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DECLARATION OF RESTRICTIVE COVENANTS
FOR FERGUSON MEADOWS SUBDIVISION
Bozeman, Gallatin County, Montana

This Declaration of Protective Covenants and Restrictions for FERGUSON MEADOWS SUBDIVISION is made this 5th day of March, 2001, by THE VECTOR GROUP, L.L.C. , of 125 West Mendenhall, Bozeman, Montana 59715, hereinafter referred to as "Declarant".

RECITALS

1. Declarant is the owner of the following described property situated in Gallatin County, Montana:

Ferguson Meadows Subdivision, Gallatin County, Montana.

2. Declarant intends to sell, dispose of, divide into lots, and convey the real property above described, hereinafter to be known as Ferguson Meadows Subdivision.

3. Declarant desires to subject all of the real property described above and the lots thereof to protective and restrictive covenants, conditions, restrictions, and reservations herein set forth and referred to as "covenants," each and all of which shall be for the benefit of the property and lots and the owners thereof, and shall run with the land, applying to and binding the present owners and all future owners and successors in interest.

NOW THEREFORE, Declarant does hereby establish, dedicate, publish, and impose upon the premises, the following protective and restrictive covenants which shall run with the land and shall be binding upon and be for the benefit of all persons claiming such property, their grantors, legal representatives, heirs, successors, and assigns, and shall be for the purpose of maintaining a uniform and stable value, character, use, and development of the premises, and all improvements placed or erected thereon, unless otherwise specifically excepted herein, and these covenants shall inure to and pass with each and every parcel, tract, lot or division. These covenants are as follows:

ARTICLE I
DEFINITIONS

1.1: "Association" shall mean Ferguson Meadows Owners' Association, its successors and assigns. The Association may be incorporated as a Montana non-profit corporation with its members as the lot owners.

1.2: "Member" shall mean any person or entity owning or purchasing a lot in Ferguson Meadows Subdivision. Each lot owner shall be a member of the Association and agrees to abide by and

be bound by these covenants, and the Articles of Incorporation, By-Laws, and Resolutions of the Association, if any.

1.3: "Owner" shall mean the legal title holders, or contract purchasers, whether one or more persons or entities, owning or purchasing a fee simple title to any lot, but excluding those having an interest merely as security for the performance of an obligation; provided, however, that prior to the first conveyance of any lot for value, owner shall mean Declarant. Prior to such conveyance or contract sale, Declarant shall have the right to retain such rights incidental to ownership hereunder as Declarant may desire in its discretion.

1.4 "Property" shall mean all of the real property described and platted as Ferguson Meadows Subdivision, according to the official plat thereof on file and of record in the office of the Clerk and Recorder of Gallatin County, Montana.

1.5: "Board, or Board of Directors" shall mean the Board of Directors of Ferguson Meadows Owners' Association, which shall consist of not less than three, nor more than seven lot owners, elected on an annual basis by the Members. The Directors shall act on all matters and shall have such powers as shall be reasonably necessary to carry out the purpose of the Association. The Directors shall act by majority vote.

ARTICLE II MEMBERSHIP AND VOTING RIGHTS

2.1: Each lot owner, including contract purchasers, shall automatically be a member of the Association, upon acquiring an ownership interest in a lot, and the membership in the Association shall be appurtenant to each lot. Each lot owner shall have one vote per lot and, in the event of ownership by more than one person or entity, the owners shall designate one person to be the agent for receiving notices hereunder, and for the purpose of voting. Each lot owner shall be responsible for advising the Association in writing of their current address and the person designated to vote. The Association shall be deemed to have complied with notice requirements and these covenants by mailing notice to the address of the designated lot owner which is on file in writing with the Association. Once a person is designated to receive notices and cast votes for a particular lot, he or she shall remain in that capacity for as long as he or she owns an interest in that lot, unless the writing designating another person is signed by the person whose name is to be removed.

2.2: It is the intention of the Declarant to incorporate the Association, under the non-profit corporation laws of Montana. The Declarant, as the initial owner of all of the lots within the subdivision, shall adopt Bylaws which will govern the activities of the Association. In the event of any conflict between the Association Bylaws and this Declaration, the terms and conditions set forth herein shall prevail.

