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JUDY G. PRICE, Register of Deeds
Union County, Monroe, North Carolina

Declaration of Covenants, Conditions and Restrictions of Firethorne Subdivision

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF FIRETHORNE SUBDIVISION is made of this 18th day of June, 1998 by Marvin Development Group, II LLC, hereinafter referred to as Declarant, and any and all persons, firms, or corporations hereinafter acquiring any of the within described property or any of the property hereinafter made subject to this Declaration.

45307

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Union County, North Carolina, known as Firethorne Subdivision, portions of the First Phase of which are more particularly described by plats thereof recorded in the following Plat Cabinet and Files: Plat Cab. F, Files 152, 153, 154, 155, 156, 157, 158 in the Office of the Register of Deeds for Union County (the "Plats"), to which Plats reference is hereby made for more complete descriptions;

WHEREAS, Declarant has agreed to establish a general plan of development as herein set out to preserve the values and amenities of the Property and to promote its desirability and attractiveness, and to restrict the use and occupancy of the Property made subject to this Declaration for the benefit and protection of the said property and for the mutual protection, welfare and benefit of the present and the future owners thereof;

WHEREAS, Declarant intends to subject to this Declaration additional portions of Firethorne Subdivision for the purpose of extending the general scheme of development to such additional property and accordingly declares that Firethorne Subdivision may be expanded to include all that property described on Exhibit A attached and by reference made a part hereof.

WHEREAS, Declarant desires to provide for the preservation of the values of Firethorne subdivision, as expanded, hereby and hereinafter made subject to this Declaration and for the preservation and maintenance of the Common Property established by the Declaration and by the supplements hereto.

NOW, THEREFORE, in accordance with the recitals which by this reference are made a substantive part hereof, Declarant declares that all of the property described on said recorded plats and all of the property hereinafter made subject to this Declaration by recorded supplements hereto referencing subsequently recorded plats, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions,

AFTER RECORDING mail to:
Sunbelt Financial Group
6401 Carmel Rd. suite 105
Charlotte, N.C. 28226

which are for the purpose of protecting the value and desirability of Firethorne as it now exists and is hereafter expanded and that such easements, restrictions, covenants and conditions shall burden and run with said real property and be binding on all parties now or hereafter owning said real property and their respective heirs, successors and assigns, having any right, title or interest in the properties now or hereafter subjected to this Declaration or any part thereof, and shall inure to the benefit of each owner thereof and burden each owner's real property that is subjected to this Declaration.

Article 1 - Definitions

All quoted terms used in this Article are defined. The defined terms are:

Section 1. "Association" shall mean and refer to Firethorne Homeowners Association, Inc., a not for profit North Carolina corporation, its successors and assigns.

Section 2. "Board" or "Board of Directors" shall mean the Board of Directors of the Association.

Section 3. "Committee" shall mean the Architectural Control Committee as provided in Article 6 of this Declaration.

Section 4. "Common Property" shall mean all property (i) owned by the Association or to which the Association may hold legal title, whether in fee or for a term of years, for the common, non-exclusive use and enjoyment of all members of the Firethorne Homeowners Association, or (ii) that portion of any real property owned by one or more of the Owners that is subject to an easement granted in favor of all of the Owners or the Association. Common Property includes, by way of example but without limitation, all existing and future roads and rights-of-way (including bridges) and all greenways, erosion ponds, easements, median strips, cul-de-sac centers, planting areas, berms, slopes, swales, earthen-works and related facilities, walking trails, children's play grounds, and, all entry way, directional and informational signs (and the areas set aside for their location) and any other property as may be purchased or provided for the common use and benefit of the Declarant and the Owners, including, without limitation, such Common Property as may be shown on the recorded plats of the Property; provided, it is expressly understood that this enumeration is by way of description of the type of facilities that may be developed and in no way shall bind or obligate the Declarant or the Association to provide any of the described areas or facilities; and provided further that none of the property of the Country Club, as hereinafter defined, or any of the facilities or improvements located thereon, are or shall become Common Property.

Section 5. "Community Membership" shall mean an "Owner" who, by ownership of a Lot and by payment of the dues and other costs of Community Membership and by compliance with the Community Membership agreement and the rules and regulations and of the Country Club pertaining to Community Membership, is and shall be a "Community Member" in the "Country Club", as herein defined. The membership rights of a Community Member are and shall be limited to the use of the social, dining, swimming and tennis facilities made available by the Country Club, but shall not extend to the use of the "Golf Course". Only a person holding a "Full Membership", as herein defined, shall have the right to use all of the Country Club's facilities, including the Golf Course.

Section 6. "Country Club" shall mean the Firethorne County Club being developed by the Declarant as a separate venture on the Declarant's property. The Country Club adjoins and/or is in the vicinity of the Firethorne Subdivision. The Country Club includes all of the facilities which are developed by Declarant which may include, but are not limited to, the clubhouse, pro shop, the Golf Course, swimming pool, cabana and tennis courts and other facilities. The terms "Country Club" and "Club" are used interchangeably.

Section 7. "Declarant" shall mean Marvin Development Group, II LLC, a North Carolina limited liability company, and its successors and assigns if such successors and assigns acquire one or more undeveloped Lots from the Declarant for the purpose of development and if the rights and obligations of the Declarant hereunder are expressly assigned to and assumed by such successors and assigns.

Section 8. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions and any Supplemental Declarations that (i) incorporate this Declaration by reference and (ii) are subsequently recorded in the Union County Public Registry.

Section 9. "Dwelling Unit" shall mean and refer to the completed single family home located upon a Lot.

Section 10. "Firethorne" shall mean either the "Subdivision" or the "Country Club" as those terms are herein defined. The Declarant has all of the proprietary rights to and ownership of the term "Firethorne" provided is has licensed, in perpetuity the right to use this term in connection with the Subdivision, but has reserved all other ownership rights in such term.

Section 11. "Full Membership" shall mean any person who is invited by the Owner to become a Full Member in the Country Club, upon payment of initiation fees and periodic dues, and upon compliance with the Full Membership agreement and the rules and regulations and of the Country Club that pertain to Full Members, shall be and become a Full Member. A Full Member shall have the use all of the facilities of the Country Club, including the "Golf Course".

Section 12. "Golf Course" shall mean the golf course situated on the property of the Country Club, , which includes, but is not limited to, the roughs, fairways, greens, traps, tees, driving ranges, practice greens, outbuildings, cartways and other portions of the Country Club necessary or useful for the operation and maintenance of the Golf Course.

Section 13. "Lot" shall mean and refer to any improved or unimproved building lot shown upon any recorded subdivision plat of the Property.

Section 14. "Mortgage" means any deed of trust or mortgage that encumbers one or more Lots.

Section 15. "Owner" shall mean and refer to any contract buyer and/or the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of any of the property made subject to this Declaration; provided, the term "Owner" does not include the Declarant, nor does it include those having an interest in a Lot as security for the performance of an obligation. In no instance shall the Declarant be deemed an Owner.

Section 16. "Person" means any natural person, firm, corporation, partnership, trust, association or other legal entity.

