the sections above shall be sent to all members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At such meeting, the presence of Members, in person and by proxy, entitled to vote ten percent (10%) of

the votes which can be cast by all the Members of the Association shall be necessary and sufficient to constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum shall be one-half (1/2) of the required quorum at the preceding meeting. In the event that the membership fails to pass the proposed budget, then the Board of Directors shall prepare a new budget and assessment as provided above within thirty (30) days and submit the budget to a properly called meeting of the Members.

**6. Nonpayment of Assessments of the Association.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the interest rate set by the Board but not exceeding eighteen percent (18%) per annum and shall constitute a continuing lien on the Unit in favor of the Association. Notice of the past due lien can be filed in the office of the Clerk of Superior Court of Richmond County, North Carolina. In addition to such interest charge, the delinquent Owner shall also pay such late fee as may have been theretofore established by the Board of Directors of the Association to defray the cost of late payment. The Association may bring an action at law against the person personally obligated to pay the assessment, or foreclose the lien against the property, and interest, late payment fees, fines, charges, costs of collection, court costs, and reasonable attorneys fees of such collection action or foreclosure shall be added to the amount of such assessment and be collectible as such. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his Unit or the Common Elements of the Condominium.

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The Association's lien may be foreclosed in the same manner as deeds of trust on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes of North Carolina, as the same may be in effect at the time the foreclosure is commenced and each Owner hereby grants to the Association a power of sale under said statutes. Each Owner of a Unit agrees that the Association may appoint a trustee for such purpose, and upon request by the Association, it shall be lawful and the duty of the trustee so appointed to sell the Unit subject to the lien at public auction for cash, after having first given such notice of hearing as to commencement of the foreclosure proceedings and obtaining such findings or leave of court as may then be required by law. The trustee shall give such notice and advertise the time and place of such sale in the manner as then provided by law. Any sale shall be according to the law for foreclosure proceedings under power of sale and convey title to the purchaser in as full and ample manner as the trustee is hereby empowered. The trustee shall be authorized to retain an attorney to represent the trustee in such proceedings and the cost of any such attorney shall be an expense of the trustee which shall be chargeable against the proceeds from the sale of the Unit. A proceeding to enforce the lien for unpaid assessments, charges, repair, or maintenance costs must be commenced within three (3) years after the delivery of notice of the assessments, charges, repair, or maintenance costs to the Owner. Each assessment or charge together with fines, interest, late fees, court costs, collections costs, and reasonable attorney fees incurred or expended by the Association in collection thereof, shall also be the personal obligation of the Owner of the Unit. The personal obligation for any delinquent assessment or charge, together with interest, late payment fees, fines, charges, and reasonable attorneys fees, however, shall not pass to the Owner's successors in title unless expressly assumed by them.

The proceeds of the sale after the trustee retains a commission, together with any reasonable attorney's fees incurred by the trustee in such proceeding, shall be applied to the costs of sale, including, but not limited to, costs of collection, taxes, assessments, cost of recording, service fees and incidental expenditures, the amount due on the assessment and any accrued interest thereof which the lien secures and any advancements and other sums expended by the Association according to the provisions hereof and otherwise as required by the then existing law



relating to foreclosures under power of sale. The trustee's commission shall be five percent (5%) of the gross proceeds of sale or the minimum of Five Hundred Dollars (\$500.00), whichever is greater, for completed foreclosure. In the event foreclosure of the lien is commenced but not completed, the Unit Owner shall pay all expenses incurred by the trustee, including reasonable attorney's fees and a partial commission computed on five percent (5%) of the outstanding indebtedness or the above stated minimum sum, whichever is greater, in accordance with the following schedule: one fourth (1/4) thereof before the trustee issues a Notice of Hearing on the Right to Foreclosure; one half (1/2) thereof after issuance of said Notice; three quarters (3/4) thereof after such hearing; and the greater of the full commission or minimum after the initial sale.

Each Unit Owner and any trustee appointed hereunder, covenant and agree that in case the appointed trustee or any successor trustee shall die, become incapable of acting, renounce his trust, or for any reason the Association desires to replace such trustee, then the Association may appoint in writing a trustee to take the place of the trustee; and upon the probate and registration of any initial or subsequent appointment of trustee, the trustee thus appointed shall be vested with or succeed to all rights, powers, and duties of the trustee herein described.

In the event the trustee is named as a party to any civil action as trustee in foreclosing the Association's lien rights, the trustee shall be entitled to employ an attorney at law, including the trustee if a licensed attorney, to represent the trustee in said action and the reasonable attorney's fee of the trustee in such action shall be paid by the Association and added to the outstanding indebtedness which the Association's lien secures and bear interest at the rate provided by the Amendment for unpaid assessments.

Each Owner of any Unit by acceptance of a deed therefor or by incorporation of Property under this Declaration, whether or not it shall be so expressed in such deed or by request to join the Association, is deemed to bargain, sell, grant, give and convey to any such appointed trustee for the benefit of the Association a real property interest in said Unit to secure the Association's lien *TO HAVE AND TO HOLD* said interest with all privileges and appurtenances thereto belonging to said trustee, his heirs, successors and assigns forever, upon the trust, terms and conditions and for the use as herein set forth.

7. **Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust granted to a bank, trust company, insurance company or other recognized lending institution on a Unit or any mortgage or deed of trust to the Declarant. Sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

## **ARTICLE IX MAINTENANCE AND REPAIRS**

### **1. Common Elements.**

(a) **Responsibilities of the Association.** The Association shall be responsible for maintaining and repairing the Common Elements, including the structures, roofs and siding, landscaping, streets, driveways, parking areas, and all common facilities on the Common Elements. The Common Elements shall be maintained in a well-repaired condition and present an appearance befitting a community of this type.

