

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.

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.

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



EXHIBIT A  
BYLAWS  
OF  
CAROLYN'S MILL CONDOMINIUM ASSOCIATION, INC.

ARTICLE I  
NAME AND LOCATION

**Section 1: Name.** The name of the corporation is Carolyn's Mill Condominium Association, Inc., hereinafter referred to as the "Association."

**Section 2: Location.** The principal office of the corporation shall be located at 150 Twin Oaks, Rockingham, Richmond County, North Carolina 28379. The registered office of the Association may be, but need not be, identical with the principal office.

ARTICLE II  
DEFINITIONS

**Section 1: Act.** The North Carolina Condominium Act, as found in Chapter 47C, North Carolina General Statutes.

**Section 2: Association.** Carolyn's Mill Condominium Association, Inc., a North Carolina nonprofit corporation organized under Chapter 55A, North Carolina General Statutes.

**Section 3: Board.** The Board of Directors of the Association.

**Section 4: Bylaws.** These Bylaws of the Association as amended.

**Section 5: Common Elements.** All portions of the Condominium other than the Units.

**Section 6: Common Expenses.** Expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

**Section 7: Condominium.** The condominium created by this Declaration herein called "Carolyn's Mill" or "Carolyn's Mill Condominium".

**Section 8: Declarant.** Carolyn's Mill, Incorporated, and any person receiving or purchasing from Declarant, by whatever method, a portion of the remaining land or uncompleted units on the Property to be held for resale as the successor developer.

**Section 9: 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 all units planned for the Property.

**Section 10: 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 its 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 Limited 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 Elements allocated exclusively to that Unit. In addition, Limited Common Elements includes any portion of the Condominium so designated on the Plats and Plans. Limited Common Elements shall include any portion of a Unit necessary for the structural integrity of another Unit.

**Section 11: Member.** "Member" shall mean and refer to every person or entity who holds membership in the Association.

**Section 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.

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

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

**Section 15: Plat.** The plats and plans filed in the Richmond County, North Carolina, Condominium Plat Book for the Condominium.

**Section 16: Property.** The real estate described in Deed filed in Book 1054, Page 40 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.

**Section 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.

**Section 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.

**Section 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, interior partitions (excluding any partition or structural component which is necessary for the structural integrity of another Unit) are a portion of the Unit.

**Section 20: Unit Boundaries.** The boundaries of each Unit, both as to vertical and horizontal planes, 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 subflooring, and include the decoration on all such interior and topmost 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.

**Section 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 III MEETING OF MEMBERS

**Section 1: Annual Meetings.** The first annual meeting of the Members shall be held within one year from the date of filing of the Declaration, and each subsequent regular annual meeting of the Members shall be held on the same day of the same month of each year thereafter, at the hour of 2:00 o'clock, p.m. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

**Section 2: Special Meetings.** Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote ten percent (10%) of all of the votes of the Association.

**Section 3: Place of Meetings.** All meetings of the Members shall be held at such place, within Richmond County, North Carolina, as shall be determined by the Board of Directors of the Association.

**Section 4: Notice of Meetings.** Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, not less than 10 days nor more than 50 days before the date of such meeting to each Member entitled to vote, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

**Section 5: Quorum.** The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of all the Members shall constitute a

quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented by any meeting, the Members entitled to vote at the meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

**Section 6: Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Unit.

**Section 7: Waiver of Notice.** Any Member at any time may waive in writing notice of any meeting of the Members and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member at any meeting of the Members shall constitute a waiver of notice by him of the time and place of the meeting except where a Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the Members are present at any meeting of the Members, no notice shall be required and any business may be transacted at such meeting.

**Section 8: Informal Action by Members.** Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the Association's minute book.

**Section 9: Voting Allocation.** Each Unit shall have one (1) vote on all Association matters.

#### ARTICLE IV BOARD OF DIRECTORS

**Section 1: Number.** The business and affairs of the Association shall be managed by a Board of three (3) directors, who need not be members of the Association.