Section 17. "Property" shall mean and refer to that certain property shown on plats recorded in the following Plat Cabinet and Files in the Office of the Register of Deeds for Union County: Plat Cab. F, Files 152, 153, 154, 155, 156, 157, 158 and shall also mean and refer to such revisions thereto and additional property in Union County, which Declarant subjects to this Declaration from time to time by one or more subsequently recorded Supplemental Covenants adopting this Declaration by reference which additional phase or phases shall become a part of the subdivision at the time of recording of each such Supplemental Covenants.

Section 18. "Subdivision" shall mean Firethorne Subdivision, and the terms "Subdivision" and the "Property" are synonymous and are used interchangeably.

Article 2 - the Country Club and its Golf Course

Section 1. Benefits; Covenants; Detriments; Assumption of Risk.

(a) Benefits. By accepting a deed to a Lot, each Owner acknowledges and agrees that the ownership of each Lot carries with it a Community Membership in the Country Club. No Owner of a Lot shall have any right to use the Golf Course unless a Full Membership is available and such Owner applies and is accepted for Full Membership, pays the required initiation fees and maintains such membership in full compliance with the required Membership Agreement and

the rules and regulations of the Country Club that pertain to Full Membership. THERE IS NO GUARANTEE OR ASSURANCE THAT A FULL MEMBERSHIP WILL BE AVAILABLE AT THE TIME OF ANY APPLICATION. Community Membership is limited to use of the social facilities, such as the Club House facilities (excluding the golf locker rooms) and use of the swim and tennis facilities. Unless an Owner applies for and is accepted as a Full Member, no Owner shall have any right to use the Golf Course. Community Membership is appurtenant to each Lot, is not severable from the title to such Lot, and, when an Owner sells his or her Lot, the Community Membership in the Country Club passes with the title to his or her Lot; *provided however*, Full Membership does not pass with such title, and if the buyer of such Lot desires to become a full member, the Buyer will be required to apply and be accepted for such membership by the Owner of the Country Club, pay the required initiation fee or fees and execute with the Club the required membership agreement, all in accordance with the rules and regulations of the Country Club as are in affect from time to time.

(b) Covenants. By accepting a deed to a Lot, each Owner shall be deemed to covenant and agree that, for so long as the Owner owns a Lot, Owner shall pay when due all dues, fees, assessments and charges applicable to such membership, or assessed and/or incurred by or at the Country Club and shall perform in a timely manner all obligations imposed upon Community Members pursuant to this Declaration or by the Community Membership Agreement and the rules and regulations of the Country Club.

(c) Detriments. By accepting a deed to a Lot, each Owner acknowledges and agrees that the ownership of each Lot also has detriments, and that these detriments include:

(1) the risk of damage to property and the risk of injury to persons and animals from golf balls which are hit onto any Lot, the Common Property and other areas of the Subdivision used by any Owner;

(2) the entry by golfers onto the Common Property to retrieve golf balls;

(3) odors, overspray and runoff encroaching upon some or all of the Lots arising from or relating to watering, irrigating, fertilizing and spraying of pesticides, fungicides and insecticides in connection with the care and maintenance of the Golf Course and other portions of the Country Club property;

(4) operating noise from mechanical and electrical equipment used in maintaining the Country Club and its Golf Course, including, by way of example, compressors, blowers, mulchers, pumps, mowers, saws, clippers, and tractors and other vehicular equipment, all of which may be operated on the Country Club property at any and all times of the day and night; and

(5) disturbance and loss of quiet enjoyment and privacy arising from or related to the operations of the Country Club, including, but not limited to, golfing traffic whether pedestrian or by use of golf carts.

(d) Assumption of Risk. Each and every Owner expressly assumes all of the detriments and risks and agrees that neither the Declarant, nor any subsequent owner or manager of the Country Club or the Golf Course, nor any of their respective successors or assigns, shall be liable for any loss or damage, to such Owners, or to members of their families or to invitees of such Owners, or to any others claiming any loss or damage, including without limitation, indirect, special or consequential loss or damage arising from personal injury, damage or destruction of property, trespass, or any other alleged tort or wrong, including negligence and intentional acts due to, arising from, or otherwise related to the proximity of such Owner's Lot or the Dwelling Unit or other improvements thereon to the Golf Course or due or related to alleged negligent design or lay out of the Golf Course.

Section 2. Easement Benefitting the Country Club and its Members.

The Declarant hereby reserves and every Lot and the Common Property are burdened with the following perpetual non-exclusive easements for the benefit of the Owner of the Club, its manager the manager of the Golf Course located thereon, and the Club's Members:

(a) Easements to permit any portions of the golf cart path system, including any cart tunnels, to be located on the Common Property which shall be for use for golfing and all other purposes of the Club, including, but not limited to maintenance and repair of the Golf Course and the other facilities of the Club ;

(b) Easements for access to and use of portions of the Common Property to the extent reasonably necessary for the construction, operation, maintenance, repair and replacement of the Golf Course and the other improvements and facilities located on the Country Club property;

(c) Easements for noise, odors, overspray and runoff described in Section 1 of this Article caused by or relating to the operation and maintenance of the Golf Course;

(d) Easements over and across the Common Property, including but not limited to vehicular and pedestrian access over any parts of the Common Area and the use of the roads and drives crossing over the Common Property, as may be necessary or useful for (i) the use and enjoyment of the golf, tennis, swimming and other facilities located at the Club by the members of the Club by guests of members, by daily fee and other non-member users, by spectators and by invitees, agents, Club employees and purveyors at all tournaments and other Club sanctioned events; (ii) the operation and maintenance of the Club by the staff of the Club; and (iii) the provisioning and maintenance of the Club by its invitees and licensees ; and

(e) Easements over and across the Common Property and all Lots for the purpose of retrieving golf balls; provided neither the Association nor the Club shall be responsible or liable in any way for any disputes between any Owner and any person using the Golf Course and each and every Owner, by acceptance of delivery of a deed to such Owner's Lot, for themselves and their contractors, subcontractors, invitees, tenants, guests and heirs, personal representatives, successors and assigns, assumes all risks associated with errant golf balls; and all Owners agree and covenant, for themselves and their contractors, subcontractors, invitees, tenants, guests and heirs, personal representatives, successors and assigns, not to make any claim or institute any action whatsoever against the Declarant, the Association, the Club, the Club Owner, the architect of the Golf Course or any of the officers, directors, employees, agents or affiliates of any of them, or their respective assigns, arising or resulting from or relating to any errant golf balls or any damages that may be caused thereby or associated therewith.

Section 3. Ownership of Country Club; Use Rights Limited to Members.