All damage caused to a Unit by the Association in its maintenance of the Common Elements shall be repaired by the Association and the cost shall be a Common Expense.

(b) **Limited Common Elements.** The repair and maintenance of Limited Common Elements is the responsibility of the Unit Owner(s) for the Limited Common Element affecting their Unit, excluding exterior siding and roofs which are maintained by the Association. In the event that the Unit Owner refuses to repair a Limited Common Element which is necessary for the structural integrity or use of another Unit, the Association may make such repairs or perform maintenance as is required to protect the other Unit and shall include the cost of repair of the Limited Common Element as an assessment against the Unit whose Owner is benefited by the repair. If the repair affects more than one Unit, the expense shall be assessed against the Units benefited, pro rata.

(c) **Intentional Abuse of Common Elements.** Any Unit Owner who intentionally damages or abuses the Common Elements or allows a nuisance, prohibited vehicle or prohibited object on the Common Elements shall be required to repair or replace the damaged Common Element or remove the violating vehicle or object from the Common Element. In the event such actions are not promptly taken by the Unit Owner, the Association may take such remedies on behalf of the Owner and add the cost of such Association action to the assessment for the Unit.

(d) **Unit Maintenance.** Each Unit Owner shall maintain his Unit and its Limited Common Elements in good repair and presentable appearance at the Unit Owner's expense. The Association may take action to repair or maintain a Unit if the Owner fails to do so and such cost shall be assessed against the Unit's Owner. Repairs and maintenance to a Unit shall be made during reasonable hours, except for emergency repairs, to avoid disturbing other Unit Owners.

## 2. **Right of Entry to Units.**

(a) **Entry to Perform Association Duties.** The Association and any person authorized by the same, may enter any Unit or any of the Limited Common Elements in case of any emergency or dangerous condition originating in or threatening that Unit or any of the Limited Common Elements. The Association or any person authorized by the Association, may enter a Unit or any of the Limited Common Elements for the purpose of performing any of the Association's duties or obligations or exercising any of the Association's powers under this Declaration. The Association in its entry shall cause as little inconvenience as possible to the Unit Owner or occupant of the entered Unit or any portion of the Limited Common Elements allocated to the Unit Owner.

(b) **Entry by Affected Unit Owner.** Each Unit Owner and Occupant shall allow other Unit Owners and Occupants, and their representatives, to enter his Unit, or Limited Common Elements allocated to his Unit, when reasonably necessary for the purpose of maintaining, repairing or replacing the other Unit Owner's Unit. Entry shall be at a time convenient to the Unit Owner or Occupant whose Unit or Limited Common Element is to be entered. In case of an emergency or dangerous condition or situation, such right of entry may be immediate. Any damage caused by a Unit Owner to an entered Unit or Limited Common Element shall be the responsibility of the entering Unit Owner.

## **ARTICLE X** **INSURANCE**

1. **Property and Casualty Insurance.** The Association shall maintain property and casualty insurance upon the Property in the name of the Association. The proceeds of said policy

will be payable to the Association, as trustee for the Unit Owners. The policy shall provide coverage against casualties including fire and extended coverage perils for the replacement cost of the insured property. In no event shall the amount of insurance less any deductibles provide coverage of less than one hundred percent (100%) of the replacement cost of the Property, excluding land, foundations, and other items normally excluded from property policies.

No recovery under any property or casualty policy shall be paid to any mortgagee or beneficiary under a Deed of Trust. The Association shall hold any insurance proceeds in trust for Unit Owners and lien holders as their interest may appear and disburse the proceeds for the repair and restoration of the damaged property. This covenant is not intended to prevent a Unit Owner from obtaining insurance for his own benefit, however, the insurance carried by the Association shall be primary.

2. **Public Liability Insurance.** The Association shall maintain public liability insurance for the benefit of the Unit Owners, Occupants and the Association (including the Board and officers) and the Declarant and its agents and employees. The amount of said insurance shall be determined by the Board. The public liability insurance obtained by the Board shall be for at least One Million Dollars (\$1,000,000) per occurrence for death, bodily injury and property damage of the Common Elements. The policy shall provide that no act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will preclude recovery under the policy.

3. **Notice of Insurance.** The insurer chosen by the Association must provide certificates or memorandum of insurance to the Association, and upon written request to any Unit Owner or beneficiary under a Deed of Trust upon request of said party.

4. **Fidelity Coverage.** The Association shall provide a bond for persons responsible for handling funds of the Association. The Board shall determine the amount of the bond as necessary to protect the Association in an amount at least as great as required by Article VII, paragraph 4. The premiums on such bond shall be a Common Expense.

5. **Other Insurance.** The Association may procure such other insurance, including worker's compensation insurance, as it may from time to time deem appropriate to protect the Association or the Unit Owners.

6. **Insurance Trustee.** The Board may engage, and pay as a Common Expense, any appropriate person to act as an insurance trustee to receive and disburse insurance proceeds upon such terms as the Board shall determine, consistent with the provisions of the Act and this Declaration.

7. **Indemnification.** The Association shall indemnify any director or officer or former director or officer of the Association, or any person who may have served at the request of the Association as a director or officer of another corporation, whether for profit or not for profit, against expenses (including attorney's fees) or liabilities actually and reasonably incurred by him in connection with the defense of or as a consequence of any threatened, pending or completed action, suit or proceeding (whether civil or criminal) in which he is made a party or was (or is threatened to be made) a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to have acted in bad faith and his conduct in his official capacity was clearly in conflict with the best interests of the Association or the officer or director received an improper personal benefit.

