

250

See Sec. 15 Sale of Unit.

Insurance p. 12

Amend
 Dec 105399
 3-2-81

DECLARATION OF UNIT OWNERSHIP UNDER
 THE PROVISIONS OF CHAPTER 47A OF THE
 GENERAL STATUTES OF NORTH CAROLINA, AND OF
 COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION is made on the date hereinafter set forth by CROASDALE, INC., a North Carolina corporation, hereinafter referred to as "Declarant".

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property in Durham Township, County of Durham, State of North Carolina, which is more particularly described as follows:

All of that certain parcel or tract of land with the buildings and improvements thereon erected or to be erected and located at the northwestern intersection of Medford Road and Front Street, and more particularly described as BEGINNING at a monument in the northern margin of Medford Road and running thence with said margin as it curves to the left and forms the western margin of Front Street a distance of 31.67 feet along an arc with a radius of 20 feet to a monument in the western margin of Front Street; running thence along and with said western margin of Front Street

MANNING, ALLEN
 AND HUDSON
 ATTORNEYS AT LAW
 CHAPEL HILL, N. C.

North 18° 36' East a distance of 1.96 feet to a monument; running thence along and with said western margin of Front Street as it curves to the left a distance of 256.40 feet along an arc with a radius of 1,265.81 feet to an iron stake; running thence North 86° 23' 30" West a distance of 187.73 feet to an iron stake in the eastern margin of the Croasdaile Golf Course; running thence along and with said Golf Course South 3° 36' 30" West a distance of 232.83 feet to an iron stake in the northern margin of Medford Road; running thence along and with said northern margin of Medford Road as it curves to the left a distance of 128.19 feet along an arc with a radius of 4,990.48 feet to the point and place of BEGINNING, and containing 43,710 square feet, more or less, as shown by plat drawn by Credle Engineering Company and dated February 25, 1971, entitled "Property of Croasdaile, Inc." which appears of record in the office of the Register of Deeds for Durham County, North Carolina, in Map Book 69 at Page 37, and reference to which is hereby made for a more particular description of said land.

WHEREAS, the Declarant is the owner of certain condominium type multi-unit buildings and certain other improvements heretofore constructed or hereafter to be constructed upon the aforesaid property and it is the desire and the intention of the Declarant to divide the project into "condominium units" of "Units" as those terms are defined under the provisions of the North Carolina Unit Ownership Act, and to sell and convey the same to various purchasers subject to the covenants, conditions and restrictions herein reserved to be kept and observed; and

WHEREAS, Declarant desires and intends, by the filing of this Declaration, to submit the above described property

and the multi-unit buildings located thereon and all other improvements constructed or to be constructed thereon, together with all appurtenances thereto, to the provisions of the North Carolina Unit Ownership Act (Chapter 47A, North Carolina General Statutes);

NOW, THEREFORE, the Declarant does hereby publish and declare that all of the property described above and as described in Paragraph 2. below is held and shall be held, conveyed, hypothecated, encumbered, used, occupied, and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of said property and the division thereof into condominium units and shall be deemed to run with the land and shall be a burden and a benefit to Declarant, its successors and assigns, and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. Definitions: a) To the extent applicable to this Declaration and not inconsistent herewith, all definitions contained in the Unit Ownership Act, presently Chapter 47-A of the General Statutes of North Carolina, as the same may be amended from time to time, (herein referred to as "the Act") are incorporated herein by reference and shall have the same force and effect as if set forth herein verbatim and made a part hereof.

2. Descriptions: a) The description of the land on which the buildings and improvements are, or are to be, located is set forth on page 1 of this Declaration.

b) The buildings constructed or to be constructed upon said land are to be used for residential purposes only. Said buildings shall be two (2) stories in height, without basement, and shall contain four condominium units each. Said multi-unit buildings are more particularly described in the plans and specifications of said buildings, a copy of which plans are attached hereto and made a part hereof as Exhibit A and filed with the Register of Deeds of Durham County simultaneously herewith, showing all particulars of the buildings including the lay-out, location, ceiling and

floor elevations, unit numbers and dimensions of the units, and location of the common areas and facilities affording access to each unit. Such plans bear the verified statement of a registered architect or licensed professional engineer, certifying that said plans are an accurate copy of the plans of said multi-unit buildings.