(a) Ownership and Governance of the Club. The Country Club is a private concern, owned and being currently developed by the Declarant. The Owner of the Club shall have the unfettered right and sole discretion to operate and manage the Country Club, which shall include, way of example but not by way of limitation, the following rights: (i) to make and, from time to time, modify, amend, alter or replace, all membership agreements and all rules and regulations governing the use and operation of the Club; (ii) to approve applications for membership, other than Community Membership; (iii) to determine eligibility for and approve use rights of Club facilities by non-

members, and to terminate such rights; (iv) to reserve or limit Full Membership space for future Lot purchasers; (v) to sell or otherwise transfer the Country Club or any portion thereof to one or more third parties which may or may not include a sale to a member owned or equity club; and (vi) to establish and, from time to time, modify and alter the amount of initiation fees and deposits, dues, assessments and other charges payable by Club members; (vii) to change, eliminate or cease various operations of the Club; (viii) to set hours and days of operations; and (ix) to establish rules limiting or eliminating use rights of any Member who fails to pay dues, fees and charges when due or fails to abide on a timely basis with the rules and regulations of the Club. The Owner shall have the right to delegate to others all of the rights reserved to the Owner. **Neither the Club nor any of the Club's Facilities are Common Property and except as herein expressly provided, neither the ownership of a Lot nor membership in the Association confers any ownership or membership interest in the Club. The Club may have members who are not Owners or members of the Association.**

(b) Community Membership Rights of Members. Every Owner, by acceptance of the deed to such Owner's Lot shall automatically become a Community Member of the Club and shall have deemed to covenant to pay any and all dues applicable to such membership and to abide by and comply with all rules and regulations of the Club. Community Membership is appurtenant to each Lot and may not be separated from ownership of such Lot, nor may it be sold or otherwise transferred independent from the sale or other transfer of the Lot to which it is appurtenant. Each Community Member and such member's family members shall be entitled to use the facilities of the Club that are available to a Community Member, subject however to the rules and regulations that are from time to time established by the Club owner, its successors and assigns, which rules and regulations may expand or limit such use rights.

(c) Dues of Community Members. The Declarant shall establish the monthly dues for Community Members and shall bill the Association, in gross, for the costs of such membership on a monthly basis. The costs of Community Membership shall be a cost of membership in the Association, and each Owner shall pay such costs as part of such Owner's dues in the Association. If any Owner fails to pay Community Membership dues, then the Association shall have the rights and remedies provided for in Article 3 hereof.

(d) Membership By Invitation. The Declarant, its successor or assigns, as Club Owner, shall have the right to invite non-Owners to be members of the Club

and from time to time to establish different membership categories and to set the initiation fees and dues and other costs for each such category.

Article 3 - Rights and Duties of Owners and the Association; Assessments and Liens; Use of Common Property

Section 1. Easements of Enjoyment.

(a) The Declarant and, to the extent provided by this Declaration, every Owner and such Owner's invitees shall have a non-exclusive right and easement of ingress, egress, and regress over and across the Common Property and over the roads within the Subdivision, for the purpose of providing access to and from the Lot(s) owned or Dwelling Unit(s) and for the purpose of his, her and their non-exclusive use and enjoyment of the Common Property, subject however to the limitations on such use and enjoyment of the Common Property as provided for in this Declaration and by such reasonable rules and regulations as are promulgated by the Board. Every Owner, and the members of such Owner's family who reside with such Owner or are overnight guests of such Owner, shall have the right to use the recreational areas , if any, within the Common Property, subject however to such Owner paying when due the dues and assessments of the Association and abiding by all rules and regulations of the Association, including without limitation those governing the use of the recreational areas and the Common Property; provided that the Association, acting through its Board, shall have the right to suspend the voting rights (as hereinafter provided for) and the right to use and enjoy the Common Property during any period for which any assessment remains unpaid. The rights and easements hereby granted Owners may be delegated by an Owner to his or her tenants and contract purchasers who reside upon the Dwelling Unit upon such Owner's Lot.

(b) The Declarant, by the recording in the Union County Registry one or more record maps or easement agreements, in its sole discretion may from time to time establish easement areas granting to the Association and its members the right of pedestrian access over and across the property of the Country Club so that the Association's members may access one or more parcels of Common Property. Except to the extent such pedestrian access is granted, neither the Association nor any of its members nor any Owner shall have any right, title to or interest of any type, kind or nature in the Country Club property.

Section 2. Association Duties; Maintenance Assessments; Use of Assessments; Exempt Property.

(a) The Association shall have the duty to repair, replace and maintain all Common Property and such recreational areas and facilities, if any, and other improvements located thereon, and all entranceways, streets, roads, road rights-of-way, street lamps and lighting, entrance-way lamps and lighting, detention/retention ponds, dedicated slope easements, dams, spillways, berms, and other manmade improvements creating such retention ponds (if any) or governing their flow, restrictive development easements and shall have the right to pay the salaries, administrative office and other expenses necessary or useful to maintain and operate the Association, the Common Property and any such recreational facilities as may be located thereon.

(b) The Association, from time to time, shall have the right to establish an annual assessment that shall be payable by each Owner, in such periodic installments as the Association may determine, to be used to pay the costs and expenses of:

(1) performing the obligations of the Association provided for by Section 2 (a) above;

(2) the operating and administrative expenses of the Association, including without limitation, the procuring, maintaining and paying the costs of (i) liability and other insurance related to the Common Property, (ii) surety and other bonds related to the management of the Common Property and the Association, and (iii) such liability insurance for the benefit of officers, directors and employees, all as may be authorized by the Board of Directors of the Association;

(3) the maintenance, upkeep, replacement and repair of improvements, equipment and facilities within the Common Property; the seeding and re-seeding, fertilizing and mowing of grassed areas along and within road rights-of-way and other grassed portions of the Common Property; erosion control; repairing of road shoulders; surfacing, patching and resurfacing of parking lot and road pavement; placement of gravel; planting and maintenance of shrubs, trees and seasonal flowers; stocking with fish and maintenance and repair of any detention/retention ponds (including the dredging and the repair, replacement and maintenance, as and when required, of dams and their component parts such as drain pipes, spillways, earthen-works, grassed berms, etc.) and of dedicated slope easements and restrictive development easements, if any; the erection, maintenance, repair and replacement of street lamps and street lighting and entrance-way lamps and lighting, some or all of which may be undertaken by the

Association entering into a lease or rental contract with one or more vendors for such purposes; and

(4) borrowing funds on behalf of the Association, evidenced by one or more promissory notes, to pay for capital repairs and improvements, and to secure the obligation to repay borrowed funds by encumbering the property of the Association with one or more deeds of trust; provided the Association at a called meeting may grant authorization that limits the authority of the Board in these matters, and provided further, the Association shall not be required to make, nor shall the Board have authority to require, any principal payment to any such Lender in any calendar year prior to the time the Board has collected and set aside, as a sinking fund, an amount reasonably budgeted by the Board for payment of the operating costs of the Association for the calendar year in question.

(c) Commencing January 1, 1999, the annual assessment shall be Two Hundred Fifty Dollars ($250.00) per Lot payable by the Owner thereof, which annual assessment shall be due and payable in such installments and at such times as shall be determined by the Board. This assessment will be prorated, on a calendar year basis, from the date title to each Lot, for which an assessment is payable, is transferred to an Owner. The annual assessment shall be for the purpose of paying the costs and expenses of the Association described in Section 2(b) hereof and such other costs and expenses as are for the good of the Association as approved by the Directors, subject however to the limitations on increasing the annual assessment as provided in Section 2(d) immediately below.

(d) The annual assessment may be increased or decreased during any calendar year by the Board without a vote of the membership; provided that without a vote of the members, the first such increase shall not exceed twenty five (25%) percent of the annual assessment for the previous year, and provided further, after the first such increase, no subsequent increase shall be more than ten (10%) percent in excess of the annual assessment for the previous year. A majority vote of each class of voting members of the Association must approve an increase or decrease in the yearly assessment if the increase or decrease exceeds the increase in assessments that are permitted without a vote.