**Section 2: Term of Office.** At the first annual meeting, and at each annual meeting thereafter, the Members shall elect three (3) directors to serve for a term of one year. Each director shall hold office until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

**Section 3: Nomination.** Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non members.



**Section 4: Election.** Except as provided in Section 5 of this Article, Directors shall be elected at the annual meeting of the Members by written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

**Section 5: Removal.** Any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the directors.

**Section 6: Compensation.** No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

## ARTICLE V MEETINGS OF DIRECTORS

**Section 1: Regular Meetings.** Regular meetings of the Board of Directors may be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting may be held at the same time on the next day which is not a legal holiday.

**Section 2: Special Meetings.** Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days notice to each director.

**Section 3: Quorum.** A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**Section 4: Informal Action by Directors.** Action taken by a majority of the directors without a meeting is nevertheless Board action if written consent to the action in question is signed by all of the directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

**Section 5: Chairman.** A Chairman of the Board of Directors shall be elected by the directors and shall preside over all Board meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of the Presidency, a Chairman shall be elected by the Board of Directors and serve until a new President is elected.

**Section 6: Liability of the Board.** The members of the Board of Directors shall not be liable to the Owners for any mistake of judgment, negligence or otherwise except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board on behalf of the Association unless any such contract shall have been in

bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent that they are Owner(s).

## ARTICLE VI POWERS AND DUTIES OF THE BOARD OF DIRECTORS

**Section 1: Powers.** The Board of Directors shall have power to:

- (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 unit owners associations by North Carolina General Statute 47C-3-102 or any successor statute dealing with the same purpose.

**Section 2: Duties.** It shall be the duty of the Board of Directors to:

(a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members entitled to at least ten percent (10%) of the votes of all the Members.

(b) Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(c) As more fully provided in the Declaration, to:

(1) Fix the amount of the annual assessment against each Unit at least thirty (30) days before January 1 each year;

(2) Send written notice of each assessment to every Owner subject thereto at least fifteen (15) days before its due date and before January 1 of each year;

(3) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.

(d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid [A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment];

(e) Procure and maintain adequate liability insurance covering the Association and the directors and officers thereof and adequate hazard and liability insurance on the property owned by the Association and by the Owners as provided in the Declaration;

(f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(g) Cause the Common Elements to be maintained according to the Declaration.

## ARTICLE VII OFFICERS AND THEIR DUTIES

**Section 1: Enumeration of Offices.** The officers of the Association shall be a President and Vice President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

**Section 2: Election of Officers.** The election of officers shall take place at the organizational meeting of the Board of Directors and then at each annual meeting of the Members.

**Section 3: Term.** Each officer of the Association shall be elected annually by the Board and each shall hold office for one (1) year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

**Section 4: Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

**Section 5: Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6: Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 7: Multiple Offices.** The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

**Section 8: Compensation.** No officer shall receive any compensation from the Association for acting as such.

**Section 9: Duties.** The duties of the officers are as follows:

(a) **President.** The President shall be the principal executive officer of the Association, and subject to the control of the Board, shall supervise and control the management of the Association. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all



leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) **Vice President.** The Vice president shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) **Secretary.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) **Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all moneys of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of the account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meetings, and deliver a copy of each of the Members.

#### **ARTICLE VIII COMMITTEES**

The Board of Directors shall appoint such committees as deemed appropriate in carrying out its purpose.

#### **ARTICLE IX BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

#### **ARTICLE X ASSESSMENTS**

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date the assessment shall bear interest from the date of delinquency at the rate set by the Board or eighteen percent (18%), whichever is greater, plus such late charge as may be established by the Board of Directors, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property; and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such

assessment. No Owner may waiver or otherwise escape liability for the assessments provided for herein by nonuse of the Common Elements or abandonment of his Unit.

## **ARTICLE XI CORPORATE SEAL**

The Association shall have a corporate seal in circular form having within its circumference the words: Carolyn's Mill Condominium Association, Inc.

