

SCHEDULE "D"

THIS RESTRICTIVE COVENANT AGREEMENT made as of the ____ day of _____, 2015

BETWEEN:

GENSTAR TITLECO LIMITED, a body corporate, having a place of business in the City of Calgary, in the Province of Alberta, as bare trustee for and on behalf of GENSTAR DEVELOPMENT COMPANY (hereinafter called "Genstar")

OF THE ONE PART,

- and -

EVERGREEN RESIDENTS ASSOCIATION LTD., a body corporate, having a place of business in the said City (hereinafter called the "Association")

OF THE OTHER PART,

WHEREAS by Agreement dated August 1, 2001, Genstar agreed to sell and transfer to the Association certain parcels of land legally described as follows:

[FORMAL LEGAL DESCRIPTIONS TO BE INSERTED WHEN FINALIZED]

which parcels and units are outlined on the sketch plan attached hereto and marked as Schedule "A" (the "Private Parcels"), upon the terms and conditions in said Agreement set forth;

AND WHEREAS it is a condition of the said sale and transfer that the use of the Private Parcels be restricted as herein set out;

NOW THIS AGREEMENT WITNESSETH that in pursuance of the premises herein contained and for valuable consideration acknowledged by all parties as having been received, the Association covenants and agrees with Genstar as follows:

1. No building, fence, wall or other improvement shall ever be erected, made, placed or permitted upon the Private Parcels or any portion thereof, with the exception only of such improvements as may be suitable and proper in keeping with the operation and maintenance of the Private Parcels, but none of which may affect access to or from any such Private Parcels.
2. No business, commercial endeavours or industry of any nature or kind shall be conducted from the Private Parcels, with the exception only of the lawful business of the Association as authorized pursuant to the Memorandum of Association and Articles of Association of the Association as they exist as at the date of this Agreement. Notwithstanding the foregoing, the Association may, if it so desires, operate a food and beverage retail sales concession from the Amenities for the benefit of the members of the Association, or alternatively may grant a license of occupation to a third party to operate such concession, provided that any profit or license fees received from such operations shall be used only for Association purposes.
3. The Private Parcels shall not be used for any purpose whatsoever by the Association, its members or any guests or invitees other than for private entranceways, walkways, recreation, amenity, education and general enjoyment of the Members of the Association, it being the intent that the Private Parcels shall not be used except for such limited purposes and improved and maintained to aesthetically improve the Genstar's Evergreen Subdivision (the "Community"), which Community is shown outlined in Schedule "B" attached hereto.

4. There shall be no further subdivision of the parcels of land currently comprising the Private Parcels, nor shall the Association enter into an agreement which would have the practical effect of creating a subdivision of the Private Parcels.
5. The Association shall not apply for, support, or otherwise encourage any application to the City of Calgary for a land use reclassification in respect of the Private Parcels.
6. The Association declares and agrees that the above-mentioned restrictions shall continue in full force and effect in perpetuity and shall operate as covenants hindering the Private Parcels, for the benefit of each of the parcels of land comprising the Private Parcels, the Community and the residential developments and lands legally owned by Genstar in the vicinity of the Community, which lands Genstar proposes for residential development (the "Genstar Development Lands"). The Association acknowledges that the marketability by Genstar of the Genstar Development Lands will be influenced greatly by the public impression of the Private Parcels, that any breach of the above-mentioned restrictions will result in irreparable harm to Genstar and that an injunction is an appropriate remedy resulting from any such breach.
7. Subject to Clauses 10 and 11 hereof, the restrictive covenants set out herein are enforceable jointly and severally by Genstar, the Association and any registered owner or registered owners from time to time of the residential lands (a "Unit") within the Community and any waiver by any such registered owner of any Unit of the strict performance of the covenants set out herein shall not of itself constitute a waiver or abrogate the covenants set out herein.
8. 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 owners of the Private Parcels, the Units and the Genstar Development Lands as the case may be, and their respective successors and assigns.
9. 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 Private Parcels, or any of them, shall not invalidate or render unenforceable the remaining provisions of this Agreement.
10. Notwithstanding the foregoing and any provisions of applicable law in the Province of Alberta, (other than the requirement to obtain Court approval to the discharge or amendment hereof) the provisions of this Restrictive Covenant may be varied, amended, deleted or waived at any time during the currency hereof, by a resolution passed by the members of the Association at the annual general meeting or extraordinary meeting thereof; PROVIDED THAT:
 - (a) the resolution is passed by at least two-thirds (b) of the members present at the meeting; and
 - (b) notice of the meeting and the proposed resolution affecting this Restrictive Covenant shall be delivered to all residential dwelling units comprising the Units or mailed to the occupant thereof.
11. Without limiting the rights of an owner of a Unit, Genstar shall, subject to Clause 10 hereof, 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 all, or any portion of any, of the Private Parcels without notice to the owner of any Unit. No action shall lie as against Genstar or its successors in title to the Genstar Development Lands for failure to subsequently enforce the provisions of this Restrictive Covenant against the owner from time to time of any all or portion of any of the Private Parcels. This covenant shall constitute an absolute defence to any such action and may be pleaded as such.
12. The Association acknowledges that Genstar shall be entitled to register a caveat against title to the Private Parcels pursuant to the provisions hereof.

IN WITNESS WHEREOF the parties hereto have caused their corporate seals to be hereunto affixed and these presents to be signed by their respective officers thereunto authorized, as of the day and year first above written.

GENSTAR TITLECO LIMITED

Per: _____

Per: _____

EVERGREEN RESIDENTS ASSOCIATION LTD.

Per: _____