In general, said buildings, have approximately 14,772 square feet of total unit space area divided into 8 individual dwelling units, which such dwelling units are more particularly described hereinafter. In addition, the buildings have an outside parking area, landscaped areas and other usual appurtenances and facilities. The buildings are to be constructed of:

brick and vertical groove wood siding,
with wood and glass doors, glass windows,
ornamental ironwork and asphalt shingle
roofing.

For a further description of the principal materials of which said multi-unit buildings are to be constructed, reference is hereby made to the plans and specifications filed herewith as Exhibit A.

3. Unit Designations. The unit designation of each condominium unit, its location, its dimensions, approximate area, number of rooms and common areas and facilities to which it has immediate access, and other data concerning its proper identification are set forth on Exhibit A hereinabove referred to and made a part hereof. Each unit is bounded both as to horizontal and vertical boundaries by the interior surface of its perimeter walls, ceilings, and floors which are shown on said plans, subject to such encroachments as are contained in the building, whether the same now exist or may be caused or created by construction, settlement or movement of the building, or by permissible repairs, construction or alteration.

4. Common Areas and Facilities. The common areas and facilities consist of all parts of the multi-unit building situated on the property described hereinabove, other than the individual dwelling units therein and described in Paragraph 3. above including, without limitation, the following (except such

portions of the following as may be included within an individual unit):

- (a) The land on which the building is erected and all lands surrounding the building as is more fully described on the plat recorded in Map Book 69 at Page 37, Durham County Registry.
- (b) All foundations, columns, girders, beams, supports, and other structural members.
- (c) All exterior walls and interior walls except those partitioned walls wholly within a unit.
- (d) Roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, elevator shafts, and entrances to and exists from the building.
- (e) All central and appurtenant installations for services such as power, light, telephone, gas, hot and cold water, heat, refrigeration, air conditioning, incinerating (including all pipes, ducts, wires, cables, tanks, pumps, motors, fans, conduits, and compressors in connection therewith, whether located in common areas or in units) and all other mechanical equipment spaces.
- (f) All sewer pipes.
- (g) All other parts of the property and all apparatus and installations existing in the building or upon the property for common use or necessary or convenient to the existence, maintenance or safety of the property.
- (h) There are no limited common areas or facilities. The initial undivided interest of each unit owner in such common areas and facilities is set forth in Exhibit "B" and attached hereto and made a part hereof.

5. Amendment of Ratios. As provided by this Declaration, the By-laws of "On The Fairway Unit Ownership Association", and the terms of Chapter 47 A of the General Statutes of North Carolina, the ratio of the undivided interests of each unit

owner in the common areas and facilities as set forth on Exhibit "B" attached hereto may be altered by an amendment to this Declaration duly recorded.

6. Use. The buildings and each of the units shall be used for residential purposes only. Any unit owner may delegate, in accordance with the by-laws of the association of unit owners, his rights of possession, use and enjoyment of his unit and the common area and facilities to the members of his family, guests and tenants.

7. Person to Receive Service of Process. Dr. Herbert J. Fox is hereby designated to receive Service of Process in any action which may be brought against or in relation to this condominium. Said person's place of business is Croasdaile, Inc., 1821 Hillandale Road, Durham, N. C. which is within the city and county in which the building is located.

8. Easements. Each unit owner shall have an easement in common with the other owners of all other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other units and serving his unit. Each unit shall be subject to an easement in favor of the owners of all other units to use the pipes, ducts, cables, wires, conduits, public utility lines and other common facilities serving such other units and located in such unit. The Board of Administrators shall have the right of access to each unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the common facilities contained therein or elsewhere in the building.