(e) Annually, the Board shall have determined and shall have given written notice to each Owner of the annual assessment affixed against each Owner for the immediately succeeding calendar year.

(f) In addition to the annual assessment, each Owner shall pay to the Association on the first day of each month and without notice or demand, such Owner's monthly dues and other fees that are applicable to all Community Members in the Country Club, as such dues and fees are established and from time to time altered by the management of the Country Club.

(g) The annual and special assessments provided for herein shall apply to the costs of operating and maintaining the Common Property and the monthly dues and fees shall apply to pay each Owner's share of the operating and other costs applicable to Community Members in the Club, all as provided for by this Declaration and the rules and regulations from time to time adopted by the Country Club. Failure to pay any such annual or special assessments or failure to pay any such monthly dues and fees shall give rise to the late charges and lien rights provided for by Sections 6 and 7 of this Article.

Section 3. Special Assessments.

(a) In addition to the annual assessment referred to above, a one-time special assessment of $500.00 shall be payable to the Association for every Lot purchased from the Declarant whether by deed or by land sales contract, such assessment to be due and payable upon the earlier of the date of closing of such purchase, or the date the contract purchaser takes possession of the Lot that is described in the land sales contract. The special assessment may be used, in whole or in part, to defray the costs of architectural review as provided for by Article 6 hereof. Any portion of the special assessment that is not required for architectural review shall not be refunded but shall be made a part of the general funds of the Association. Every Lot Owner, upon closing of the purchase, shall pay a Special Assessment. The Declarant reserves the right to increase this special assessment at any time and from time to time as may be needed to pay the actual costs of architectural review and administration.

(b) In addition to the assessments specified hereinabove, the Association may levy against each Lot owned by an Owner yearly special assessments in any calendar year for the purpose of supplementing the annual assessment if the same are inadequate to pay the reasonable maintenance expenses and operating costs of the Association as described in Section 2 hereof; provided that any such special assessments shall have the assent of a majority of each class of the voting members of the Association at a duly called meeting. A special assessment may differ in amount as between Owners of Dwelling Units and Owners of unimproved Lots, provided that any difference is reasonable and equitably determined.

Section 4. Removal of Obstructions and Unsightly Growth, Debris and Materials.

(a) The Association, without notice, may remove any obstructions of any nature located within road rights-of-way or other Common Property (including but not limited to building materials, trees, shrubs, and mailboxes) which, in the opinion of the Association, either might produce a hazard or might interfere with the ability or willingness of the State of North Carolina (or agency or department thereof) to take over the responsibility for maintenance of the roads. The Association shall have the right to use assessments collected for maintenance of roads, road rights-of-way and all other Common Property (as such assessments are provided for elsewhere herein) for taking steps which are reasonably necessary or desirable to accomplish the removal of such obstructions.

(b) The Association shall have the right, in its sole discretion, to charge back the actual cost to it of removing obstructions against the Owner who directly or through his agents, contractors or invitees caused or permitted the obstruction to be placed in the road right-of-way or other Common Property, and such Owner shall indemnify and save the Association harmless from all liability, claims, damages and expense imposed upon the Association, at law or in equity, caused by or resulting from the placement of the obstruction in the road right-of-way or other Common Property. In the event that the Owner responsible for such charge or liability, as aforesaid, fails and refuses, after demand by the Association to pay said charge or liability, then the Association shall have a lien against his Lot thereon and may enforce collection of the charge or liability, together with reasonable attorneys fees, by any and all remedies afforded by law or in equity, including without limitation, the filing of a notice of lien and perfecting the same as by law provided, to the end that such charge or liability shall become a charge against the said Lot or Dwelling Unit.

(c) If the Association, in its sole discretion, determines that any Lot (i) has become unsightly due to grass or weeds that have not been mown, or due to debris of any nature having accumulated on the Lot, or (ii) due to the failure to construct and maintain proper silt fences and other silt retention facilities, then the Association shall have the right from time to time to enter the said Lot, for the purpose of mowing the grass or removing the debris or constructing, repairing and maintaining the silt fences and/or other silt retention facilities. At least five (5) days prior to entering a Lot for said purpose, the Association shall advise the Owner by letter, sent to his last-known address, of the action to be taken if the Owner does not remedy the problem within the said five (5) day period. The Association shall take reasonable steps to avoid damage to any trees

planted on such Lot, to the extent that the Association has been put on written notice in advance by the Owner of the approximate location on a chart or map of such Lot showing the location of planted trees to be avoided. Any Owner who fails to remedy such problems as required shall be liable to the Association for the Association's costs plus an over-ride of twenty five percent (25%) to cover overhead, and the amount thereof if not paid in thirty (30) days shall be deemed an unpaid assessment giving to the Association the right to a lien therefor and collection pursuant to the provisions of Section 7 hereof.

(d) The Association shall have the right, in its sole discretion, to pay from the above-described assessments, such costs as are reasonably necessary to allow it to cut the grass, weeds and underbrush and to: (i) establish sedimentation and erosion control measures on any Lot where construction activities have been or are being undertaken without, in the Board's sole opinion, proper regard to preventing erosion and/or sedimentation from impacting any other property within the Subdivision; (ii) to remove construction materials, construction in progress, building improvements, debris and grade and fill Lots; and (iii) to charge, as an assessment, to the Owner of the Lot the actual cost thereof plus an overhead fee of twenty five percent (25%) of such costs. If an Owner fails or refuses, after demand by the Association, to pay such assessed amount, then the Association shall have a lien against said Lot for such cost and may enforce collection of said assessment, together with reasonable attorneys fees, by any and all remedies afforded by law or in equity, including, without limitation, the filing of a notice of lien and perfecting the same as by law provided, to the end that such unpaid cost and said associated collection expenses shall be a charge and lien against said Lot.

Section 5. Duty to Make Repairs.

(a) Until accepted for maintenance by governmental authority, the obligation for the repairs, maintenance and improvements of the roads as shown on the aforesaid plat or plats or any other Common Property shall be the responsibility of the Association with the Owner of each Lot except as provided herein, being responsible for payment of the assessments levied by the Association, which assessments shall be the personal obligation of the Owner of each Lot.

(b) The decision to expend Association funds to repair and maintain the roads or other Common Property shall be made by a majority of the Board. By such vote, the Board may delegate such authority to any committee of the Board. No Owner may escape liability for either the assessments provided or the payment of the required dues, fees and other charges associated with

Community Membership by non-use or abandonment of his or her Lot or by non-use or attempted forfeiture of his or her membership.

(c) Notwithstanding the foregoing, each Owner of a Lot shall be solely responsible for any repairs to a road right-of-way or other Common Property caused by the negligence of said Owner, or his or her invitees, agents, licensees, or guests. For these purposes, it shall be a negligence for any building material to be unloaded or otherwise deposited on any road or road right-of-way.

Section 6. Late Charges and Interest on Unpaid Assessments.

(a) The Owner of each Lot except as provided herein, shall be responsible for payment of the assessments levied by the Association and the monthly dues and fees payable in connection with Community Membership in the Country Club, which assessments, dues and fees shall be the personal obligation of the Owner of each such Lot.

