

## RESTRICTIVE COVENANT

### PARKSIDE LOTS

WHEREAS Genstar Titleco Limited, a body corporate with an office in the City of Calgary, in the Province of Alberta (hereinafter sometimes referred to as the "Covenantor" and sometimes as "Genstar" as the context of this Restrictive Covenant may require) is the registered owner of those certain lands legally described as set forth in Schedule "A" attached hereto (hereinafter referred to as the "Burdened Lands");

AND WHEREAS the Burdened Lands are located in an area in the City of Calgary, developed and identified by Genstar as "Panorama Hills", and Genstar is the owner of lands therein and in the vicinity thereof which it holds for future development, and in particular, but without restricting the generality of the foregoing, Genstar is the registered owner of lands legally described as set forth in Schedule "B" hereto (hereinafter referred to as the "Benefitted Lands");

AND WHEREAS the Burdened Lands abut a municipal reserve parcel, which municipal reserve parcel is between the Lots and a storm water pond (the "Park");

AND WHEREAS Genstar has caused the Burdened Lands to be developed adjacent to the Park;

AND WHEREAS the Covenantor does agree to restrict its rights of use and development of the Burdened Lands for the purpose of enhancing the overall appearance of the Burdened Lands by providing for uniform standards for fencing, grading, landscaping and other improvements relating to the development of the rear yards of the Burdened Lands;

AND WHEREAS it is the desire and intention of Genstar to impose upon the Burdened Lands beneficial restrictions under a general plan or scheme of improvement for the general benefit of the Benefitted Lands and the future owners of the Benefitted Lands.

NOW, THEREFORE, the Covenantor hereby for itself, its transferees and assigns and successors in title, declare, covenant and agree as follows:

1. The Burdened Lands shall not be transferred, conveyed, hypothecated or encumbered, leased, rented, used, occupied or improved, excepting subject only to the following limitations, restrictions, conditions and covenants, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of the Burdened Lands and Benefitted Lands and are established and agreed upon for the purposes of enhancing and protecting the value, desirability, and attractiveness of both the Burdened Lands and the Benefitted Lands and every part thereof. All of the limitations, restrictions, conditions and covenants shall run with the Burdened Lands and shall be binding on all parties having or acquiring any right, title or interest in the Burdened Lands or any part thereof
2. No building, fence, satellite dish, wall, landscaping, or other structure or improvement as that term is defined in the City of Calgary Land Use By-law shall be commenced, erected, maintained or shall stand, nor shall any addition to or change or alteration therein be made, until

plans and specifications showing the nature, kind, shape, height, materials, landscaping, colour scheme, and sitings of such improvement, together with the grading plan of the Burdened Lands, have been submitted to and approved in writing by Genstar and a copy thereof, as finally approved, lodged permanently with Genstar. Genstar shall have the right to refuse to approve any such plans or specifications or grading plan which are not suitable or desirable, in the absolute opinion of Genstar, and during the review of such plans, specifications and grading plan, Genstar shall have the right to take into consideration the suitability of the proposed improvement, the harmony thereof with the surroundings, and the effect of the improvements on the outlook from the Benefitted Lands or any other neighbouring property.

3. In particular, but without restricting the generality of the foregoing and notwithstanding any City of Calgary by-law development restrictions, the Covenantor shall not, with respect to any improvement, or any addition to or change or alteration thereof, contravene any of the specific development requirements set forth in this clause 3. Such specific development requirements are set by Genstar as guidelines only and Genstar shall be entitled to apply its sole discretion to the enforcement and relaxation, without liability whatsoever, in respect of any or all of such covenants, namely:

- (a) Dwelling Set-backs - notwithstanding the provisions of any City of Calgary Land Use or Development By-Law, any dwelling house, ancillary buildings or out-buildings to be constructed on the Burdened Lands where same abut a Park:
  - (i) shall be set-back a minimum 8.5 metres from the rear property line of the Burdened Lands where the depth of such lot is in excess of 33.5 metres; and
  - (ii) shall be set-back a minimum of 7.5 metres from the rear property line of the Burdened Lands where the depth of such lot is less than 33.5 metres.

Notwithstanding the foregoing, decks attached to a dwelling house and raised more than 0.61 metres above grade level may encroach onto the set-back but must be at least 6.0 metres from the rear property line of the Burdened Lands. Decks which are less than 0.61 metres above grade level are not subject to any set back restrictions except as hereinafter specifically set forth.

- (b) Other Structures - No structure, movable structure, storage shed, play house, satellite dish, telecommunications antennae, clotheslines or other fixture, piece of equipment or chattel (a "Structure") shall be erected or placed or allowed to remain on any portion of the rear yard of the site without approval by Genstar in accordance with the provisions of Clause 2 hereof as if such Structure were an improvement to which clause 2 would otherwise apply. Except where the side yard of the site fully abuts the Park in which event such side yard fence shall be fully constructed of black vinyl clad chain link and shall be a minimum 1.2 metres in height, any fencing installed to the rear of the site beyond an approved deck (including fencing along the side property lines) shall be constructed of black vinyl clad chain link and shall be a maximum 1.2 metres in height.

4. No external alterations, additions or changes to the structure or design appearance in respect of any improvement on the Burdened Lands may be made, done or permitted except as shall conform to and comply with the restrictions and conditions and requirement for prior written approval of Genstar as heretofore contained in this agreement.

