

RESTRICTIVE COVENANT AS TO USE OF LAND

MEMORANDUM OF AGREEMENT made this ____ day of February, 2006.

BETWEEN:

GENSTAR TITLECO LIMITED, a body corporate with an office in the City of Calgary, in the Province of Alberta (hereinafter called the "Grantor")

OF THE FIRST PART

- and -

GENSTAR TITLECO LIMITED, a body corporate with an office in the City of Calgary, in the Province of Alberta (hereinafter called the "Grantee")

OF THE SECOND PART

WHEREAS the Grantor is the registered owner of those certain lands (the "Servient Lands") in the Province of Alberta described in Schedule "A" attached hereto and forming an integral part hereof and each lot comprising the Servient Lands is hereinafter sometimes called a "Lot" and collectively the "Lots";

AND WHEREAS the Grantee is the registered owner of those certain lands (the "Dominant Lands") in the Province of Alberta described in Schedule "B" attached hereto and forming an integral part hereof;

AND WHEREAS the Grantor holds title to the Dominant Lands in trust for Genstar Development Company, the developer of the subdivision in which the Dominant Lands and Servient Lands are located (and in such capacity, is sometimes hereinafter referred to as "Genstar");

AND WHEREAS those of the Lots listed in Schedule "C" hereto are hereinafter called the "Feature Fence Lots";

AND WHEREAS those of the Lots listed in Schedule "D" hereto as hereinafter called the "Wood Sound Attenuation Fence Lots";

AND WHEREAS those of the Lots listed in Schedule "E" hereto are hereinafter called the "Wood Screen Fence Lots";

AND WHEREAS those of the Lots listed in Schedule "F" hereto are hereinafter called the "Chainlink Fence Lots";

AND WHEREAS the Grantor does agree to restrict its right of use and development of the Lots by prohibiting the construction of certain improvements or the placement of non-permanent structures and chattels on the yards of the Lots, and to prohibit the alteration or disrepair of certain fencing on certain of the Lots.

NOW THEREFORE this Agreement witnesseth that in consideration of the premises and as authorized by the Land Titles Act of the Province of Alberta, the Grantor being the registered owner of all the lands comprising the Servient Lands does, for itself, its successors in title and assigns of the Servient Lands, and each Lot, covenant and agree with the Grantee and its successors in title and assigns to observe and be bound by the following covenants:

ARTICLE 1
SATELLITE DISHES, CLOTHES LINES AND ANTENNA

1.1 Notwithstanding any land use or development by-law of the City of Calgary, no satellite dish over 18" in diameter, clothes line, television antenna, short wave radio antenna or any communication antennae of any size or type shall be installed, erected or be allowed to remain on any of the Lots.

1.2 Notwithstanding any land use development by-law of the City of Calgary, no carport, playhouse, gazebo, shed or other storage structure shall be erected or constructed on any of the Lots.

ARTICLE 2
GARAGES AND RECREATIONAL VEHICLES

2.1 Notwithstanding any land use or development by-law of the City of Calgary, no garage shall be constructed on any of the Lots unless the plans and specifications of such garage is approved in writing by Genstar prior to the commencement of construction thereof.

2.2 No motor home, utility trailer or recreational vehicle of any size, shape or form shall be allowed to remain on any of the Lots unless housed at all times within a fully enclosed garage, the design of which must be approved by Genstar or its successors or assigns.

ARTICLE 3
FENCING

3.1 The Grantor acknowledges that Genstar may be constructing feature fencing on a portion the side yard of the Feature Fence Lots where they abut a municipal roadway, and along the rear yard of the Feature Fence Lots where they abut a municipal reserve parcel (with the exception of Lot 122 in Block 16 where only a small portion of the rear yard will have the Feature Fence and the balance will have a chain link fence) which fencing may be designed, located and constructed in Genstar's sole discretion, but shall generally be 1.8 metres high with two stone pillars and constructed in accordance with the specifications shown in Schedule "G" hereto (the "Feature Fence"). The Grantor agrees to allow the initial construction of the Feature Fence and its continued existence. Further, it shall be the responsibility of the Grantor and subsequent owners of the Feature Fence Lots to properly maintain, repair, rebuild and otherwise keep the Feature

Fence in good condition in accordance with the details and specifications shown in Schedule "G".