ARTICLE III
MAINTENANCE ASSESSMENTS

3.1: Creation of the Lien and Personal Obligation of Assessments: The Declarant, for each lot owned within the subdivision, hereby covenants, and each owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association all annual assessments or charges, or special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each assessment, together with interest, costs, and reasonable attorney's fees, shall be the personal obligation of the person who is the owner of such property at the time such assessment becomes due.

3.2: Purpose of Assessments: The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the subdivision, including appropriate insurance coverage, payment of taxes for common facilities and for the improvement, repair, and maintenance of landscaping, sidewalks, parks, common areas, storm water retention ponds and perimeter fences of the subdivision, in cooperation with adjoining property owners, if required by Montana law, and to promote the enjoyment and living of the members of the Association. In addition, the Developer has initiated the process to form a special improvement lighting district to maintain the street lights within the subdivision. In the event that such a lighting district is not created, the owners within the subdivision shall be assessed for such costs through the Association and the Association shall be charged with maintaining the street lights within the subdivision.

3.3: Annual Assessments: The amount of the annual assessments shall be fixed by the Board of Directors of the Association and no annual assessments shall be made until the election to do so is made by the Board of Directors. The maximum assessment per lot which may be made by the Association in every calendar year shall not substantially exceed the actual and reasonable cost incurred by the Association in carrying out the purposes herein set forth.

3.4: Special Assessments for Capital Improvements: In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements on the property, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of sixty-six and two thirds percent (66 2/3%) or more of all of the votes of membership who are present in person or by proxy at



a meeting duly called for that purpose.

3.5: Notice and Quorum of any Action Authorized Under Sections 3 and 4: Written notice of any meeting called for the purpose of taking any action authorized under these covenants shall be sent to all members not less than ten (10) days nor more than forty (40) days in advance of the meeting. At the first such meeting called for a particular purpose, the presence of members or proxies entitled to cast fifty percent (50%) of all the votes of members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be forty percent (40%) of the membership. No such subsequent meeting shall be held more than sixty (60) days following the originally scheduled meeting.

3.6: Uniform Rate of Assessments: Both annual and special assessments for the members must be fixed on a per lot basis, unless another basis shall be determined by the Board of Directors of the Association, utilizing objective criteria to establish the alternate basis. The Board may set different assessments for improved and unimproved lots, provided that all lots within a class are assessed uniformly.

3.7: Date of Commencement of Annual Assessments--Due Date: Except as herein provided, the annual and special assessments shall commence as to all lots on the date determined by the Board of Directors. The Board of Directors may make smaller assessments for lots upon which no buildings have been constructed, provided that all lots similarly situated are assessed in the same manner. The Board of Directors shall fix the amount of the annual assessments against each lot at least thirty (30) days in advance of the due date of each annual assessment and ninety (90) days in advance of a special assessment. Written notice of the annual assessments shall be sent to each owner or member subject thereto. The due date of the annual assessments shall be established by the Board of Directors.

3.8: Effect of Nonpayment of Assessments; Remedies of the Association: Any assessment not paid within thirty (30) days after the due date shall bear interest from the past due date at the rate of fifteen percent (15%) per annum, which is the maximum amount allowed by §31-1-107, MCA, at the time of creation of this Declaration. In the event that the maximum amount allowed by §31-1-107, MCA should be raised or lowered by the legislature, the maximum amount that may be charged on past due assessments shall be raised or lowered accordingly. Any past due assessment on any lot may be recorded at the office of the Clerk and Recorder of Gallatin County, Montana and, from the date of recording, shall be notice of the lien of the assessment to all third parties. The Association may bring an action at law against the owners personally obligated to pay the same or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse or abandonment of the lot.

3.9: Sale or Transfer of a Lot: No sale, transfer or encumbrance of any lot shall affect the personal liability of the owner, or the assessment lien if recorded in the records of Gallatin County, except to the extent extinguished by Montana law pertaining to liens, mortgages and trust indentures. No sale or transfer to a third party with actual or constructive knowledge of an assessment shall relieve such lot from the liability for any outstanding assessments or from any assessments thereafter becoming due or from the recorded lien thereof.

ARTICLE IV
USE

4.1: The property shall be used only for residential purposes, and no commercial business, commercial livestock yards, or feed lots, wrecking yards, storage yards, stores, gas stations, or the like shall be allowed to be located thereon. No dumps, commercial dog farms, trash, junk or junked cars¹ shall be maintained upon the property, nor shall any noxious or offensive activities be permitted to be done on the property which are a nuisance, or might become a nuisance to the owner or owners of any of the described lands. No lot shall be used in any manner or for any purpose which might endanger the health and safety of the residents of any lots within this property.