The Board of Administrators may hereafter grant easements for utility purposes for the benefit of the property, including the right to install, lay, maintain, repair and replace water lines, pipes, sewer lines, gas mains, telephone wires and equipment and electrical conduits, and wires over, under, along and on any portion of the common areas; and each unit owner hereby grants the Board of Administrators an irrevocable power of attorney to execute, acknowledge and record for and in the name of each unit owner such instruments as may be necessary to effectuate the foregoing.

9. Partitioning. The common areas and facilities shall not be divided nor shall any right to partition any

thereof exist. Nothing herein contained, however, shall be deemed to prevent ownership of a condominium unit by the entireties, jointly, or in common or in any other form by law permitted.

10. Liens. While the property remains subject to this Declaration and the provisions of the North Carolina Unit Ownership Act, no liens of any nature shall arise or be created against the common areas and facilities except with the unanimous consent in writing of all of the condominium unit owners and the holders of first liens thereon except such liens as may arise or be created against the several units and their respective common interests under the provisions of the North Carolina Unit Ownership Act. Every agreement for the performance of labor, or the furnishing of materials to the common areas and facilities, whether oral or in writing, must provide that it is subject to the provisions of this Declaration and the right to file a mechanics' lien or other similar lien by reason of labor performed or materials furnished is waived.

11. Nature of Interest in Units. Every condominium unit, together with its undivided common interest in the

~~common area and facilities; shall for all purposes be, and~~

it is hereby declared to be and to constitute a separate parcel of real property and the unit owner thereof shall be entitled to the exclusive ownership and possession of his condominium unit subject only to the covenants, restrictions, easements, by-laws, rules, regulations, resolutions and decisions adopted pursuant thereto as may be contained herein and in the accompanying by-laws and minutes of the Board of Administrators.

12. Insurance. Insurance coverage on the property shall be governed by the following provisions:

(a) Ownership of Policies. All insurance

policies upon the condominium property shall be purchased by the Board of Administrators for the benefit of the Board and the unit owners and their mortgagees as their interests may appear, and provisions shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of unit owners. Unit owners may, at their option, obtain insurance coverage at their

own expense upon their own personal property and for their personal liability and living expense and such other coverage as they may desire.

- (b) Coverage. All buildings and improvements upon the land and all personal property included in the common areas and facilities shall be insured in an amount equal to the maximum insurable replacement value as determined annually by the Board of Administrators with the assistance of the insurance company providing such coverage. Such coverage shall provide protection against

(i) loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and

(ii) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the building on the land.

Public liability insurance shall be secured by the Board of Administrators in such amount and with such coverage as shall be deemed necessary by the Board of Administrators, including, but not limited to, and endorsement to cover liability of the unit owners as a group to a single unit owner. There shall also be obtained such other insurance coverage as the Board of Administration shall determine from time to time to be desirable and necessary.

- (c) Premiums. Premiums upon insurance policies purchased by the Board of Administrators shall be paid by the Board of Administrators as a common expense.

- (d) Proceeds. All insurance policies purchased by the Board of Administrators shall be for the benefit of the Board of Administra-

See Amendment →

tors and the unit owners and their mortgagees as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Board as insurance trustees under this Declaration. The sole duty of the Board of Administrators as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein or stated in the by-laws and for the benefit of the unit owners and their mortgagees in the following shares:

- (i) Proceeds on account of damage to common areas and facilities - an undivided share for each unit owner, such share being the same as each unit owner's undivided interest in the common areas and facilities (as set forth in Exhibit "B" attached hereto).
- (ii) Proceeds on account of damage to units shall be held in the following undivided shares:
 - (A) When the building is to be restored - for the owners of damaged units in proportion to the cost of repairing the damage suffered by each unit owner, which cost shall be determined by the Administrators.
 - (B) When the building is not to be restored - an undivided share for each unit owner, such share being the same as each unit owner's undivided interest in the common areas and facilities (as set forth in Exhibit "B" attached hereto).
- (iii) In the event, a mortgagee endorsement has been issued as to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear.