## **ARTICLE XII AMENDMENTS**

**Section 1.** These Bylaws may be amended, at a regular or special meeting of the Directors, by a vote of a majority of a quorum of Members present in person or by proxy.

**Section 2.** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

## **ARTICLE XIII MISCELLANEOUS**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

## **ARTICLE XIV INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHERS**

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 Article XIV, or elsewhere in these Bylaws, shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable state or federal law.

#### ARTICLE XV ARBITRATION

Any claim which shall be made against one or more members of the Board of Directors shall be settled by arbitration except as otherwise provided herein, in the Declaration or under any applicable law, and judgment upon the award may be entered in any court having jurisdiction thereof. Such arbitration shall be commenced upon the delivery of such claim, in writing, to one or more members of the Board; and shall be before one disinterested arbitrator if one can be agreed upon, otherwise before three disinterested arbitrators, one named by the Director(s), one by the Owner(s), and one by the two thus chosen. The arbitrator or arbitrators shall determine the controversy in accordance with the laws of North Carolina as applied to the facts found by him or them. If the Director(s) or the Owner(s) shall refuse or fail to so name an arbitrator within thirty (30) days after written notice from the other party requiring the naming of an arbitrator, then the arbitrator so named by the party not in default hereunder shall have the power to proceed to arbitrate and determine the matters in controversy as if he were an arbitrator appointed by both parties for that purpose, and his award in writing signed by him shall be final. The rules of procedure for the arbitration hearing may be adopted by the arbitrators. All arbitration proceedings shall be conducted in Richmond County, North Carolina.

#### CERTIFICATION

I, the undersigned, do hereby certify:

**THAT** I am the duly elected and acting Secretary of Carolyn's Mill Condominium Association, Inc., a North Carolina corporation; and

**THAT** the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2001.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed the seal of said Association, this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

ROBERT S. THOMPSON, P.A.  
ATTORNEYS AT LAW  
325 W. PENNSYLVANIA AVE.  
SUITE E  
LUTHERN PINES, N. C.

\_\_\_\_\_  
Secretary

EXHIBIT A  
BYLAWS  
OF  
CAROLYN'S MILL CONDOMINIUM ASSOCIATION, INC.

ARTICLE I  
NAME AND LOCATION

**Section 1: Name.** The name of the corporation is Carolyn's Mill Condominium Association, Inc., hereinafter referred to as the "Association."

**Section 2: Location.** The principal office of the corporation shall be located at 150 Twin Oaks, Rockingham, Richmond County, North Carolina 28379. The registered office of the Association may be, but need not be, identical with the principal office.

ARTICLE II  
DEFINITIONS

**Section 1: Act.** The North Carolina Condominium Act, as found in Chapter 47C, North Carolina General Statutes.

**Section 2: Association.** Carolyn's Mill Condominium Association, Inc., a North Carolina nonprofit corporation organized under Chapter 55A, North Carolina General Statutes.

**Section 3: Board.** The Board of Directors of the Association.

**Section 4: Bylaws.** These Bylaws of the Association as amended.

**Section 5: Common Elements.** All portions of the Condominium other than the Units.

**Section 6: Common Expenses.** Expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

**Section 7: Condominium.** The condominium created by this Declaration herein called "Carolyn's Mill" or "Carolyn's Mill Condominium".

**Section 8: Declarant.** Carolyn's Mill, Incorporated, and any person receiving or purchasing from Declarant, by whatever method, a portion of the remaining land or uncompleted units on the Property to be held for resale as the successor developer.

**Section 9: 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 all units planned for the Property.

**Section 10: 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 its 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 Limited 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 Elements allocated exclusively to that Unit. In addition, Limited Common Elements includes any portion of the Condominium so designated on the Plats and Plans. Limited Common Elements shall include any portion of a Unit necessary for the structural integrity of another Unit.

**Section 11: Member.** "Member" shall mean and refer to every person or entity who holds membership in the Association.

**Section 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.

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

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

**Section 15: Plat.** The plats and plans filed in the Richmond County, North Carolina, Condominium Plat Book for the Condominium.