4.2: All zoning regulations and all other laws, rules and regulations of any governmental body or agency under whose jurisdiction the land lies are considered to be part of and enforceable hereunder and all the owners of the lands shall be bound by such laws, rules and regulations. In the event that any zoning laws apply more stringent standards than those set forth herein, the more stringent standards shall apply.

4.3: The owner of each lot shall control the weeds and noxious plants on his lot, as defined by the Gallatin County Weed Control District and the Montana County Noxious Weed Control Act; provided, however, that he or she shall not use poison harmful to humans or animals, or detrimental to the enjoyment of the occupants of the property. Should an owner fail to properly control the weeds, as required by these covenants and county regulations, the Association may do so on behalf of the owner. In such case, the Association may assess the lot owner for the costs thereof, in the same manner as any regular assessment of the Association. The Association shall bear the responsibility for weed control upon any common areas and the Association shall be subject to the same responsibilities and restrictions as are set forth for individual property owners above.

1. Defined as any vehicle which is not currently registered or which cannot be readily moved under its own power. It shall be presumed that any vehicle on jacks or blocks, or which has one or more flat tires, is disabled and is therefore a junk vehicle.

4.4: No junk, garbage, trash, slash, debris, or other waste shall be allowed to permanently accumulate on any lot (any temporary accumulation shall be kept in sanitary containers screened from view by appropriate fencing), and shall be disposed of regularly. All waste material, except that which may be cleanly and efficiently disposed of through the use of sanitary sewer systems, shall be placed in appropriate receptacles and regularly removed by a regulated trash hauler.

4.5: All dogs, cats and other pets shall be strictly controlled by their owners so as not to annoy or interfere with the use of the area by the other owners and to prevent any interference or harassment of other animals in the subdivision or on surrounding or adjacent properties. The keeping of dogs, cats or other pets shall be in strict compliance with any and all applicable rules and regulations adopted by the City of Bozeman, and no more than two dogs may be kept on any lot; except that more than two puppies may be kept until they are weaned. All dogs must be in a kennel or on a leash at all times, or in a fenced yard. Pets are not allowed to roam free.

4.6: These restrictions, conditions, and limitations shall run with the land and shall be binding upon the present owners and all subsequent owners of any portion of the area included within the aforesaid plat. The grantee of any portion of the property covenants and agrees by the acceptance of a conveyance, faithfully to observe and comply with the restrictions, conditions, and limitations applicable thereof.

4.7: Any provisions herein may be enforced by any owner of any portion of the area included within the plat, the Association, or by the developer, either by an action for damages arising out of a violation, or by an action to restrain continuing violation or in any other manner permitted by law. In any action of any kind for the enforcement of these restrictions, if the relief prayed for is granted in whole or in part, the applicant for relief shall be entitled to recover necessary costs of the action, including attorney's fees.

4.8: A ten (10) foot utility easement is reserved unto Declarant, the Association, and any necessary utility company, as well as their successors and assigns, along either side of any lot line which separates two lots within the subdivision, and a twelve (12) foot utility easement is reserved along any lot line which is not common to another lot within the subdivision. In addition, should a common driveway or parking area straddle the boundary lines of two lots, each owner sharing such driveway or parking area shall have an easement over and across the property of the other to the boundary of such driveway or parking area. Such easement shall not, however, allow an owner to utilize more of the driveway or parking area than necessary and shall not be construed to grant to such owner additional parking spaces beyond that which is allotted to him/her.

4.9: No signs shall be erected on the property, except a

discreet "For Sale" sign which shall be allowed upon any lot being sold.

4.10: Lot owners and residents of the subdivision are informed that uses of nearby lands may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, burning, smoke, and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.

4.11: Electricity, natural gas, and telephone primary service lines shall be brought to each lot by the developer. Each lot owner is responsible for the cost of bringing electricity, natural gas, and telephone services to his/her residence from the primary line across his/her lot, including any additions to the primary line which may be required by location of the improvements on the lot. All utilities shall be underground.

4.12: As set forth in the Bozeman Area Subdivision Regulations no buildings may be placed within the required thirty-five foot (35') setback from the ordinary high water mark of the stream along the east side of Ferguson Avenue, which affects all of Blocks A, D, G and J.