(b) Any assessment not paid within thirty (30) days after the due date shall be subject to such late charges and shall bear interest at a rate per annum as shall be determined by the Board, which interest rate shall not exceed the highest rate of interest allowed by law. The initial late charge imposed for late payment of any assessment is four percent (4.0%) of the amount of the payment that is past due and shall be charged as to any assessment that is not paid within thirty (30) days of its due date.

(c) The initial interest rate for late payment is the greater of eight percent (8.0%) or the maximum rate of interest published by the Commissioner of Banks of North Carolina as provided for by § 24-1.1 of the North Carolina General Statutes (such rate being the latest published noncompetitive rate for U.S. Treasury bills with a six month maturity as of the most recent fifteenth (15th) day of the month prior to the date of such interest charge) which shall commence to accrue on any assessment or other account balance that is not paid within fourteen (14) days of the due date.

Section 7. Lien for Unpaid Assessments.

(a) If an Owner of any Lot fails and refuses, after demand by the Association, to pay any annual or special assessments, or fails to pay when due the monthly dues and fees for Community Membership, then the Association shall have the right to docket of record a lien against said Lot and may enforce collection of said assessments, dues and fees, or any of them, together with reasonable attorneys fees, by any and all remedies afforded by law or in equity, including,

without limitation, the filing of a notice of lien and perfecting the same as by law provided, to the end that such unpaid assessments, dues and fees, together with the costs and expenses of collection, including without limitation, reasonable attorneys fees, shall be a charge and lien against the said Lot.

(b) To secure the payment of the monthly dues and fees for Community Membership and the annual and special assessments as are levied by the Association, together with the costs of collection, including attorneys fees, all such charges shall be a continuing lien upon the Lot against which the assessments are made. Such charges shall also be the personal obligation of the person(s) who were the Owner or Owners of such Lot at the time the assessment, dues, fees and charges came due. The personal obligation shall remain a lien upon the Lot upon transfer of title but shall not become the personal obligation of the purchasers thereof unless expressly assumed by them.

(c) The initial date upon which liens may be filed for failure to make payment of assessments , dues, fees and other charges is thirty (30) days after the due date. The Board may change the initial late charge, interest rate, due dates and lien assessment dates by majority vote of the Directors.

Section 8. Subordination of Liens to Mortgages.

The liens provided that are assessed or arise after the date that any Mortgage is filed for record shall be subordinate and junior to such Mortgage, if, and only if, the assessments that arise and fall due prior to the recording of such Mortgage are paid. As to such subordinate assessments and liens, the sale or transfer of any Lot pursuant to foreclosure or under a power of sale or by way of any proceeding in lieu of foreclosure shall result in the subordinated lien attaching to the proceeds of such foreclosure or sale junior only to the entitlement of the holder of such senior mortgage to proceeds but senior to the rights of the Owner of such Lot or other holder or holders of the equity of redemption. No such sale or transfer shall relieve or exempt the transferee who acquires the Lot so foreclosed or sold under a power, or exempt or relieve such Lot, from liability of payment assessments, and the lien for payment thereof, that arise from and after the date that the foreclosure sale is confirmed.

Section 9. Other Association Programs and Benefits.

The Association shall have the right and duty to enforce the restrictions relating to the restrictive development easements and the slope restriction easements, if any. Additionally, the Association shall provide such other programs and benefits for the Owners approved by

a majority vote of a quorum of each class of members present in person or by proxy at a meeting duly called for such purpose at which a quorum was present and acting throughout.

Section 10. Declarant's Obligation To Pay Assessments.

The Declarant shall have no obligation to pay any annual or special assessments or other costs or expenses with regard to any Lot owned by it or with respect to assessments accrued as to any Lots to which Declarant obtains title, either due to breach of sales contracts, deeds in lieu of foreclosure, or by foreclosure.

Section 11. Prohibited Activities On Common Property.

No hunting nor trapping of any wild life, including but not limited to, birds, ducks, geese, turkeys, or deer shall be permitted. The discharging of firearms is strictly prohibited from any of the property shown on the aforesaid plats. No discharging of firearms shall be permitted. The owner of the Common Property, whether the Declarant or the Association, as the case may be, shall have the right to establish other reasonable rules and regulations governing the use of the Common Property.

Article 4 - Membership, Voting Rights, Officers and Meetings

Section 1. Membership.

Every Owner of a Lot which is subject to this Declaration shall be a member of the Association. Membership is appurtenant to each Lot and may not be sold or otherwise transferred except in concert with the sale and transfer of the Lot to which it is appurtenant. If and when Declarant develops additional phases in the Subdivision the Owners of those Lots shall be members of the Association. The Declarant shall also be a member so long as it owns property within this expandable Subdivision.

Section 2. Class Membership Voting.

The Association shall have two (2) classes of membership:

Class A and Class B

Initially, Class A members shall be all Lot Owners with the exception of Declarant and shall be entitled to one vote for each Lot owned. When more than one (1) person owns an interest in a Lot all shall be members but the vote shall be exercised as such persons shall determine in writing, which writing shall be filed with the Secretary of the meeting prior to voting, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B members shall be entitled to vote ten (10) votes for each Lot owned. Class B membership shall consist of the Declarant, provided that Class B membership shall automatically be converted to Class A membership upon the happening of the earliest of the following:

(1) The date that is four (4) months after ninety (90%) percent of all the Lots in the Subdivision are sold and conveyed by the Declarant to unrelated third parties; or

(2) At such time as Declarant voluntarily relinquishes majority control of the Association by a duly recorded instrument.

Upon the happening of the earliest of the above-described events, Class B membership (described hereinafter) shall cease and terminate and shall be converted to Class A membership.

Section 3. Number and Composition of the Board of Directors.

There shall be five (5) members of the Board who shall serve until such time as their successors are duly elected and agree to serve. The Directors shall have annual meetings and such other meetings as may be called at the request of the President of the Association or by any two (2) directors. So long as the Declarant, or its successors or assigns, is the Class B member, it shall select the Board, provided it must select at least two (2) of the members from the Lot Owners other than the Declarant.

Section 4. Suspension of Voting Rights.

The Association, acting through its Board, shall have the right to:

(a) Suspend the voting rights (if any) of an Owner for any period during which assessment on his, her or their Lot(s) remain unpaid and enforce collection of the same; and

(b) Suspend the voting rights (if any) of each Owner who is a contract buyer for any period of time during which payments to the Declarant pursuant to terms of said contract are delinquent during which period of time the Declarant shall succeed to the voting rights of said contract buyer.

Article 5 - Conveyance of Common Property

From time to time, Declarant by one or more deeds will convey its right, title and interest in and over the road rights-of-way and any other Common Property within the Subdivision to the Association. Such conveyancing shall be completed not later than the date that is four (4) months after ninety (90%) percent of all the Lots in the Subdivision.

Article 6 - Architectural Control; Construction Limits

Section 1. Creation of Architectural Control Committee to Control Design and Location.

In order to control design and location of the Dwelling Units and other improvements to be constructed, erected, placed or installed (the "improvements") upon the Lots in the subdivision, the Declarant hereby creates an Architectural Review Committee for the purpose of reviewing, approving, suggesting changes to, and rejecting plans and specifications for such Improvements.