The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, by-law, agreement, vote of members or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

The Association may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability assessed against him and incurred by him in such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

The Association's indemnity of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall be reduced by any amounts such person may collect as indemnification (i) under any policy of insurance purchased and maintained on his behalf by the Association or (ii) from such other corporation, partnership, joint venture, trust or other enterprise.

~~Nothing contained in this "Indemnification" shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable state or federal law.~~

8. **Officers and Directors Insurance.** The Association will provide officers and directors insurance to fund the indemnification given to officers and directors of the Association under the Articles of Incorporation of the Association and this Declaration.

#### **ARTICLE XI** **CONDEMNATION**

Any award for Condemnation will be distributed according to North Carolina General Statute 47C-1-107, "Eminent Domain."

#### **ARTICLE XII** **TERMINATION**

The Condominium may be terminated only by agreement of Unit Owners of Units to which at least ninety percent (90%) of the votes in the Association are allocated with the concurrence of at least seventy-five percent (75%) of the mortgagees having a security interest in the said Units.

#### **ARTICLE XIII** **AMENDMENT**

This Declaration may be amended in compliance with the Act using the procedures that follow:

1. **Amendment by Declarant.** During the Declarant Control Period this Declaration may be amended by an instrument signed by Declarant and approved by the Owners of not less than seventy-five percent (75%) of the Units. Such approval shall be given at a meeting requested by the Declarant held for the purpose of considering the amendment. All such amendments shall be



recorded in the Office of the Register of Deeds of Richmond County, North Carolina, and upon recording the same shall become effective with respect to the matter to which such amendment pertains

2. **Amendments by Owners.** After the Declarant Control Period and at any time after Declarant relinquishes control of the Association, this Declaration shall be amended in the following manner:

(a) **Proposed Amendments.** Any Member of the Association may propose an amendment to this Declaration. Such proposed amendment must be submitted in writing to the Secretary of the Association at least thirty (30) days prior to the date of the special or regular Association meeting at which the proposal is to be considered.

(b) **Notice.** A statement of the subject matter of the proposed amendment or amendments shall be included in the notice of any Association meeting at which the proposed amendment(s) is to be considered.

(c) **Resolution.** A resolution for the adoption of a proposed amendment may be proposed by any Member of the Association. The resolution for adoption must be approved by the Owners entitled to cast not less than eighty percent (80%) of the total authorized votes of the Association.

(d) **Absentee Vote.** Members not present at any meeting may vote by proxy or by written vote as provided in the Bylaws.

(e) **Execution and Recording.** A copy of each amendment adopted pursuant to this Article shall be attached to an affidavit certifying that the amendment was duly adopted, which affidavit shall be executed by the President and Secretary in recordable form. The amendment shall be effective when such affidavit and a copy of the amendment are filed for record in the office of the Register of Deeds of Richmond County, North Carolina.

#### ARTICLE XIV RIGHTS OF MORTGAGEES

The following provisions shall take precedence over all other provisions of this Declaration and the Bylaws:

1. **Availability of Condominium Documents, Books, Records and Financial Statements.** The Association shall at all times maintain a Register setting forth the names of the Unit Owners of all of the Units. In the event of the sale or transfer of any Unit to a third party, the purchaser or transferee shall notify the Association in writing of his interest in such Unit, together with such recording information as shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any Unit. The Association shall, upon request and during normal business hours, make available for inspection by Unit Owners and the Mortgagees and the insurers and guarantors of a Mortgage on any Unit, current copies of the Declaration, the Bylaws, other rules and regulations governing the Condominium and the books, records and financial statements of the Association. The Association shall provide a financial statement for the preceding fiscal year if requested in writing by a Mortgagee or insurer or guarantor of a Mortgage for a reasonable charge. The Association shall, upon request and during normal business hours, make available for inspection by prospective purchasers of Units, current copies of the Declaration, Bylaws, other rules and regulations governing the Condominium, and the most recent annual financial statement (if one is prepared). Mortgagees after the Declarant Control Period may request notification of any amendment to this Declaration.

2. **Successors' Personal Obligation for Delinquent Assessments.** The personal obligation for assessments which are delinquent at the time of transfer of a Unit shall not pass to the successors in title or interest to said Unit unless said delinquent assessments are expressly assumed by them.

3. **Notice.** Each Mortgagee and each insurer or guarantor of a Mortgage, upon written request stating its name and address and describing the Unit encumbered by the Mortgage, held, insured or guaranteed, shall be entitled to timely written notification by the Association of (i) any proposed action which requires consent of a specified percentage of Mortgagees; (ii) any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing its Mortgage; (iii) any delinquency of thirty (30) days or more in the payment of assessments or charges owed by the Unit Owner of the Unit on which the Mortgagee held its Mortgage or in the performance of any obligation under this Declaration or the Bylaws by said Unit Owner; or (iv) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

- ARTICLE XV  
**TRAFFIC REGULATION ON UNDEDICATED STREETS**

On the access easements and Common Elements within the Property which have not been dedicated to a public body, the Association shall have the right, power, and option to establish and enforce rules and regulations governing the operation of vehicles and conveyances, motor powered or otherwise, on the streets, road, and driveways of the Property. The authority to make rules and regulations shall include, but is in no way limited to, the establishment and enforcement of speed limits, stop signs, yield signs, no parking zones, traffic control devices, safety zones and other traffic control and safety devices, together with reasonable remedies, including fines for violations of the rules and regulations. The authority given to the Association in this paragraph may be assigned to any appropriate governmental body or authority.

ARTICLE XVI  
**USE OF LEDBETTER LAKE**

1. **Rights of Use.** The Declarant hereby conveys and grants an easement to each Owner for non-exclusive use and enjoyment of Ledbetter Lake (the "Lake") including the use of any pier, dock, ramp or means of access on or abutting the Common Elements. The Declarant and the Association shall have an easement across the Common Elements and on any pier, dock, ramp or means of access and in the general area of the Lake shore line for the purpose of maintenance, construction and repair.