4.13: All common areas, including parks not dedicated to the City of Bozeman, shall be perpetually reserved for use by the Association and its individual members upon such reasonable terms and conditions as the Association may impose.

ARTICLE V
ARCHITECTURE

5.1 MINIMUM BUILDING STANDARDS

5.1.1: General: Only construction of single family homes shall be permitted on Blocks A-I. Multiple family dwellings are permitted on Block J only.

5.1.2: Building Size and Height: No dwelling house constructed on Blocks G, H and I shall have a foundation area less than one thousand two hundred (1200) square feet beneath the living area of the residence, if the living area is on a single level. No dwelling house constructed on Blocks A-F shall have a foundation area less than one thousand three hundred (1300) square feet beneath the living area of the residence, if the living area is on a single level. This square footage requirement is exclusive of garages, carports, porches, or any other addition thereto. In addition, no structure more than two (2) stories shall be constructed, but if a two story structure is proposed, the foundation area may be reduced to one thousand (1000) square feet for the foundation and one thousand five hundred (1500) square feet of finished living area above grade.

Approval of size and height shall take into consideration unusual designs, views, and solar effects of existing dwellings, and variances from the above stated square footage requirements may be granted for innovative designs, but no building shall be allowed which unreasonably blocks the view or light of a neighboring building, nor may any building be constructed that violates City code.

5.1.3: New Construction Required: All buildings located upon any lot within the subdivision shall be of new construction and no mobile homes or trailer homes, including doublewide mobile homes or modular homes, or like or similar dwellings, shall be allowed upon the property.

5.1.4: Siding and Trim: The exterior siding of the structure shall consist of wood, wood look-alikes or wood products, brick, stone, stucco or other manufactured materials of good quality, including insulated metal siding. Sheet or panel metal siding, T-111 siding, plywood sheet siding, and concrete block siding is prohibited. Roof fascia trim on any structure constructed on the property shall extend downward on the roof and be visible for at least six inches. Muted and subdued colors drawn from the surrounding environment, such as the earth tones of summer and fall, should dominate the main body of the building. The trim should accent or contrast the main body, adding visual interest to the predominant neutral tones.

5.1.5: Roofs: Roof design shall incorporate a pitch of at least 5/12 and should be consistent with building size, shape, and form. Solar collectors and skylights should appear to be part of the overall roof design and must be placed flush with the slope of the roof or integrated into the design of the roof. Flat and domed roofs are prohibited.

Roofing materials must meet twenty-five (25) year life architectural design requirements. Standing seam metal roofs and T-lock shingles shall be allowed if of good quality and are visually appealing. Muted and subdued colors should be chosen to harmonize with the surrounding color schemes.

5.1.6: Fireplaces, Chimneys, and Flues: All wood burning devices shall be designed to avoid smoke and fumes at ground levels during down-slope wind. Chimneys must be clad with natural stone, stucco, brick or wood enclosures. A choice of materials that match the dwelling is encouraged for chimneys that extend more than three (3) feet above the roof surface or line.

5.1.7: Outbuildings: All plans for outbuildings, including detached garages that are constructed subsequent to the main dwelling, are subject to review and approval and must conform to the standards set forth in these Covenants, as well as all building and zoning ordinances of the City of Bozeman. Placement on the lot should give consideration to enhancing the appearance of the subdivision.

5.1.8: Antennas/Satellite Dishes should be positioned in unobtrusive locations with consideration given to local esthetics and views from adjacent properties. Satellite dishes within the subdivision shall not exceed eighteen (18) inches in diameter.

5.1.9: Animal Kennels must be set back at least as far from the lot lines as any building erected on the lot, and shall be placed in an area which is inconspicuous and removed from the direct view of neighbors and the street in front of the house.

5.1.10: Architectural Enhancement: All buildings constructed within the subdivision shall be designed, located and constructed in such a manner as to create an esthetically pleasing environment. Buildings should be a visual combination of forms that do not present a "box" appearance and breaks in the roof lines and wall lines that add interest to the form and help define the building are encouraged. Garages shall not dominate the front of any single-family residence and there shall be an offset or set back of at least 2 feet between the residence and attached garage. The main entrance to the living structure shall be defined and enhanced by incorporating an entry porch or gable extending over the entrance, in order to denote a clear sense of arrival and to provide weather protection and visual definition.