Section 2. Control and Composition of Architectural Control Committee.

The Committee shall be controlled by the Declarant until a certificate of occupancy is issued for the residences on all the Lots in the subdivision, provided Declarant, by written notice to the Association, may elect to relinquish control of the Committee to the Association at an earlier date, and in either case the control of the Committee shall then automatically devolve and pass to the Association. During the period of control by Declarant, the Committee shall be comprised of such members, not to exceed three (3), as Declarant designates. The Committee shall be composed of three (3) members upon the Association taking control who shall be elected by a majority vote of the members of the Association at a meeting of the members called for this purpose. At any time, the Committee may, but shall not have the duty to, retain one or more architects or other house designers and land planners as it deems advisable to assist the Committee in performing its review responsibilities.

Section 3. Necessity of Obtaining Approval of Plans.

No building, fence, wall, outbuilding or any other accessory feature to the dwelling or any other structure upon any Lot shall be commenced, erected, placed, maintained or altered on any Lot or combination of contiguous Lots, until the Complete Construction Plans (the "Plans") are approved, in writing, by the Committee or its designated agents.

Section 4. Scope of Construction Plans.

The Plans include the complete construction/building plans and specifications, including, without limitation, the plot plan (showing the direction of waterflow the proposed location and elevation of all buildings [including exterior colors, materials and finishes], fences, walks, drives, parking areas, etc.). The areas over which the approval shall be required shall include but shall not be limited to the size and plan of the principal residential structure, and all accessory buildings (including their distances from adjoining lots, streets and the Golf Course), the location of the principal residential structure and all accessory buildings, structures and improvements on the Lot, the size and plan of the garage or carport, location and manner of construction of each driveway, swimming pool, play equipment, utility building, patio, tennis court and other improvements for athletic, recreational or gymnastic purposes and all other exterior improvements, the composition and color of raw and finished materials used on the exterior of all structures, and the location and type of all landscaping, shrubbery and other plantings, including within the landscape plan, a list of planting materials by type and size.

Section 5. Procedure for Acceptance or Rejection of Plans.

The Committee or its designated agents shall have fifteen (15) days after physical receipt of the Plans to accept or reject the same in whole or in part. If no response by the Committee has been made in writing within said fifteen (15) days, the Plans shall be deemed to be approved as submitted. After the Plans are approved and after the Committee gives written permission for construction to begin, or after the passage of the fifteenth (15th) day following the physical receipt of the Plans by the Committee without its action thereon, whichever may be the operative condition, the actual construction shall be commenced and completed in accordance with the approved Plans, together with the requirements of the Declaration. The Committee shall have the right to waive minor setback violations, not to exceed a variance of ten (10%) percent in any single instance, when the remedial costs of correcting such violation, in the Committee's opinion, would impose undue hardship upon the violator.

Section 6. Owner and Builder Solely Responsible.

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

Section 7. Required Use of Roll-Off Construction Dumpsters.

Every Owner and such Owner's contractor must use a roll-off construction dumpster during the entire time period of all construction, including the original construction of the home

and other improvements, and all subsequent additional improvements, remodeling and renovation.

Section 8. Time Limits for Commencement and Completion of Construction.

Construction of dwellings must be commenced and have progressed beyond the foundation stage on or before the date that is two (2) years after the date each Owner acquires title to a Lot and shall be completed within the following time limits:

(1) with the exception of dwellings, the construction of which is interrupted or delayed due to fire or other loss customarily insured under builder's risk insurance, all dwellings under construction must be completed within one (1) year after construction begins, unless a longer time for construction is permitted with the written consent of the Declarant or, if the Declarant so designates, by the Committee;

(2) as to construction that is delayed due to such physical damage, the Owner shall have 180 days from the date of such damage or destruction to recommence construction and upon such recommencement, shall have an additional 180 days to complete construction.

Section 9. Procedure Where Owner Fails to Commence Construction.

If construction has not commenced within two (2) years, provided, if and to the extent required by Section 8 above, the Committee determines, in its sole opinion, that construction cannot be completed when required, the Committee shall so notify the Board and the Board shall give notice thereof to the Declarant and the Owner, which notice shall be filed in the Union County Public Registry. Thereafter, the Declarant shall have the right and option to repurchase the Lot at a price determined to be the fair value pursuant to a residential appraisal made by a Senior Residential Appraiser. Each Owner irrevocable appoints the Declarant as the Owner's attorney in fact for the purpose of filing such notices in the public records as may be necessary or useful to give public notice of its exercise of such option, and by the purchase of a Lot, each Owner agrees that such power of attorney is a power coupled with an interest in such Owner's Lot and runs with the title thereto.

Section 10. Procedure where Construction Is Started but Not Completed when Required.

(a) If construction has commenced but is not completed when required by subsection (h) above, or if the Committee determines, in its sole opinion, that construction cannot be completed when required, the Committee shall so notify the Board, and the Board shall give notice to the Owner of the Owner's obligation to remove all construction work in progress, including, without

limitation, the foundation and all building improvements and all stored building materials and fill and grade the Lot so that it is restored to its natural grade level.

(b) The Association shall have the right to undertake this work upon Owner's failure to do so within forty five (45) days from the date of such notice. The costs incurred by the Association shall be charged to the Owner, along with an overhead charge in the amount of the costs incurred by the Association, and the amount thereof shall be deemed an assessment against such Lot. The Association shall have the right to place a lien upon the Lot on Owner's failure to pay these charges and to foreclose thereon as by law permitted.

(c) The Declarant shall have the right and option to repurchase the Lot at a price determined to be the fair value pursuant to a residential appraisal made by a Senior Residential Appraiser, less the amount of all liens and other charges arising out of the Owner's failure to perform the Owner's obligations hereunder. Each Owner irrevocable appoints the Declarant as the Owner's attorney in fact for the purpose of filing such notices in the public records as may be necessary or useful to give public notice of its exercise of such option, and by the purchase of a Lot, each Owner agrees that such power of attorney is a power coupled with an interest in such Owner's Lot and runs with the title thereto. If the Declarant purchases the Lot, the Declarant shall deduct the costs of all such work from the price payable for the Lot, and if the Association has caused such work to be performed, pay the Association's charges, and the Association shall assign to the Declarant all contracts for the work that has not been completed, and in all such cases, Declarant shall reduce the price payable to the Owner for the Lot by the amounts payable by Declarant to the Association and the amounts that will be paid to obtain full performance of the work required under the contract or contracts that are assigned to Declarant; provided Declarant shall have the right, but not the duty, to seek other bids for the work that has not been performed if no contract(s) have been let by the Association therefor, and, the costs thereof shall be deducted by the Declarant from the amount payable to the Owner for the Lot.

Article 7 - General Use Restrictions

Declarant does hereby covenant and agree with all persons, firms or corporations hereafter acquiring title to any portion of the Property, that the Property shown on the recorded plats herein referred to shall be subject to general use restriction as to the use thereof, which restrictions are set forth herein as to the properties that are initially subjected to this Declaration, and, as to additional phases of Firethorne Subdivision, such general use

restrictions shall be recorded separately by way of Supplemental Covenants that refer to this Declaration and incorporate it by reference.