Any access to the Lake or use of related facilities is subject to the Rules and Regulations of the Association.

2. **Reserved Easement.** The Property is subject to an access easement grant to Progressive Hydro Turbine and Electrical Sales, Inc., a North Carolina corporation, which easement is filed in Book 708, Page 575 of the Richmond County Registry.

3. **Ownership of Water.** The operator of the hydroelectric generating facility adjacent to the Property owns the water rights to the Lake. The use of the Lake and related facilities on or adjacent to the Property is subject to changes in the Lake level which are caused by the hydroelectric operator.

**ARTICLE XVII**  
**GENERAL PROVISIONS**

1. **Conflict With the Act; Severability.** Should any of the terms, conditions, provisions, paragraphs, or clauses of this Declaration conflict with any provisions of the Act, the provisions of the Act shall control unless the Act permits the Declaration to override the Act, in which event the Declaration shall control. The invalidity of any covenant, restriction, condition, limitation, provision, paragraph or clause of this Declaration, or of any part of the same, or the application thereof to any person or circumstance, shall not impair or affect in any manner the validity of the rest of the Declaration or the application of the covenant, restriction, condition, limitation, provision, paragraph or clause to any other person or circumstance.

2. **Interpretation of Declaration.** Whenever appropriate singular may be read as plural, plural may be read as singular, and the masculine gender may be read as the feminine or neuter gender. Compound words beginning with the prefix "here" shall refer to this entire Declaration and not merely to the part in which they appear.

3. **Captions.** The captions herein are only for convenience and reference and do not define, limit or describe the scope of this Declaration, or the intent of any provision.

4. **Exhibits.** Exhibits A and B hereto are hereby made a part hereof.

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IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed by its appropriate official, the day and year first above written.

CAROLYN'S MILL, INCORPORATED

By: William T. USSERY, JR.  
President

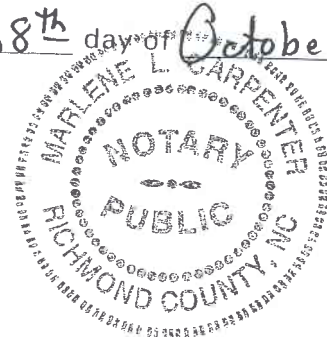
STATE OF NORTH CAROLINA  
COUNTY OF RICHMOND

I, Marlene L. Carpenter, a Notary Public, certify that WILLIAM T. USSERY, JR., personally came before me this day and acknowledged that he is President of CAROLYN'S MILL, INCORPORATED, a North Carolina corporation, and that he, as President, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official stamp or seal, this 28<sup>th</sup> day of October, 2003.

Marlene L. Carpenter  
Notary Public

My Commission expires: 2/7/04



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PATSY T. McDONALD  
REGISTER OF DEEDS  
RICHMOND CO., NC

Drafted by: Robert S. Thompson, Attorney at Law  
ROBERT S. THOMPSON, P.A.  
325 West Pennsylvania Avenue, Suite E  
Southern Pines, North Carolina 28387

STATE OF NORTH CAROLINA  
COUNTY OF RICHMOND

*CAROLYN'S MILL CONDOMINIUMS*  
*DECLARATION OF CONDOMINIUM*

THIS DECLARATION OF CONDOMINIUM is made the 28 day of October, 2003 by CAROLYN'S MILL, INCORPORATED, a North Carolina corporation (hereinafter "Declarant"), pursuant to the North Carolina Condominium Act, Chapter 47C, North Carolina General Statutes.

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of certain real estate situated in the County of Richmond and State of North Carolina, legally described in the Deed filed in Book 1108, Page 270 of the Richmond County Registry, together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate, which hereby is submitted to the Act by this Declaration (the "Property"); and

WHEREAS, Declarant desires to submit the Property to the Act. The plat or plan for the initial phase of the Condominium is filed in Condominium Slide \_\_\_\_\_ of the Richmond County, North Carolina, Registry.

*PLAT Book 1-A, B, C + D + E*

NOW, THEREFORE, Declarant, as the owner of the Property, hereby creates the Carolyn's Mill Condominiums as a condominium under Chapter 47C of the North Carolina General Statutes and makes the following Declaration:



**ARTICLE I**  
**DEFINITIONS**

**Definitions.** As used herein, the following words and terms shall have the following meanings:

1. **Act.** The North Carolina Condominium Act, as found in Chapter 47C, North Carolina General Statutes, as amended.
2. **Association.** Carolyn's Mill Condominium Association, Inc., a North Carolina nonprofit corporation organized under Chapter 55A, North Carolina General Statutes.
3. **Board.** The Board of Directors of the Association.
4. **Bylaws.** The Bylaws of the Association as shown in Exhibit A and as amended by the Board.
5. **Carolyn's Mill Condominium Association, Inc.** Carolyn's Mill Condominium Association, Inc., a non-profit corporation organized under Chapter 55-A of the North Carolina General Statutes, which maintains the **Common Elements** of Carolyn's Mill and which performs the duties and responsibilities as described in this Declaration.
6. **Common Elements.** All portions of the Condominium other than the Units. The Common Elements shall include all components and piping of the sprinkler system wheresoever located.
7. **Common Expenses.** Expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.
8. **Condominium.** The condominium created by this Declaration herein called "Carolyn's Mill Condominiums " or "Carolyn's Mill".
9. **Declarant.** Carolyn's Mill, Incorporated, and any person receiving or purchasing from Declarant, by whatever method, a portion of the remaining land, uncompleted Units or unsold Units on the Property to be held for resale as the successor developer.
10. **Declarant Control Period.** The period commencing on the date hereof and continuing until the earlier of (i) five (5) years after the date of the first conveyance of a Unit to a Unit Owner other than Declarant, (ii) the date upon which Declarant surrenders control of the Condominium to **the Association**, or (iii) one hundred twenty (120) days after the Declarant has conveyed seventy-five percent (75%) of the Units to Unit Owners other than Declarant. For the purpose of computing the Declarant Control Period, Units shall include 28 Units.
11. **Limited Common Elements.** Those portions of the Common Elements so designated on the Plats and any related plan for the Unit, including any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lying partially within and partially outside the designated boundary of a Unit and serving only that Unit is a Limited Common Element allocated exclusively to that Unit. Any portion of said building components which serves more than one Unit or serves the Common Elements is a Common Element. Any shutters, awnings, window boxes, doorsteps, stoops, decks, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common

designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit. Limited Common Elements include any portion of the Condominium so designated on the Plats and Plans or within a Unit and necessary for the structural integrity of another Unit.

12. **Occupant.** Any person or persons in possession of a Unit, including Unit Owners, the family members, lessees, guests and invitees of the Unit Owners, and lessees, their family members, guests and invitees.

13. **Owner.** An Owner of a Unit in the Condominium.

14. **Person.** A natural person, corporation, partnership, trust or other entity, or any combination thereof.

15. **Plat.** The plats and plans filed in the Richmond County, North Carolina, Condominium Plat Book describing the Condominium and incorporated in this Declaration by reference.

16. **Property.** The real estate described in the Deed filed in Book 1108, Page 270 of the Richmond County Registry, together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.

17. **Security Holder.** Any person owning an interest in a Unit as security for an obligation, including the seller's interest in an installment land sale contract, a mortgagee's interest in a mortgage, or a trustee's interest in a deed of trust.

18. **Special Declarant Rights.** The rights reserved herein and in the Bylaws for the benefit of Declarant, as follows: to exercise any development right to complete the improvements indicated on the plats and plans, to maintain sales offices, management offices, models and signs advertising the Condominium; to use easements through the Common Elements; and to elect, appoint or remove any officer of the Association and members of the Board during the Declarant Control Period. Declarant shall have no right to subdivide Units owned by Declarant.

19. **Unit.** A physical portion of the Condominium, whether or not contained solely or partially within a building, together with its percentage of undivided interest in the Common Areas and Common Elements as shown in Exhibit B. Each Unit is designated and delineated on the plats and plans. A Unit includes all spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit. All spaces and interior partitions (excluding any partition or structural component which is necessary for the structural integrity of another Unit) are a portion of the Unit.

20. **Unit Boundaries.** The boundaries of each Unit as shown on the plats and plans, are the undecorated surfaces of the perimeter walls, exterior doors and exterior windows facing the interior of the Unit, the undecorated surfaces of the ceiling facing the interior of the Unit, and the topmost surfaces of the flooring, and include the decoration on all such interior wall, floor and ceiling surfaces, including, without limitation, all paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the decorated surfaces thereof, and also including all spaces, interior partitions and other fixtures and improvements inside such boundaries.

Notwithstanding the general boundaries above the Unit boundaries shall be further defined as follows:

- (a) The upper and lower boundaries of the Units are defined by the following:  
**Lower** – the topmost surface of the flooring  
**Upper** – a horizontal plane defined by lowest point on the bottom of the lowest ceiling beam in the Unit. The area above the said plane is considered a limited common element of each Unit.
- (b) All pipes, valves, water lines, support beams, interior walls, electrical conduit and boxes, plumbing fixtures, and supported columns (including bearing blocks) are limited common elements.
- (c) Each Unit is hereby granted an easement for utilities in the area between the lower boundary as defined in 20(a) shown above and the space below the lower boundary of the Unit as defined in 20(a) shown above.
- (d) In the case of a sloped or cathedral ceiling, the upper boundary is the plane parallel to the joist or beam and originating at the bottom of the joist or beam.
21. **Unit Owner or Owner.** The person or persons, including the Declarant, owning a Unit in fee simple, or as installment land sale purchaser of a Unit, but excluding persons who hold an interest in a Unit as Security Holder.

## ARTICLE II SUBMISSION OF PROPERTY TO THE ACT

1. **Submission.** Declarant hereby submits the Property to the Act.
2. **Name.** The Property shall hereafter be known as the Carolyn's Mill Condominiums.
3. **Division of Property into Separately Owned Units.** Developer, pursuant to the Act, and to establish a plan of condominium ownership for the Condominium, does hereby declare that the Property is hereby divided into Twenty Eight (28) Units and does hereby designate all such Units for separate ownership, subject, however, to the provisions of Section 4 hereof.
4. **Alterations of Units.** Units may be altered with approval of the Board of the Association as long as the alteration does not impair the structural integrity or the mechanical systems, lessen the support of any portion of the Condominium, or reduce the use and enjoyment of the other Units. Any alteration of the Unit as shown on the Plats and Plans shall be shown on an amendment to the Plat for the Unit and be filed in the Richmond County Registry.
5. **Limited Common Elements.** The Common Elements serving or designed to serve each Unit (Limited Common Elements) are hereby allocated solely and exclusively to each such Unit.
6. **Unit Allocations.** The percentage allocations to each Unit of its undivided interest in the Common Elements, and of its percentage of the Common Expenses, are as stated in Exhibit B. The percentage allocations will change as additions are made to the Property. The percentage allocation of undivided interest in the Common Elements and of the Common Expenses is determined by dividing the square footage of the Unit by the square footage of all the Units then subject to the Declaration. The votes in the Association are allocated equally to all Units so that each Unit has one (1) vote.