13. Distribution of Insurance Proceeds. Proceeds of insurance policies received by the Board of Administrators as insurance trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

- (a) Expense of the Trust. All expenses of the insurance trustee shall be first paid or provision made therefor.
- (b) Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as provided by Paragraph 14. hereof. Any proceeds remaining after defraying such cost shall be distributed to the beneficial owners.
- (f) Failure to Reconstruct or Repair. If it is determined, as provided in Paragraph 14. hereof, that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners thereof.

14. Damage and Destruction. Except as hereinafter provided, damage to or destruction of the building shall be promptly repaired and restored by the Board of Administrators using the proceeds of insurance on the building for that purpose and unit owners shall be liable for assessment of any deficiency; provided, however, if the building be more than two-thirds destroyed by fire or other casualty and the owners of three-fourths of the units in the multi-unit building located on subject property resolve not to proceed with reconstruction or restoration, then in that event the property shall either be (a) sold or otherwise transferred as hereinafter provided, or (b) deemed to be owned as tenants in common by the unit owners and subject to the provisions of North Carolina General Statutes 47A-25 as the same exists at the date hereof or as amended hereafter. Provided, however, in the event it is determined not to reconstruct and restore said building, then the purchaser of the property, or the uni

owners, as applicable, shall demolish and remove any building from the property within not to exceed 90 days from the date of damage or destruction and shall leave the real property clean and free of trash, debris and rubble. The determination of whether to sell the property or to make the property subject to the provisions of North Carolina General Statutes 47A-25 shall be by affirmative vote of three-fourths of the unit owners.

Any reconstruction or repair shall be in accordance with the plans and specifications of the original building, portions of which are attached hereto as exhibits; and if not, then according to plans and specifications approved by the Board of Administrators.

15. Transfer of Units.

(a) In the event that any person, firm or corporation who owns a unit shall desire to sell such unit, then the said unit which such owner shall desire to sell shall first be offered for sale to the Board of Administrators at the same price and on the same terms under which the highest bona fide offer has been made to the owner for the said unit. The owner desiring to sell a unit shall give the Board of Administrators written notice by certified mail, return receipt requested, of the owner's desire to sell such unit and shall further advise the Board in said offer of the name and address of the person, firm or corporation making said highest bona fide offer as well as the amount and terms of said offer. The Board of Administrators shall have a period of ten days after receipt of said written notice within which to exercise its option to purchase such unit at the same price and on the same terms as the highest bona fide offer and shall have an additional period of not less than twenty days within which to close the said transaction. The Board of Administrators may elect to purchase such unit on behalf of all of the remaining unit owners as a group or, if the remaining unit owners as a group do not wish to purchase such unit, then on behalf of any one or more individual unit owners. In the event the Board of Administrators shall elect to purchase a unit offered for sale on behalf of the remaining unit owners, the cost thereof shall be shared by the remaining unit owners in the same proportion as common area expenses, adjusted, however,

to reflect the exclusion of the unit purchased; and any profit or loss realized upon the sale by the Board of a unit so acquired shall likewise be shared by the remaining unit owners. In the event that the Board of Administrators shall elect to purchase a unit offered for sale on behalf of any one or more individual unit owners, then the cost thereof shall be shared by such purchasing unit owners in such proportion as they shall agree upon.