5.2: LANDSCAPE ELEMENTS

5.2.1: General: There shall be a landscape plan submitted and approved for each residence prior to the time that such residence is occupied. Each landscaping plan shall provide, at a minimum, that graded areas must be smoothed and seeded and any trees required by the City of Bozeman shall be planted. Planting of other trees and shrubs is encouraged, as is construction of an underground sprinkler system for each lot. The landscaping for each residence must be completed within twelve (12) months after the first occupancy of the residence.

5.2.2: Fences/Privacy Screens: Fences may be constructed as allowed by the City of Bozeman, provided that any fence shall be constructed in a manner that not only provides screening or security, but is also visually appealing. In that regard, wood, wood look-alike materials, brick, stone and wrought iron shall be considered. Natural wood colors and stains for the preservation of fences and screens are recommended. In no event shall fences or privacy screens be constructed of chain link or wire materials.

5.2.3: Exterior Lighting: Incandescent lighting is encouraged and the use of mercury vapor, halogen, and obtrusive flood lighting is prohibited. Free standing decorative lights shall not exceed eight (8) feet in height.

5.3. ARCHITECTURAL COMMITTEE:

5.3.1: The Ferguson Meadows Architectural Committee, hereafter referred to as the "Committee" or the "Architectural

Committee" shall oversee all construction within the subdivision. The Committee shall be appointed by the Developer of the subdivision and shall consist of no more than 3 persons with expertise in building or landscape design or construction practices and may be a single individual with such background, such as an architect. All decisions of the Committee shall be by majority vote.

5.3.2: The Committee may make such reasonable rules and by-laws and adopt such procedures as it deems necessary to carry out its functions, which rules, by-laws, and procedures may not be inconsistent with the provisions of these covenants. Such rules shall only be effective upon their publication and notice to each owner, and shall not be applied retroactively to affect any previously approved design.

5.3.3: No building, construction, reconstruction, alteration, remodeling, landscaping, parking, fence, wall or other improvement shall be placed, constructed, erected, repaired, restored, reconstructed, altered, remodeled, added to or maintained on any lot or tract until building drawings, plans and specifications, and such other information as the Committee may reasonably require, including, but not limited to, colors, building materials and models, have been submitted to, and approved by, a majority of the Committee in writing; nor may the same be commenced until the Committee shall have issued a permit allowing for such improvements. In the event that the Committee fails to act upon any submittal within 14 days of the date that such submittal is made, the plans so submitted shall be deemed approved.

5.3.4: The Committee shall require all construction to comply with the provisions of the following standard codes or their amendments and owner will be responsible for complying with same:

- "Uniform Building Code"
International Conference of Building Officials
- "National Plumbing Code"
- "National Electrical Code"
National Fire Protective Association

In addition, all construction shall comply with the building requirements of the City of Bozeman, including setback requirements.

5.3.5: The Committee shall have the authority to reject materials, designs and colors submitted with plans or the plans themselves if they are not compatible, or are inappropriate, with the rest of the subdivision or the master plan, provided that such rejection is based upon objective criteria, in accordance with these covenants and any subsequent standards developed by the Committee.

5.3.6: The Committee shall have the authority to grant variances to the provisions contained in these Covenants where, in its discretion, it believes the same to be necessary and where the same will not be injurious to the rest of the properties bound by these covenants.

5.3.7: All improvements, construction, reconstruction, alterations, remodeling or any activity requiring the approval of the Committee must be in substantial compliance with the plans and specifications initially approved by the Committee.

5.3.8: The Committee shall have the power, authority, standing and right to enforce these covenants in any court of law or equity when it reasonably believes the same have been violated.

5.3.9: The Committee may require reasonable fees to be paid with the filing of plans and specifications and the issuance of building permits to defray its expenses. The Committee shall publish a fee schedule periodically and no fee in excess of the published rate may be charged. The initial fee to be charged shall be \$75.00, but may be increased by the Developer or the Committee upon 15 days notice to the affected owners. For each subsequent review of a design that has been approved once, and is unchanged other than cosmetics, such as color schemes, the fee shall be \$30.00.