7. **Condominium Ordinances.** The Condominium is not subject to any code, real estate use law, ordinance, charter provision, or regulation (i) prohibiting the condominium form of ownership, or (ii) imposing conditions or requirements upon a condominium which are not imposed upon substantially similar developments under a different form of ownership. This statement is made pursuant to Section 47C-1-106 of the Act.
8. **Reservation of Special Declarant Rights.** Declarant hereby reserves all Special Declarant Rights as those rights are defined or allowed by the Act.
9. **Restriction Against Separation and Partition of Common Elements.** The use of a Unit by a Unit Owner or Owners is dependent upon the use and enjoyment of the Common Elements in conjunction with all other Unit Owners and, therefore, ownership of the Common Elements must be retained in common by the Unit Owners. The proportional undivided interest in the Common Elements appurtenant to each Unit shall remain undivided and appurtenant to the Unit and no Unit Owner shall have any right to bring any action for partition or division of the Common Elements or the separation of his Unit from the Condominium.
10. **Leases.** The Association shall have the right to approve all leases of Units, which approval shall not be unreasonably withheld.

### **ARTICLE III**

#### **OWNERSHIP OF CONDOMINIUM UNITS AND COMMON ELEMENTS**

**Percentage Ownership of Common Elements.** Each Condominium Unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Owner of each Unit also shall own, as an appurtenance to the ownership of each said Condominium Unit, an undivided interest in the Common Elements. The undivided interest appurtenant to each Condominium Unit as of the date of this Declaration is as set out on Exhibit B attached hereto and made a part hereof. The proportional interest in the Common Elements that is appurtenant to each Condominium Unit has been determined by dividing the square footage of the individual Unit by the square footage of all the Units then subject to the Declaration and also shall be the proportional responsibility of the Unit Owner for his percentage of the Common Expenses. The percentages of ownership for all Owners shall add to 100%.

### **ARTICLE IV**

#### **EASEMENTS**

1. **Encroachments.** In the event that, by reason of the construction, reconstruction, rehabilitation, alteration or improvement of the buildings or improvements comprising a part of the Property, any part of a Unit, Limited Common Element, or the Common Elements now or hereafter encroaches upon any part of any other Unit or upon any part of the Common Elements, an easement for the continued existence and maintenance of such encroachment is hereby declared and granted for such encroachment and shall continue for so long as each such encroachment exists; provided that in no event shall an easement for such encroachment be created if such encroachment is detrimental to or interferes with the reasonable use and enjoyment of the Common Elements or Units so encroached upon. The intention of this paragraph is to cure minor mislocations of structures, heating and air conditioning units, steps, porches, overhangs, and similar building parts.
2. **Easements Through Walls.** Easements are hereby declared and granted to the Association and to such persons as are authorized by the Association, to install, lay, maintain,



repair and replace any chutes, flues, ducts, vents, pipes, wires, conduits, other utility installations, and structural components running through the walls of the Units, whether or not such walls lie in whole or in part within the boundaries of any Unit.

3. **Easements to Repair, Maintain, Restore and Reconstruct.** Wherever this Declaration, the Bylaws or the Act authorizes a Unit Owner, the Association, the Board, or any other person, to enter upon a Unit or the Common Elements to repair, maintain, restore or reconstruct all or any part of a Unit or the Common Elements, such easements as are necessary for such entry and such repair, maintenance, restoration or reconstruction are hereby declared and granted.

4. **Declarant's Easements.** Declarant hereby reserves such easements through the Common Elements as are reasonably necessary for the purpose of discharging its obligations, exercising Special Declarant Rights, and completing the sale, development, and construction of the Condominium, which easements shall exist as long as reasonably necessary for such purposes. Notwithstanding any use restriction or any other contrary provision of the Declaration or Bylaws, Declarant's easements shall include:

(a) **Sales Offices and Models.** Declarant may maintain one (1) sales office for sales of Units in the Condominium on the Property and not more than five (5) models as Declarant, from time to time, shall designate.

Declarant shall have the right to relocate the sales office, from time to time, and to discontinue and reestablish, from time to time, such sales office and models within the Condominium, until all of the Units have been conveyed to a Unit Owner other than a Declarant. Declarant also shall have the right to change the use or combination of uses of such offices or models, provided that such offices or models shall be used only for sales offices or models. The total number of such offices or models maintained at any time by a Declarant shall not exceed the number set out above, and the size of any such relocated or reestablished office or model shall not exceed the size of the largest Unit in the Condominium.

(b) **Declarant Signs.** Declarant also may maintain signs on the Common Elements advertising the Condominium until all of the Units have been conveyed to Unit Owners other than Declarant. Declarant shall remove all such signs not later than thirty (30) days after all of the Units have been conveyed to Unit Owners other than Declarant and shall repair or pay for the repair of all damage done by removal of such signs.

5. **Association Office.** The Association may maintain an office in the Condominium for management of the Condominium and is hereby granted an easement for access.

6. **Easements to Run with the Land.** All easements and rights described in this Article IV are appurtenant easements running with the land, and except as otherwise expressly provided in this Article IV shall be perpetual and shall inure to the benefit of and be binding upon Declarant, the Association, Unit Owners, Occupants, Security Holders and any other person having any interest in the Condominium or any part thereof, their heirs, successors and assigns. The Condominium and every part thereof shall be conveyed and encumbered subject to and together with all easements and rights described in this Article IV, whether or not specifically mentioned in the Owner's deed.