(b) In the event that no notice of intent to purchase is given within the aforesaid time limitation by the Board of Administrators, then the unit owner desiring to sell such unit shall give Croasdaile, Inc. written notice, via certified mail, return receipt requested, of the owner's desire to sell any such unit and shall further advise Croasdaile, Inc. in said offer of the name and address of the person, firm or corporation making said highest bona fide offer, as well as the amount and terms of said offer. Croasdaile, Inc. shall have a period of ten (10) days after receipt of said written notice within which to exercise its option to purchase said unit at the same price and on the same terms as said highest bona fide offer and shall have an additional period of not less than twenty (20) days within which to close the transaction. Should Croasdaile, Inc. fail or refuse within said 10-day period to exercise its option to purchase said unit at the offered price and terms, then the owner(s) shall have the right to sell said unit to the person, firm or corporation making such bona fide offer whose identity was revealed to Croasdaile, Inc. in said written notice, provided, however, that any such sale of any unit by the owner(s) to the person, firm or corporation making such offer shall be subject to all of the terms, covenants, limitations and provisions of this Declaration and the by-laws.

(c) In the event that the Board of Administrators shall elect to purchase a selling unit owner's unit as provided hereinabove, then the Board of Administrators, prior to "reselling" said unit so acquired to any other person, firm or corporation (other than a then existing unit owner) shall first offer to sell such unit to Croasdaile, Inc. (in the same manner and form as any other owner of a unit) and shall otherwise comply with all of the terms and provisions relating thereto as contained immediately above. The Board

of Administrators, upon the request of a selling unit owner, shall execute in recordable form an instrument indicating compliance with the terms and provisions of this Declaration by the selling owner.

(d) No unit owner may mortgage his unit or any interest therein without the approval of the Board of Administrators, except as to a first mortgage lien made to a bank, life insurance company or federal savings and loan association. The Board may, and it is hereby authorized to impose reasonable conditions upon which approval as to any other mortgage shall be given. No unit owner may mortgage or otherwise encumber his unit or any interest therein unless such mortgage or encumbrance shall provide for written notice to the Board of Administrators and to Croasdaile, Inc. in the event of a default under such mortgage or other encumbrance and shall further provide for not less than ten days written notice to the Board of Administrators and to Croasdaile, Inc. prior to any foreclosure under any such mortgage or other encumbrance. Each unit owner, who shall mortgage or otherwise encumber his unit or any interest therein shall furnish to the Board of Administrators and to Croasdaile, Inc. a copy of all such mortgages, deeds of trust or other instruments creating such encumbrance.

(e) Gift or Devise of Interest. An owner may give, devise or bequeath his interest in any building plot or unit to his spouse, his parents, or to any lineal descendants, including adopted children, or to a corporation, all classes of stock of which are more than 80% owned by such owner, his spouse, and his lineal descendants, without the prior written consent of the other unit owners. In the event that any owner of a unit or interest therein shall desire to give, devise or bequeath any interest in a unit to a person, firm or corporation other than the parties hereinabove specifically enumerated then such transaction shall, for purposes of this Declaration be treated as a sale and shall be subject to the provisions of subparagraphs (a) through (d) above, except that for purposes of the options provided therein to the remaining unit owners of the multi-unit building wherein such unit is located, and Croasdaile, Inc. the price for the interest therein or unit which the owner desires to give, devise or bequeath to

a party other than specifically enumerated above shall be such as shall be agreed upon by such owner so desiring to give, devise or bequeath such property and Croasdaile, Inc.. In the event that such owner and Croasdaile, Inc. are unable to agree upon a value, then such owner so desiring to give, devise or bequeath such property, or the personal representative of a deceased owner, as applicable, shall appoint one appraiser, the remaining owners of the building plot or unit owners within a finished multi-unit building, as applicable, as a group, shall appoint one appraiser, and Croasdaile, Inc. shall appoint one appraiser, and any decision of the majority of said appraisers as to the value of such property involved shall be conclusive and binding upon all parties for the purposes of this Agreement and payment for such property shall be made on such terms and conditions (including terms of payment) as the parties shall agree to.