3.2 The Grantor acknowledges that Genstar may be constructing wood screen fencing on the rear yard and side yard of the Wood Screen Fence Lots where they abut another residential lot, which fencing may be designed, located and constructed in Genstar's sole discretion, but shall generally be 1.8 metres high and constructed in accordance with the specifications shown in Schedule "H" hereto (the "Wood Screen Fence"). The Grantor agrees to allow the initial construction of the Wood Screen Fence and its continued existence. Further, it shall be the responsibility of the Grantor and subsequent owners of the Wood Screen Fence Lots to properly maintain, repair, rebuild and otherwise keep the Wood Screen Fence in good condition in accordance with the details and specifications shown in Schedule "H".

3.3 The Grantor acknowledges that Genstar may be constructing sound attenuation fencing on the rear yard of the Sound Attenuation Fence Lots where they abut Evergreen Boulevard S.W., which fencing may be designed, located and constructed in Genstar's sole discretion, but shall generally be between 2.0 and 2.4 metres high with stone pillars and constructed in accordance with the specifications shown in Schedule "I" hereto (the "Wood Sound Attenuation Fence"). The Grantor agrees to allow the initial construction of the Wood Sound Attenuation Fence and its continued existence. Further, it shall be the responsibility of the Grantor and subsequent owners of the Wood Sound Attenuation Fence Lots to properly maintain, repair, rebuild and otherwise keep the Wood Sound Attenuation Fence in good condition in accordance with the details and specifications shown in Schedule "I".

3.4 The Grantor acknowledges that Genstar may be constructing chainlink fencing on the rear yard and side yard of the Chainlink Fence Lots where they abut a municipal reserve parcel (with the exception of Lot 122 in Block 16 where a feature wood fence will be installed on a small portion of the rear yard, and the balance shall have a chain link fence), which fencing may be designed, located and constructed in Genstar's sole discretion, but shall generally be black-vinyl chainlink fencing 1.2 metres high (the "Chainlink Fence"). The Grantor agrees to allow the initial construction of the Chainlink Fence and its continued existence. Further, it shall be the responsibility of the Grantor and subsequent owners of the Chainlink Fence Lots to properly maintain, repair, rebuild and otherwise keep the Chainlink Fence in good condition in accordance with the original details and specifications of such Chainlink Fence.

ARTICLE 4 GENERAL

4.1 The Grantor covenants and agrees with itself, its successors and assigns in title to observe and be bound by the covenants contained herein PROVIDED THAT the said covenants shall be personally binding upon the Grantor and its successors and assigns in title only while and so long as it remains the owner of the Lots, and the said covenants shall be construed to be and shall be covenants running with the Servient Lands and shall be appurtenant to other lands in the Evergreen Subdivision and to all of the Dominant Lands.

4.2 Genstar may, with respect to any breach of the obligations by the owner or owners of the Lots enforce the provisions of this restrictive covenant and may, in addition to any other remedy

that may be available at law, apply to a Court of competent jurisdiction to restrain such breach by injunction. Genstar shall have no duty to enforce the provisions of this restrictive covenant and no action shall lie against it with respect to enforcement of this restrictive covenant and this clause shall be an absolute defence to any such action.

4.3 If any provision of this Restrictive Covenant Agreement shall be determined by a Court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby and each provision hereof shall be enforced to the fullest extent permitted by law.

4.4 Words herein importing a number or gender shall be construed in grammatical conformance with the context of the party or parties affected by this Agreement from time to time.

4.5 This Restrictive Covenant is granted by the Grantor in accordance with the provisions of section 71(1) of the Land Titles Act (Alberta) R.S.A. 1980, Chapter L-5.

4.6 This Restrictive Covenant may be registered per se or by way of a Caveat by Genstar against the Lots in the Land Titles Office for the South Alberta Land Registration District.

4.7 In Genstar's sole discretion, Genstar may at any time during the currency of this restrictive covenant, delegate the authority to enforce the provisions hereof to a group of individuals representative of owners of lots located within the Dominant Lands, which group of landowners shall be chosen by Genstar in its sole discretion (the "Committee"). After such delegation, the Committee shall determine the terms of reference by which the composition of the Committee shall be reconstituted in the future, provided that at all times, the Committee shall be composed entirely of individuals owning lots within the Dominant Lands or individuals designated as representatives of corporations owning lots within the Dominant Lands.