**Section 16: Property.** The real estate described in Deed filed in Book 1054, Page 40 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.

**Section 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.

**Section 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.

**Section 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, interior partitions (excluding any partition or structural component which is necessary for the structural integrity of another Unit) are a portion of the Unit.

**Section 20: Unit Boundaries.** The boundaries of each Unit, both as to vertical and horizontal planes, 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 subflooring, and include the decoration on all such interior and topmost 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.

**Section 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 III MEETING OF MEMBERS

**Section 1: Annual Meetings.** The first annual meeting of the Members shall be held within one year from the date of filing of the Declaration, and each subsequent regular annual meeting of the Members shall be held on the same day of the same month of each year thereafter, at the hour of 2:00 o'clock, p.m. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

**Section 2: Special Meetings.** Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote ten percent (10%) of all of the votes of the Association.

**Section 3: Place of Meetings.** All meetings of the Members shall be held at such place, within Richmond County, North Carolina, as shall be determined by the Board of Directors of the Association.

**Section 4: Notice of Meetings.** Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, not less than 10 days nor more than 50 days before the date of such meeting to each Member entitled to vote, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

**Section 5: Quorum.** The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of all the Members shall constitute a

quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented by any meeting, the Members entitled to vote at the meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

**Section 6: Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Unit.

**Section 7: Waiver of Notice.** Any Member at any time may waive in writing notice of any meeting of the Members and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member at any meeting of the Members shall constitute a waiver of notice by him of the time and place of the meeting except where a Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the Members are present at any meeting of the Members, no notice shall be required and any business may be transacted at such meeting.

**Section 8: Informal Action by Members.** Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the Association's minute book.

**Section 9: Voting Allocation.** Each Unit shall have one (1) vote on all Association matters.

#### ARTICLE IV BOARD OF DIRECTORS

**Section 1: Number.** The business and affairs of the Association shall be managed by a Board of three (3) directors, who need not be members of the Association.

**Section 2: Term of Office.** At the first annual meeting, and at each annual meeting thereafter, the Members shall elect three (3) directors to serve for a term of one year. Each director shall hold office until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

**Section 3: Nomination.** Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non members.

**Section 4: Election.** Except as provided in Section 5 of this Article, Directors shall be elected at the annual meeting of the Members by written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

**Section 5: Removal.** Any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the directors.

**Section 6: Compensation.** No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

## ARTICLE V MEETINGS OF DIRECTORS

**Section 1: Regular Meetings.** Regular meetings of the Board of Directors may be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting may be held at the same time on the next day which is not a legal holiday.

**Section 2: Special Meetings.** Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days notice to each director.

**Section 3: Quorum.** A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**Section 4: Informal Action by Directors.** Action taken by a majority of the directors without a meeting is nevertheless Board action if written consent to the action in question is signed by all of the directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

**Section 5: Chairman.** A Chairman of the Board of Directors shall be elected by the directors and shall preside over all Board meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of the Presidency, a Chairman shall be elected by the Board of Directors and serve until a new President is elected.

**Section 6: Liability of the Board.** The members of the Board of Directors shall not be liable to the Owners for any mistake of judgment, negligence or otherwise except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board on behalf of the Association unless any such contract shall have been in



bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent that they are Owner(s).

## ARTICLE VI POWERS AND DUTIES OF THE BOARD OF DIRECTORS

**Section 1: Powers.** The Board of Directors shall have power to:

- (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 unit owners associations by North Carolina General Statute 47C-3-102 or any successor statute dealing with the same purpose.

**Section 2: Duties.** It shall be the duty of the Board of Directors to:

(a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members entitled to at least ten percent (10%) of the votes of all the Members.

(b) Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(c) As more fully provided in the Declaration, to:

(1) Fix the amount of the annual assessment against each Unit at least thirty (30) days before January 1 each year;

(2) Send written notice of each assessment to every Owner subject thereto at least fifteen (15) days before its due date and before January 1 of each year;

(3) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.