(f) The provisions of this paragraph 15. and all subparagraphs thereof shall continue and be effective until January 1st, 1991, at which time the provisions of this paragraph 15., including all options and rights granted to or reserved by Croasdaile, Inc. by said paragraph 15. shall terminate; provided, however, that the provisions of this paragraph 15. and all options and rights granted to or reserved by Croasdaile, Inc. and the other unit owners hereunder may be reimposed and again become effective and apply for successive periods of twenty (20) years each from such termination date (that is January 1st, 1991 and each twenty (20) years thereafter) upon an instrument or instruments in writing being executed by the unit owners on each such termination date. Provided, further, however, nothing contained herein shall prevent the unit owners of any multi-unit building from providing in the By-laws which shall govern the administration of the property within which said units are located appropriate provisions implying restrictions upon the transfer of units for a period in excess of that provided for herein. Any such restrictions as contained in the By-laws governing the administration of any group of units located on property covered by this Declaration shall not, while these restrictions are effective, be in conflict with the provisions hereof.

16. Restrictions.

(a) It shall be the responsibility of each unit owner, and the Board of Administrators to prevent the development of any unclean, unsightly or unkept conditions of buildings or grounds on such property which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.

(b) No noxious or offensive activity shall be carried in or upon any unit, nor shall anything be done therein tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood or other unit owners. There shall not be maintained in or upon any unit any plants, poultry, animals (other than household pets) or device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood or by the other unit owners thereof.

(c) No commercial signs (including "for rent", "for sale" and other similar signs) or property identification signs shall be erected or maintained on any unit except with the written permission of the Board of Administrators, or except as may be required by legal proceedings, it being understood that the Board of Administrators will not grant permission for said signs unless their erection is reasonably necessary.

(d) Each multi-unit building shall have receptacles for garbage, in a screened area not generally visible from the road, or provide underground garbage receptacles or similar facility in accordance with reasonable standards established by the Board of Administrators.

(e) No structure of a temporary character shall be placed upon the property at any time, provided, however, that this prohibition shall not apply to shelters used by the contractor during the construction of the multi-unit buildings, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the building plot after completion of construction.

(f) No trailer, tent, barn, storage shed, garage, tree house or other similar outbuilding or structure shall be placed on the property any time, either temporarily or permanently.

(g) No unit shall be used for any commercial or professional purpose, and no professional person shall maintain a public office in any unit; provided, however, that this restriction shall not prevent the use of any unit by a professional person for his own private office not connected with visits from patients, clients or members of the public.

(h) Except as hereinabove expressly provided with respect to the provisions of Paragraph 15., all covenant restrictions and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them for a period of twenty-five (25) years from January 1st, 1971, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of units affected by such covenants has been recorded agreeing to change said covenants in whole or in part. Nothing herein contained shall be held to impose these Restrictions on any remaining property of Croasdaile, Inc., however.

(i) In the event of a violation or breach of any of these restrictions contained in this Paragraph 16. or of any other covenants of this Declaration by any property owner, or agent, or agent of such owner, the owners of units or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, Croasdaile, Inc. shall have the right whenever there shall have been any violation of these restrictions, to enter upon the property where such violation exists, and summarily abate or remove the same at the expense of the owner, if after thirty (30) days written notice of such violation it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservation or conditions contained in this Declaration, however long continued, shall not be deemed a waiver of the right to do so hereafter.

as to the same breach or as to a breach occurring prior to subsequent thereto, and shall not bar or affect its enforcement. The invalidation by any court of any restrictions in this Declaration contained shall in no way affect any of the other restrictions, but they shall remain in full force and effect.

17. Units Subject to Declaration, By-Laws, Rules and Regulations.

All present and future owners, tenants and occupants of units shall be subject to, and shall comply with the provisions of this Declaration, the By-Laws and any rules and regulations as may be adopted in accordance with the By-Laws, as said Declaration, By-Laws, Rules and Regulations may be amended from time to time. The acceptance of a deed or conveyance, or the entering into of a lease, or the entering into occupancy of any unit shall constitute an agreement that the provisions of this Declaration, By-Laws, and any rules and regulations which may be adopted are accepted and ratified by such owner, tenant or occupant and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such unit as though such provisions were made a part of each and every deed or conveyance or lease.