(a) Residential Purposes. Except as otherwise provided in this Declaration, the Lots shall be used for residential purposes only, and no structure shall be erected, placed, altered or permitted to remain on any Lot other than one detached, single-family dwelling, together with outbuildings customarily incidental to the residential use of the Lot, except that Declarant reserves the exclusive right to construct a roadway over any Lot owned by it in order to grant access to other property now owned or hereafter acquired by Declarant and in such cases, the remainder of any such Lot not used for the roadway shall still be subject to this Declaration.

(b) Dwelling Area. Each single family dwelling shall have an enclosed, heated living area of the main structure, exclusive of open porches, garages, and other unheated spaces, of not less than two thousand five hundred (2,500) square feet for one-story dwellings and a minimum heated area as aforesaid of three thousand (3,000) square feet for dwellings with more than one story exclusive of basements of all types. One guest house shall be permitted per Lot provided it is attached to the primary residential building or is otherwise approved by the Committee.

(c) Garages. All Dwelling Units must have a primary garage accommodating at least two (2) vehicles under roof. The garage shall have an exterior of similar materials as the primary residence and shall be completed no later than the issuance of the certificate of occupancy for the primary residence. Primary garages shall have only side or rear vehicle entrances in relation to the "front line" of the primary residence. The vehicle entrance into any secondary garage shall be determined by the Committee. All driveways shall be constructed of either concrete, or decorative type of material as approved by the Committee.

(d) Fences and Walls. No fence or wall shall be constructed without the Committee first reviewing and approving the plans for such structures, which plans must show the location, height, design and material composition of such structures.

(e) Combination and Subdivision of Lots. More than one (1) Lot (as shown on said plats) or parts thereof, may be combined to form one (1) or more Lots by (or with the written consent of) Declarant, or its successors or assigns, and in such event the building line requirements prescribed herein shall apply to such Lots, as combined. No Lot may be subdivided by sale or otherwise, except Declarant, its successors and assigns, reserves the right to subdivide any Lot

which it owns. Upon combination or subdivision of Lots, the easements reserved herein shall be applicable to the rear, side and front lot lines of such Lot as combined or subdivided.

(f) New Construction. Construction of new residential buildings only shall be permitted, it being the intent of this covenant to prohibit the moving of any existing building or portion thereof on a Lot and remodeling or converting the same into a Dwelling Unit in Firethorne Subdivision excepting however Declarant's mobile offices provided for herein below. Any dwelling constructed upon a Lot must be completed within one (1) year subsequent to commencement of construction, except with the written consent of Declarant, its successors or assigns.

(g) Offensive Activities.

(1) Within the Subdivision. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. No hunting nor trapping of any wild life, including but not limited to, birds, ducks, geese, turkeys, or deer shall be permitted. The discharging of firearms is strictly prohibited from any of the property shown on the aforesaid plats. No animals or poultry of any kind may be kept or maintained on any of said Lots, except a reasonable number of dogs and cats and other indoor household pets that shall be kept as household pets. Dogs must be kept on leashes when off the Owner's Lot. No dogs shall be permitted to roam the Property and the Association may have strays and dogs that are not leashed and are found off their Owner's Lot picked up by governmental authorities. No electric or gasoline powered lawn or garden equipment shall be used on any Lot by or with the express or implied permission of an Owner on Saturdays before 8:00 a.m. or on Sunday before 12:00 noon.

(2) Affecting the Country Club. Neither a Lot Owner or any other person shall engage in any obnoxious, offensive, unsightly, noisy or other activity which shall affect the play of golf upon the Golf Course. Declarant shall have the unilateral right to prohibit construction activities during any golf tournament played on the Golf Course. Declarant shall provide all Owners so affected with prior written notice of such golf tournaments and the dates that construction activities must be suspended. Declarant shall have no liability to any Owner for any increase in costs incurred during such suspension of construction.

(h) Sales and Construction Offices. Declarant shall be permitted to erect one (1) or more mobile offices or houses on any Lots that it owns for the purpose of maintaining sales information centers, construction coordination offices and Country Club sales and/or operation centers.

(i) Dumping of Refuse. No portion or part of any Lot shall be used or maintained as a dumping ground for rubbish or other refuse. Trash, garbage, or other waste shall not be kept, except in sanitary containers screened from view from all roads. This regulation shall not pertain to burial or stump pits, the location of which is governed by land use law and shown on the recorded plats of Firethorne Subdivision.

(j) Easements for Utilities and Drainage. Easements as shown on the record maps along with easements ten (10) feet in width along the Lot lines of all Lots are reserved for access of emergency equipment and personnel and the installation, repair, replacement and maintenance of utilities, including storm water drainage, and including the right to keep said easements free and clear of all obstructions. An easement of fifteen (15) feet is reserved for such purposes along the rear line of all Lots that do not adjoin other Lots or properties within the Subdivision.

(k) Outside Clothes Lines and Satellite Dishes. No outside clothes lines shall be permitted. Except as mandated by federal law, and to the extent thereby limited, no satellite dishes shall be permitted and must be screened so that they cannot be seen from the street fronting the house. The location and design of such screening must be approved by the Committee prior to installation.

(l) Prohibition Against Parking Trucks and Trailers on Lots. Unless located within enclosed garages, no trailer of any type or kind (including any house trailer, boat trailer, and travel trailers), motor home, tractor trailer trucks, any other such vehicle or any boat or airplane shall be kept or maintained or located upon any Lot; provided, however, the Architectural Control Committee, at its sole discretion, may waive this requirement in any instance when an Owner presents to the Committee plans for permanent screening that the Committee finds aesthetically acceptable for the purpose of permanently screening the aforesaid vehicle or vehicles from view from all other Lots, the Golf Course and from the streets that are within view of the Lot in question. The Committee shall have no duty to waive such requirement, but in the event it does, the Committee shall have the right to enforce the construction of the screening to conform to the plans that it approves. No vehicles that are disabled or under repair shall be kept upon any Lot unless located within enclosed garages. No Lot shall be used for storage of building materials prior to the issuance of the building permit for the Primary Residence.

(m) Signs. No signs of any description shall be displayed upon any Lot with the exception of rental or sales signs which must be approved by the Committee in advance as to size, content, color and materials.

(n) Mail Box Design. The Committee shall have the right, at its option, to specify the style, design, color, size and materials for all mail and newspaper receptacles.

(o) Limitation on Scope of Restrictions. Nothing herein contained shall be construed as imposing any covenants and restrictions on any property of the owner of this subdivision other than the Property that is subjected to the Declaration.

Article 8 - Expanding the Subdivision

Declarant owns additional property in Union County, North Carolina that it is described or otherwise shown in one or more deeds of conveyance to Declarant recorded in the Union County Public Registry. Declarant may acquire other properties abutting upon the Subdivision or such additional properties which its desires to add to the Subdivision. The Declarant contemplates that all or part of such now owned or future acquired properties may be subjected to this Declaration and the covenants herein contained by Declarant by filing of record one or more plats and one or more sets of Supplemental Covenants that refer to and incorporate by reference this Declaration and which plats show the additional properties to be held, used, enjoyed, sold and conveyed subject to such Supplemental Covenants and this Declaration, and for this purpose, Declarant reserves the power to make and file such plats and execute and record such Supplemental Covenants so that such properties may be so subjected. Declarant reserves the right to execute and file such Covenants and plats with reference to property it now owns or hereafter acquires that it desires to subject to this Declaration. The properties that Declarant may so add to the Subdivision are described on **Exhibit** A attached.