**ARTICLE V**  
**CONDEMNATION**

**Condemnation.** In the event that a part or all of any Unit is acquired by eminent domain, the award will be distributed according to North Carolina General Statute 47C-1-107. Interests in the Common Elements will be reallocated according to said statute.

**ARTICLE VI**  
**RESTRICTIONS, CONDITIONS AND COVENANTS**

1. **Compliance with Declaration, Bylaws, and Rules and Regulations.** Each Unit Owner and Occupant shall comply with all applicable provisions of the Act, this Declaration, the Bylaws, the Articles of Incorporation of the Association, and rules and regulations promulgated by the Association.

2. **Enforcement.** The Association, the Declarant during the Declarant Control Period, and any aggrieved Unit Owner, are entitled to commence an action to enforce compliance with the covenants of this Declaration or to an action to recover damages and penalties as provided in this Declaration and the Bylaws. The Association, the Declarant during the Declarant Control Period, and any Unit Owner shall have a right of action against Unit Owners and any Unit Owner shall have a right of action against the Association for failure to comply with the provisions of this Declaration, the Bylaws, and the rules, regulations, and decisions of the Association made pursuant to authority granted to the Association in this Declaration or the Act. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

3. **Administration of Condominium.** The Condominium shall be administered by the Association through its Board and Officers in accordance with the provisions of the Act, this Declaration and the Bylaws. The Association may hire agents to administer and carry out its duties as contained herein and in the Bylaws.

4. **Restrictions on Use.**

(a) **Residential Use.** The Units shall be occupied and used by Unit Owners and Occupants for residential purposes only.

(b) **Owner Signs.** No "For Sale" or "For Rent" signs or other window displays or advertising shall be maintained or permitted by any Unit Owner or Occupant on any part of the Condominium without the prior written consent of the Board.

(c) **Hazardous Use and Waste.** No hazardous materials shall be kept on the property and no use shall be made of the property which would be hazardous to any Unit, its occupants or the Common Elements.

Nothing shall be done to or kept in any Unit or the Common Elements that will increase the cost of insurance maintained with respect to the Condominium without the prior written consent of the Board. No Unit Owner or Occupant shall permit anything to be done to or kept in his Unit or the Common Elements that will result in the cancellation of insurance maintained with respect to the Condominium, or that would be in violation of any law, or that will result in the commitment of waste (damage, abuse or destruction) to his Unit, any other Unit or the Common Elements.

(d) **Parking.** Use of and restriction on parking facilities within the Common Elements shall be governed by the rules and regulations established by the Association.

(e) **Pets.** Pets shall be allowed in the Condominium as provided by the rules and regulations promulgated by the Association.

(f) **Nuisances.** No Owner shall permit a nuisance on the Property. No inoperable vehicles, mobile homes, campers or commercial vehicles (business autos excepted) shall remain on the Common Elements.

(g) **Window Treatments.** The Association will determine approved window treatments and only window treatments chosen or approved by the Association shall be affixed to or adorn windows of the Units.

(h) **Restrictions on Changes to Aesthetic Elements.** The following are restrictions intended to preserve the aesthetic appearance of the property:

(1) No brick walls on the property, including those in the Units, shall be painted.

(2) Windows installed on the property including those in Units shall not be changed or modified. Any necessary window replacement shall be with windows of the same style and quality.

5. **Alterations of Common Elements.** No Unit Owner or Occupant, except Declarant during the Declarant Control Period, shall alter, construct upon, or remove anything from, the Common Elements, or paint, decorate, landscape or adorn any portion of the Common Elements, without the prior written consent of the Association.

6. **Lease of a Unit.** Any lease or rental of a Unit shall be for the entire Unit, shall be in writing, and shall be subject to this Declaration and the Bylaws. Any failure of the Lessee to comply with the terms of such documents shall be a default under the lease. Other than the foregoing restrictions, each Unit Owner shall have the full right to lease his Unit. Lessees under short and long term leases shall comply with the rules and regulations of the Association and Owner shall be responsible for any noncompliance or damage to Common Elements caused by Lessee.

7. **Rules and Regulations.** In addition to the foregoing restrictions, conditions and covenants concerning the use of the Condominium, reasonable rules and regulations may be promulgated and amended from time to time by the Association.

8. **Restrictions, Conditions and Covenants to Run with Land.** Each Unit Owner and Occupant shall be subject to all restrictions, conditions and covenants of this Declaration, and all such restrictions, conditions and covenants shall be deemed to be covenants running with the land, and shall bind every person having any interest in the Property, his heirs, successors and assigns and shall inure to the benefit of every Unit Owner.

**ARTICLE VII**  
**CAROLYN'S MILL CONDOMINIUM ASSOCIATION, INC.**

Declarant shall form the Carolyn's Mill Condominium Association, Inc. for the purpose of administering the Condominium. The membership of the Association shall consist exclusively of

Unit Owners and Unit Owners shall be members at all times during which they own a Unit in the Condominium.

**1. Purpose of the Association.** The Association is formed to administer and maintain the Condominium. Maintenance shall include the exterior of structures, private streets and driveways, Common Elements, and any common facilities of the Condominium. The Association shall maintain, replace, repair, and improve the Common Elements so as to present an attractive well-maintained appearance and assure marketability of the Units.

**2. Management of the Association.** The Association shall conduct its business through its Board which shall be elected by the Members and elect the officers according to the Bylaws. The Board shall be deemed to stand in a fiduciary relationship to the Association and the Unit Owners and members of the Board shall discharge their duties in good faith and with the diligence and care which ordinarily prudent men would exercise under similar circumstances and in like positions. The Board shall have the power to amend the Bylaws as contained in the Bylaws, but nothing herein shall be construed to give the Board the right to amend this Declaration or to terminate the Condominium.