18. Amendment of Declaration.

(a) This Declaration may be amended by the vote of at least 66-2/3% in number and in common interest of all unit owners, ~~part in person~~ or by proxy at a meeting duly held in accordance with the provisions of the By-Laws. No such amendment shall be effective until recorded in the Office of the Register of Deeds for the county wherein the property, the subject of this Declaration, is located.

(b) Anything contained in this Declaration to the contrary notwithstanding, it is contemplated that the Declarant, Croasdaile, Inc., will construct additional units, not to exceed in the aggregate, twelve (12) units, which shall be located in one or more additional buildings. Declarant shall have the absolute right in its discretion to construct additional units, and if any of such units are so constructed on the land now owned by the Declarant and contiguous to the land now

ment) and if such additional units are substantially equivalent in unit value and construction to the units now covered under this Declaration, then, for the purpose of amending this Declaration and the By-Laws, each owner of a condominium unit under this Declaration (and the mortgagees of each owner of a unit hereunder), shall be deemed to have consented to an amendment or amendments to this Declaration and the By-Laws for the purpose of including such additional units hereunder and shall be deemed to have given to the Declarant an irrevocable power of attorney, coupled with an interest, to effectuate such amendment, and agrees to execute such further papers and instruments, if any, as may be necessary from time to time to accomplish such amendments. It is understood that such amendments shall, in addition to enlarging the number of units to be subject to this Declaration, necessarily result in a redetermination of each unit owner's percentage interest in the common areas and facilities shown on Exhibit "B" attached hereto.

19. Invalidity.

The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity and enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

20. Waiver.

No provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

21. Captions.

The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

22. Law Controlling.

This Declaration and the By-Laws attached hereto shall be construed and controlled by and under the laws of the State of North Carolina.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by its duly authorized officers and its corporate seal to be hereunto affixed, this the 9th day of June, 1971.

CROASDAILE, INC.

(CORPORATE SEAL)

BY:

Herbert J. Fox

President

ATTEST:

Frances Hill Fox
Secretary

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

THIS IS TO CERTIFY that on this day personally came before me FRANCES HILL FOX, with whom I am personally acquainted, who, being by me duly sworn, says that HERBERT J. FOX is the President, and that she, said FRANCES HILL FOX is Secretary of CROASDAILE, INC., the corporation described in and which executed the foregoing instrument; that she knows the common seal of said corporation; that the seal affixed to said instrument is said common seal, and that the name of the corporation was subscribed thereto by the said President, and that the President and Secretary subscribed their names thereto and said common seal was affixed, all by order of the Board of Directors of said corporation, and that said instrument is the act and deed of said corporation.

WITNESS my hand and notarial seal, this the 9th day of June, 1971.

Lillian Taylor Dejean
Notary Public

My commission expires

January 13, 1976

ON THE FAIRWAY CONDOMINIUM
 DURHAM, NORTH CAROLINA
 EXHIBIT "B"

<u>UNIT DESCRIPTION</u>		<u>LOCATION (Portion of Building)</u>	<u>APPROXIMATE AREA IN SQUARE FEET</u>	<u>NO. OF ROOMS</u>	<u>PERCENTAGE OF INTEREST IN THE COMMON AREAS AND FACILITIES AND OF THE COMMON EXPENSES</u>
Unit	1-A	1st Floor South Side	1685	5	11.40%
	1-B	1st Floor North Side	1685	5	11.40%
	1-C	2nd Floor South Side	1685	5	11.40%
	1-D	2nd Floor North Side	1685	5	11.40%
Unit	2-A	1st Floor South Side	2008	6	13.60%
	2-B	1st Floor North Side	2008	6	13.60%
	2-C	2nd Floor South Side	2008	6	13.60%
	2-D	2nd Floor North Side	2008	6	13.60%