5. In order to secure the strict compliance with clauses 1 through 4 hereof by the Covenantor, Genstar may require, in its absolute discretion, that, prior to the commencement or alteration of any improvement on the Burdened Lands, the Covenantor shall deposit with Genstar a sum of money, bond, letter of credit or some other form of security satisfactory in form and amount to Genstar in its discretion (such security being hereinafter referred to as the "Security Deposit"). The Security Deposit shall be returned to the Covenantor, without interest, only if the requirements of clauses 1 through 4 hereof are fully met by the Covenantor in respect of the construction or alteration of the said improvement, the determination thereof being in the sole discretion of Genstar. In the event of a breach by the Covenantor of any of the provisions of clauses 1 through 4 hereof, Genstar shall be entitled to retain such portion of or all of the Security Deposit as may be necessary to compensate Genstar for its damages suffered as a result of such breach which damages shall include, without restricting the generality of the foregoing, the cost of remedying any such breach. The retention of the Security Deposit or portion thereof shall not be deemed to be a penalty but shall be partial satisfaction of Genstar's damages and such retention shall be without prejudice to any other rights or remedies available to Genstar at law.

6. The restrictive covenants set out herein are enforceable jointly and severally by Genstar and the registered owner or registered owners from time to time of the Benefitted Lands and any waiver by any registered owner of any portion of the Benefitted Lands of the strict performance of the covenants set out herein shall not of itself constitute a waiver or abrogate the covenants set out herein.

7. The rights, privileges, covenants and obligations herein contained shall extend to, shall be binding upon and shall enure to the benefit of the parties hereto and every purchaser or transferee or subsequent registered owner of the Burdened Lands or the Benefitted Lands as the case may be and their respective successors and assigns.

8. Any provision of this agreement made void or rendered invalid by any law in force in the Province of Alberta or adjudged not to be a covenant running with the Burdened Lands shall not invalidate or render unenforceable the remaining provisions of this agreement.

9. No action shall lie as against the Covenantor for damages for the breach of any one or more of the covenants contained in this agreement unless such party remains the registered owner of the Burdened Lands and is proven by a court of competent jurisdiction to be in breach of this agreement. This covenant shall constitute an absolute defence to any such action and may be pleaded as such.

10. Genstar shall be entitled to enforce the provisions of this Restrictive Covenant in its complete and absolute discretion and may, without reasons, determine not to enforce any or all of the covenants herein contained without liability whatsoever. In particular, without limiting the generality of the foregoing, Genstar may waive, alter or modify these restrictions in respect

to any portion of the Burdened Lands without notice to the owner of any other portion of the Benefitted Lands as long as Genstar retains ownership of any portion of the Benefitted Lands and provided that such waiver, alteration or modification does not reasonably offend the spirit and intent of this Restrictive Covenant. Notwithstanding the obligations of the owner of the Burdened Lands to obtain the prior written approval of Genstar, Genstar and its successors in title to the Benefitted Lands shall not be liable for damage for the breach of any obligation to provide consent to construction of improvements on the Burdened Lands, nor shall any action lie as against Genstar or its successors in title to the Benefitted Lands for failure to enforce the provisions of this Restrictive Covenant against the owner from time to time of any portion of the Burdened Lands. This covenant shall constitute an absolute defence to any such action and may be pleaded as such.

11. 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 Benefitted 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 Benefitted Lands or individuals designated as representatives of corporations owning lots within the Benefitted Lands.

12. Notwithstanding anything to the contrary herein, Genstar (or the Committee, if Genstar has effected the delegation contemplated by clause 11 hereof) may, in its sole discretion, determine that the covenants herein contained shall no longer bind the Burdened 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 Burdened Lands notwithstanding such determination.

IN WITNESS WHEREOF Genstar Titleco Limited has hereunto affixed its corporate seal, duly attested by its properly authorized officers, this \_\_\_\_ day of December, 2005.

**GENSTAR TITLECO LIMITED**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

**SCHEDULE "A" TO A RESTRICTIVE**

**COVENANT MADE BY**

**GENSTAR TITLECO LIMITED**

**DATED DECEMBER \_\_\_\_, 2005**

**LEGAL DESCRIPTION OF THE BURDENED LANDS**

FIRSTLY:

PLAN \_\_\_\_\_  
BLOCK \_\_\_\_  
LOTS \_\_\_ TO \_\_\_ INCLUSIVE  
EXCEPTING THEREOUT ALL MINES AND MINERALS

SECONDLY:

PLAN \_\_\_\_\_  
BLOCK \_\_\_\_  
LOTS \_\_\_ TO \_\_\_ INCLUSIVE  
EXCEPTING THEREOUT ALL MINES AND MINERALS

EXAMPLE

**SCHEDULE "B" TO A RESTRICTIVE COVENANT**

**MADE BY GENSTAR TITLECO LIMITED**

**DATED DECEMBER \_\_\_\_, 2005.**

**LEGAL DESCRIPTION OF THE BENEFITED LANDS**

FIRSTLY:           PLAN 0414369  
                      BLOCK \_\_\_\_  
                      LOT \_\_\_\_  
                      EXCEPTING THEREOUT ALL MINES AND MINERALS

SECONDLY:         PLAN 0414369  
                      BLOCK \_\_\_\_  
                      LOT \_\_\_\_  
                      EXCEPTING THEREOUT ALL MINES AND MINERALS

THIRDLY:          THE SERVIENT LANDS

EXAMPLE