4.8 Notwithstanding anything to the contrary herein, Genstar (or the Committee, if Genstar has effected the delegation contemplated by clause 4.7 hereof) may, in its sole discretion, determine that the covenants herein contained shall no longer bind the Servient Lands and accordingly abandon any and all rights and obligations herein contained. Such determination shall be effective as and from the date that notice in writing to that effect is advertised in a daily circulation newspaper in the City of Calgary. Genstar shall have no obligation to remove this Restrictive Covenant or any caveat pursuant hereto from title to the Servient Lands notwithstanding such determination.

IN WITNESS WHEREOF, the Grantor and Grantee have caused their respective corporate seals to be affixed by their duly authorized officers in this behalf this ____ day of February, 2006.

GRANTOR:

GENSTAR TITLECO LIMITED

Per: _____

Per: _____

GRANTEE:

GENSTAR TITLECO LIMITED

Per: _____

Per: _____

EXAMPLE

**SCHEDULE "A" TO A RESTRICTIVE COVENANT
AGREEMENT MADE THIS _____ DAY OF
FEBRUARY, 2006**

LEGAL DESCRIPTION OF SERVIENT LANDS

FIRSTLY: PLAN 061 _____
 BLOCK _____
 LOTS ____ TO ____ INCLUSIVE and LOTS ____ TO ____ INCLUSIVE
 EXCEPTING THEREOUT ALL MINES AND MINERALS

SECONDLY: PLAN 061 _____
 BLOCK _____
 LOTS ____ TO ____ INCLUSIVE
 EXCEPTING THEREOUT ALL MINES AND MINERALS

EXAMPLE

**SCHEDULE "B" TO A RESTRICTIVE COVENANT
AGREEMENT
DATED THIS _____ DAY OF FEBRUARY, 2006**

LEGAL DESCRIPTION OF DOMINANT LANDS

FIRSTLY: PLAN 011 0646
BLOCK 9
LOT 1
EXCEPTING THEREOUT ALL MINES AND MINERALS

SECONDLY: PLAN 011 0646
BLOCK 10
LOT 2
EXCEPTING THEREOUT ALL MINES AND MINERALS

THIRDLY: THE SERVIENT LANDS

EXAMPLE

**SCHEDULE "C" TO A RESTRICTIVE COVENANT
AGREEMENT DATED THIS _____ DAY OF
FEBRUARY, 2006**

LEGAL DESCRIPTION OF FEATURE FENCE LOTS

FIRSTLY: PLAN 061 _____
BLOCK ____
LOTS ____ and ____
EXCEPTING THEREOUT ALL MINES AND MINERALS

SECONDLY: PLAN 061 _____
BLOCK ____
LOTS ____ and ____
EXCEPTING THEREOF ALL MINES MINERALS

EXAMPLE

**SCHEDULE "D" TO A RESTRICTIVE COVENANT
AGREEMENT DATED THIS _____ DAY OF
FEBRUARY, 2006**

LEGAL DESCRIPTION OF WOOD SOUND ATTENUATION FENCE LOTS

PLAN 061 _____
BLOCK _____
LOTS ___ TO ___ INCLUSIVE and LOTS ___ TO ___ INCLUSIVE
EXCEPTING THEREOUT ALL MINES AND MINERALS

EXAMPLE

**SCHEDULE "E" TO A RESTRICTIVE COVENANT
AGREEMENT
DATED THIS _____ DAY OF FEBRUARY, 2006**

LEGAL DESCRIPTION OF WOOD SCREEN FENCE LOTS

PLAN 061 _____
BLOCK ____
LOTS ____ TO ____ INCLUSIVE
EXCEPTING THEREOUT ALL MINES AND MINERALS

EXAMPLE

**SCHEDULE "F" TO A RESTRICTIVE COVENANT
AGREEMENT
DATED THIS _____ DAY OF FEBRUARY, 2006**

LEGAL DESCRIPTION OF CHAINLINK FENCE LOTS

PLAN 061 _____
BLOCK ____
LOTS ____ TO ____ INCLUSIVE
EXCEPTING THEREOUT ALL MINES AND MINERALS

EXAMPLE