Article 9 - Violations

Section 1. Determination.

The Board shall have the authority to determine any violation of this Declaration, including without limitation, any violation of any Architectural Guidelines or other rules and regulations, whether contained herein or adopted pursuant hereto. When a violation is determined, the Owner will be given notice of such violation and given a reasonable time to cure such violation which in most cases shall not exceed thirty (30) days from the date of the

notice of violation as to violations of the rules and regulations of the Architectural Committee and shall not exceed ten (10) days as to any other violations, provided the Board may provide for notice of less than twenty four (24) hours for emergency situations or for good cause shown, in the sole discretion of the Board. Such notice shall also specify that the Owner will incur a penalty and the amount thereof, not to exceed $200.00 per day, for each and every day that the violation remains uncured after the time for cure has expired.

Section 2. Cure.

If an Owner or his or her representative undertakes curative action, such Owner or his or her representative shall notify the Board, as the case may require, when cure has been completed. Upon receipt of such notice, the Board will make such inspections as it deems appropriate in the circumstances, and, if cure has been completed, give the Owner written acknowledgment that the violation has been cured or written notice that the cure is incomplete and what measures need to be taken to cure the violation. In the latter case, the Owner shall have ten (10) additional days to cure the violations of the Architectural Guidelines or other rules and regulations of the Architectural Committee.

Section 3. Failure to Cure.

If an Owner fails to undertake any curative action or fails to complete the cure within time permitted for cure, then per diem penalty shall commence to run from the date of the first notice of violation, and the amount of such per diem penalty, as it accrues, shall be an assessment against the violating Owner's Lot. The Association shall have the right to file a lien against the Owner's Lot and to seek to enforce the same as permitted by the Declaration and by law. The Association shall also have the right to obtain payment from any funds of Owner on deposit or in escrow with the Association to the extent such funds are not needed for any other purpose permitted by this Declaration.

Section 4. Hearing.

If the Owner believes that the determination of a violation or the imposition of sanctions is not permissible, under the circumstances, or if there are special circumstances based upon which the sanctions should be waived or postponed, then the Owner shall have the right, on ten (10) days notice, to appear before the Board of Directors at its next regularly scheduled meeting, to seek to have the violation vacated and/or the penalty postponed or waived. In such case, the Owner shall appear in person but shall also have the right to have his or her builder appear where the violation concerns architectural and/or engineering matters. The Board of Directors, after hearing from the Owner, and his or her builder and the Committee and it representatives when related to the Architectural Guidelines, shall make its determination based on a simple majority and by show of hands. The determination of the Board of Directors shall be final.

Article 10 - General Provisions

Section 1 - Gender.

Whenever the context and construction so require, all words used in the singular number herein shall be deemed to have been used in the plural, and vice versa, and the masculine gender shall include the feminine and neuter and the neuter shall include the masculine and feminine.

Section 2 - Captions.

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

Section 3 - Methods of Enforcement.

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages. In the event it is necessary to enforce this Declaration by appropriate legal or equitable proceedings, the party or parties violating or attempting to violate the same shall be liable for the cost of such proceedings including reasonable attorney's fee.

Section 4 - Severability.

Invalidation of any one or more of these covenants by judgment or court order shall not adversely affect any of the other provisions of this Declaration or the application of the covenants so invalidated to facts or circumstances that differ from those facts or circumstances under which such invalidity was determined, to the end that the Declaration shall remain in full force and effect to the extent permitted by law.

Section 5 - Litigation.

Except as provided below, no judicial or administrative action or proceeding shall be brought or prosecuted by the Association unless approved by seventy five (75%) percent of all classes of members entitled to vote; and unless such vote mandates that the costs of such litigation shall be borne by assessing the members for such costs so that none of the other assessments shall bear the costs thereof; provided, however, this Section shall not apply to: (i) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the enforcement and/or foreclosure of liens); (ii) the imposition and collection of assessments provided elsewhere in this Declaration; (iii) proceedings

challenging any aspect of ad valorem or other taxation; (iv) counterclaims brought by the Association in proceedings instituted against it; and (v) actions brought by the Association against any contractor, vendor or supplier of goods and services arising out of a contract with the Association for the provision thereof. This Section 5 shall not be amended unless approved by the same percentage of votes of the members of each class that is entitled to vote.

Section 6 - Amendment.

The Declarant reserves the right to amend this Declaration from time to time without joinder of any of the Owners for the following purposes:

(a) To clarify the meaning of or to correct clerical errors in the Declaration; and

(b) To correct grammar, spelling, capitalization and other matters of syntax.

The execution of Supplemental Covenants adding additional properties to the Declaration and expanding the Subdivision as provided herein may be made by the Declarant acting alone. All other amendments to this Declaration shall require an affirmative vote of the Declarant, so long as it owns any Lots, and at least seventy-five (75%) percent of the Owners.

Article 11 - Term; Declaration Runs With the Land

Section 1 - Term.

This Declaration shall remain in full force and effect for a period of forty years from the date this Declaration is filed for record, after which term, this Declaration shall be automatically extended for consecutive additional terms of ten (10) years unless and until an instrument signed by eighty (80%) percent of the then Owners of the Lots has been recorded agreeing to change said covenants in whole or in part.

Section 2 - Declaration Runs With The Land

These covenants are to run with the land and shall benefit and be binding on all parties and persons (and their respective heirs, representatives, successors and assigns) claiming title to any of the Property herein described for the full term hereof, including all extensions.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed the day and year first above written.

MARVIN DEVELOPMENT GROUP, II LLC (SEAL)

By: _____ (SEAL)
Howard M. Nifong, Jr.,
its authorized manager

STATE OF NORTH CAROLINA; COUNTY OF MECKLENBURG

I, a Notary Public of the County and State aforesaid, certify that Howard M. Nifong, Jr. personally came before me this day and upon being duly sworn did certify and acknowledged that he is the authorized manager of **Marvin Development Group II, LLC**, a North Carolina Limited Liability Company, and that the foregoing instrument was signed in its name by him as the authorized manager of said limited liability company, sealed with the company seal, all in his capacity as the authorized manager of **Marvin Development Group II, LLC** and as the act and deed of the said Limited Liability Company. Witness my hand and official stamp or seal, this 18th day of June, 1998.

_____
Notary Public

My Commission Expires: 3/26/00
Affix Notary Seal/Stamp

NORTH CAROLINA; UNION COUNTY

The foregoing Certificate(s) of Dorothy M Bliss, Notary Public is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

JUDY G. PRICE, REGISTER OF DEEDS FOR UNION COUNTY

By _____
Deputy/~~Assistant~~ Register of Deeds.

DATED: _____

BK1109PG0109

Exhibit A

Deed Book References for Firethorne Golf Club

Union County, North Carolina:

Deed Book	Page No.
861	073
904	185
962	582
871	379
950	307
901	170
932	709
901	182
871	375
901	172
933	466

Lancaster County, South Carolina:

Deed Book	Page No.
D-14	180
U-14	93
X-14	83
H-14	94