(d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid [A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment];

(e) Procure and maintain adequate liability insurance covering the Association and the directors and officers thereof and adequate hazard and liability insurance on the property owned by the Association and by the Owners as provided in the Declaration;

- (f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and
- (g) Cause the Common Elements to be maintained according to the Declaration.

## ARTICLE VII OFFICERS AND THEIR DUTIES

**Section 1: Enumeration of Offices.** The officers of the Association shall be a President and Vice President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

**Section 2: Election of Officers.** The election of officers shall take place at the organizational meeting of the Board of Directors and then at each annual meeting of the Members.

**Section 3: Term.** Each officer of the Association shall be elected annually by the Board and each shall hold office for one (1) year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

**Section 4: Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

**Section 5: Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6: Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 7: Multiple Offices.** The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

**Section 8: Compensation.** No officer shall receive any compensation from the Association for acting as such.

**Section 9: Duties.** The duties of the officers are as follows:

(a) **President.** The President shall be the principal executive officer of the Association, and subject to the control of the Board, shall supervise and control the management of the Association. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all

leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) **Vice President.** The Vice president shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) **Secretary.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) **Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all moneys of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of the account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meetings, and deliver a copy of each of the Members.

#### ARTICLE VIII COMMITTEES

The Board of Directors shall appoint such committees as deemed appropriate in carrying out its purpose.

#### ARTICLE IX BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

#### ARTICLE X ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date the assessment shall bear interest from the date of delinquency at the rate set by the Board or eighteen percent (18%), whichever is greater, plus such late charge as may be established by the Board of Directors, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property; and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such



assessment. No Owner may waiver or otherwise escape liability for the assessments provided for herein by nonuse of the Common Elements or abandonment of his Unit.

## **ARTICLE XI CORPORATE SEAL**

The Association shall have a corporate seal in circular form having within its circumference the words: Carolyn's Mill Condominium Association, Inc.

## **ARTICLE XII AMENDMENTS**

**Section 1.** These Bylaws may be amended, at a regular or special meeting of the Directors, by a vote of a majority of a quorum of Members present in person or by proxy.

**Section 2.** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

## **ARTICLE XIII MISCELLANEOUS**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

## **ARTICLE XIV INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHERS**

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 Article XIV, or elsewhere in these Bylaws, shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable state or federal law.

#### ARTICLE XV ARBITRATION

Any claim which shall be made against one or more members of the Board of Directors shall be settled by arbitration except as otherwise provided herein, in the Declaration or under any applicable law, and judgment upon the award may be entered in any court having jurisdiction thereof. Such arbitration shall be commenced upon the delivery of such claim, in writing, to one or more members of the Board; and shall be before one disinterested arbitrator if one can be agreed upon, otherwise before three disinterested arbitrators, one named by the Director(s), one by the Owner(s), and one by the two thus chosen. The arbitrator or arbitrators shall determine the controversy in accordance with the laws of North Carolina as applied to the facts found by him or them. If the Director(s) or the Owner(s) shall refuse or fail to so name an arbitrator within thirty (30) days after written notice from the other party requiring the naming of an arbitrator, then the arbitrator so named by the party not in default hereunder shall have the power to proceed to arbitrate and determine the matters in controversy as if he were an arbitrator appointed by both parties for that purpose, and his award in writing signed by him shall be final. The rules of procedure for the arbitration hearing may be adopted by the arbitrators. All arbitration proceedings shall be conducted in Richmond County, North Carolina.

#### CERTIFICATION

I, the undersigned, do hereby certify:

**THAT** I am the duly elected and acting Secretary of Carolyn's Mill Condominium Association, Inc., a North Carolina corporation; and

**THAT** the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2001.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed the seal of said Association, this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

ROBERT S. THOMPSON, P.A.  
ATTORNEYS AT LAW  
325 W. PENNSYLVANIA AVE.  
SUITE E  
SOUTHERN PINES, N. C.

\_\_\_\_\_  
Secretary