5.3.10: The Committee shall be governed by the following guidelines in its consideration of plans and specifications submitted for its approval:

a. It must recognize that all improvements must harmoniously combine, and not be inconsistent with, the development of the entire project so as to maintain a uniformity of value and quality, but this provision shall not be construed to require uniformity of design.

b. In considering any plans and specifications, the Committee shall examine the suitability of the same to the site, including the materials of which it is to be constructed, as well as the relationship of the same to the neighborhood and the adjacent properties.

c. No plans or specifications shall be approved which will be so similar or dissimilar to other improvements or structures that monetary or aesthetic values will be impaired.

d. All plans and specifications shall be in full compliance with all of the terms and provisions of these covenants, except for any variances, which may have been granted by the Committee for such plans and specifications.



5.3.11: The Committee or the individual members thereof may not be held liable by any person for any damages which may result from Committee action taken pursuant to these covenants, including but not by way of limitation, damages which may result from correction, amendment, change or rejection of plans, the issuance of building permits or any delays associated with such action on the part of the Committee.

ARTICLE VI
ASSOCIATION RESPONSIBILITIES

6.1: The Association shall be responsible for the maintenance, reconstruction, repair, and replacement for all sidewalks within or adjoining parks within the subdivision.

6.2: The Association shall be responsible for all maintenance of all park areas and other common spaces within the subdivision, including trees required to be planted as a condition of subdivision approval.

6.3: The Association shall be responsible for maintaining any fences owned by the Association bordering lands outside the subdivision.

6.4: The Association shall be responsible for the maintenance, reconstruction, repair, replacement of any common drainage retention or control areas depicted on the final subdivision plat filed with the Clerk and Recorder of Gallatin County, Montana. The Association shall, either directly, or through employees or contractors, maintain all onsite storm water collection, detention and discharge release facilities. The Association shall conduct routine inspections to ensure that debris, yard waste and ice does not impede operation of the detention ponds and discharge structures. These inspections shall take place after each major runoff, but not less than once per month, throughout the year. A record of all such inspections shall be made and kept on file and shall be made available, upon request, to regulatory agencies.

In addition to monthly inspections, an annual assessment of the detention ponds and release structures shall be made and all deficiencies shall be corrected. Accumulations of sediment and debris in the detention ponds and release structures shall be measured and vandalism and weather damage shall be assessed and repaired.

Detention ponds shall be mowed on a regular basis during the growing season so as to remain free of vegetation that might impede their storage capacity.

ARTICLE VII
TERM, ENFORCEMENT, APPLICABILITY AND CHANGE

7.1: These Restrictive Covenants shall remain in full force



and effect until revocation or amendment upon an affirmative vote by at least 75% of the owners within the subdivision; provided, however, that any covenant which is required as a condition of plat approval may not be revoked or amended without the prior written consent of the Bozeman City Commission or any other appropriate governing body charged with the administration or enforcement of such condition. Each owner shall have one vote per lot, and the Covenants and Conditions herein contained are to run with the land, until so revoked.

7.2: Enforcement of these covenants shall be by proceedings either at law or in equity against any person or persons violating or attempting to violate any covenant; and the legal proceedings may be either to restrain violation of the covenants or to recover damages, or both. In the event of any action to enforce these covenants, including an action to collect unpaid assessments, through foreclosure or otherwise, the prevailing party shall be entitled to costs and reasonable attorney's fees to be set by the court. Any lot owner, Declarant, or the Association may enforce these covenants.

7.3: Any failure by the Declarant hereto, or of any subsequent lot owner, to enforce any Covenant or Restriction contained herein, shall in no event be deemed a waiver or in any way prejudice the rights to enforce that Covenant or any other Covenant thereafter, or to collect damages for any subsequent breach of these covenants.

7.4: Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other covenants or provisions, all of which shall remain in full force and effect.

7.5: In any conveyance of the above-described real property or of any tract thereon, it shall be sufficient to insert a provision in any deed or conveyance to the effect that the property is subject to the Restrictions and covenants herein contained, without setting forth such restrictions and covenants verbatim or in substance in the deed. All of the above-described real property and lots shall be subject to the restrictions and covenants set forth, whether or not there is a reference to the same in a deed or conveyance.

7.6: A breach of any of the foregoing restrictions or covenants shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon any tract or portion of the real property or any improvements thereon. However, the said restrictions and covenants shall be binding upon and inure to the benefit of any subsequent owner whose title thereto was acquired by foreclosure, trustee sale or otherwise.

IN WITNESS WHEREOF, James R. Schultz, the representative of The Vector Group, L.L.C. charged with the responsibility of creating and