**3. Powers of the Association.** The Association, through its Board and Officers, shall have the following powers and authority:

- (a) To hire managing agents, employees, and other contract workers as are necessary to carry out the purposes of the Association.
- (b) To institute, defend, or intervene in its own name in litigation or administrative proceedings on matters affecting the Condominium.
- (c) Determine the level of maintenance, repair, replacement, and improvement of the Common Elements and Limited Common Elements in conformance with the purposes set forth in this Declaration.
- (d) Acquire, hold, encumber, and convey in its own name any real or personal property purchased by the Association as a Common Element.
- (e) Mortgage the Common Elements, incur liabilities and other debt as necessary to operation of the Association and in the best interest of the Members.
- (f) Determine any fees or charges for use or operation of the Common Elements and collect said fees or charges.
- (g) Impose charges for late payment of assessments and collect past due assessments as provided in this Declaration.
- (h) Provide statements on the current status of assessments, late payment charges, fines, and any other fees or payments to contract purchasers of a Unit. A reasonable charge may be made for such statements.
- (i) Provide indemnification to and maintain liability insurance for directors and officers of the Association for actions taken in their capacity as officers and directions.
- (j) Adopt and amend Bylaws and establish rules and regulations for the Association.



(k) Determine and adopt budgets for revenues, expenditures, and reserves and collect assessments for common expenses from Unit Owners as established by this Declaration. It is specifically authorized that the Association may place funds from current assessments in reserve accounts to provide for future maintenance of Common Elements and Association property.

(l) Make contracts on behalf of the Association as are necessary to perform the Association's business.

(m) Grant easements over the Common Elements as are necessary and for the benefit of the Members.

(n) Make additional improvements to the Common Elements.

(o) After notice and an opportunity to be heard, levy reasonable fines as set by the Board of the Association for violations of the Declaration, Bylaws and Rules and Regulations of the Association.

(p) Exercise all powers necessary and proper for administration of the Association and perform any ancillary functions necessary to the operation of the Association and in conformance with its purposes.

(q) Exercise any powers given to condominium associations by North Carolina General Statute 47C-3-102 or any successor statute dealing with the same purpose and not in conflict with the above powers.

4. **Bonding.** The Association shall maintain a fidelity bond to protect the funds of the Association equal to the maximum funds held by the Association or three (3) months assessments, whichever is greater.

5. **Reserve Accounts and Working Capital.** The Association will collect a working capital assessment equal to the regular assessment for two (2) months at the initial sale of each Unit. Said working capital shall be held by the Association to meet its requirements for working capital and shall not be depleted to meet expenses of the Association or make up deficiencies in the budget during the Declarant Control Period. The Association, in addition, shall establish and maintain reserve accounts with additions collected as part of the annual assessment. Each year an addition shall be made to the reserve accounts sufficient to accumulate an amount over the years sufficient to pay the cost of repairs and improvements to the Property as they arise.

6. **Right of Termination of Contracts.** After the Declarant Control Period, the Association shall have the right to terminate contracts pursuant to North Carolina General Statute 47C-3-105, "Termination of Contracts and Leases of Declarant."

7. **Voting Rights.** The election, removal, terms of office, and meetings of the Board of Directors shall be governed by the Bylaws. Each Unit shall have one (1) vote for all voting purposes.

**ARTICLE VIII**  
**COVENANT FOR ASSOCIATION ASSESSMENTS**

- 1. Creation of the Lien and Personal Obligation for Assessments.** The Declarant hereby covenants for each Unit owned within the Property and each Owner of any Unit by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Any such assessment or charge, together with charges, interest, late fees, fines, costs of collection, court costs, and reasonable attorney's fees, shall be a continuing lien on the Unit against which such assessment is made. If the assessment is thirty (30) days past due, the Association may file of record a notice of the lien in the office of the Richmond County Clerk of Superior Court. Each such assessment or charge, together with charges, interest, late fees, fines, costs of collection, court costs, and reasonable attorneys fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments or charges shall not pass to his successors in title unless expressly assumed by them. The Declarant shall be an "Owner" for Units it owns as soon as the Unit is occupied under a rental or lease.
- 2. Use of Assessments.** The assessments, along with any fees, charges, fines, and interest which become part of the assessment, shall be used by the Association to pay the common expenses and achieve its purposes as described in this Declaration. In addition to using the assessment directly for the purposes of the Association, the Association may use such of the assessment as is necessary for the administration and operation of the Association. The Association shall pay all income taxes of the Association and any property taxes levied against the Common Elements.
- 3. Annual Assessments.** The Association shall commence assessments on the first day of the month following conveyance of the first Unit to an Owner. Assessments will be made annually for the calendar year by the Association and may be billed and collected on any schedule adopted by the Board. All assessments for common expenses will be assessed against all the Units in accordance with the allocations set forth in this Declaration.
- 4. Special Assessment for Capital Improvements.** 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, reconstruction, repair, or replacement of capital improvements on the Common Elements, including fixtures and personal property related thereto. Said assessment may include improvements to the streets, driveways, and parking areas on the Common Elements. Any special assessment shall be approved by the Members at a meeting properly called for said purpose and shall have the consent of the Members entitled to vote at least 2/3 of the votes present in person or by proxy at the meeting.
- 5. Procedure for Setting Annual and Special Assessments.** The Board of Directors of the Association shall annually adopt a proposed budget and annual assessment for each Unit for the following year. The annual assessment must be fixed for each Unit according to the allocations in Article III and each Owner shall be assessed his allocated share of the proposed budget. Written notice of any meetings of members of the Association called for the purpose of taking any action on annual or special assessments as described in the sections above shall be sent to all members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At such meeting, the presence of Members, in person and by proxy, entitled to vote ten percent (10%) of