

RESTRICTIVE COVENANT AS TO GEOTECHNICAL REQUIREMENTS

MEMORANDUM OF AGREEMENT made this ____ day of _____, A.D. 2007.

BETWEEN:

Centron Residential Corporation, 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 -

Centron Residential Corporation, a body corporate with an office in the City of Calgary, in the Province of Alberta (hereinafter called the "Grantee" and/or "Centron")

OF THE SECOND PART

WHEREAS:

- A. 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 a portion of the Servient Lands is hereinafter sometimes called a "Lot" and collectively the "Lots", and where applicable to a condominium unit, each condominium unit is hereinafter sometimes called a "Unit" and collectively the "Units"; and
- B. 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
- C. the Grantee is 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 "Centron");
- D. subsection 68(1) of the *Lands Titles Act*, Alberta, provides that an owner may grant to itself a restrictive covenant for the benefit of Land which it owns and against land which it owns and the restrictive covenant may be registered under the *Lands Titles Act*;

- E. notwithstanding the foregoing the Grantor does agree to comply with the terms hereof including the geotechnical requirements with respect to the Lots as set out herein.

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 of the Units and the Lots, covenant and agree with the Grantee and its successors in title and assigns to observe and be bound by the following covenants:

1. GEOTECHNICAL COVENANT

1.1 All foundations shall be constructed in accordance with the Alberta Building Code, the Safety Codes Act and all regulations enabled thereunder, and the foundation requirements as contained in the *Geotechnical Assessment, Eagle Ridge, Residential Development, Fort McMurray, Alberta* report dated October 11, 2006 by AMEC Earth and Environmental, now filed with the Regional Municipality of Wood Buffalo and as may be amended from time to time.

1.2 In furtherance of the foregoing, prior to the construction of any foundation, the Grantor shall obtain a bearing certificate for all foundations from a geotechnical engineer licensed, registered and in good standing with The Association of Professional Engineers, Geologists and Geophysicists of Alberta (APEGGA). All costs associated with the preparation and submission of bearing certificates for building or development purposes shall be borne by the Grantor. Any additional construction costs as a result of compliance with the recommendations as referenced aforesaid associated with the bearing certificate shall also be borne by the Grantor.

1.3 The Grantor shall comply with all safety and building code requirements related to the Lot, including but not limited to the potential of swelling clays on or related to the Lot, and the installation of appropriate weeping tiles and/or weeping tile systems.

1.4 The Grantor shall comply with any stop-work notices provided by Centron should Centron determine in its sole discretion that the Grantor is not dealing with an adverse soil condition in a responsible manner.

1.5 All rain water leaders on the Escarpment Lots must drain to the front of the Lot.

2. GENERAL

2.1 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 with respect to any Lot or Lots, and any Unit or Units, only while and so long as it remains the owner of such Lot or Lots, or such Unit or Units, 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 Centron Subdivision and to all of the Dominant Lands.

2.2 Centron may, with respect to any breach of the obligations by the owner or owners of the Lots and/or the Units 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. Centron shall have no duty or obligation (legal or otherwise) 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.

2.3 In Centron's sole discretion, Centron may at any time during the currency of this restrictive covenant, delegate the authority to enforce the provisions hereof to the Eagle Ridge of Fort McMurray Homeowners Association (the "Association"), or such other group of individuals representative of owners of lots or units located within the Benefited Lands as may be chosen by Centron in its sole discretion, which Association or group of landowners shall hereinafter be referred to as 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 or units within the Benefited Lands or individuals designated as representatives of corporations owning lots or units within the Benefited Lands.

2.4 Notwithstanding anything to the contrary herein, Centron (or the Committee, if Centron has effected the delegation contemplated by clause 10.3 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 Regional Municipality of Wood Buffalo. Centron shall have no obligation to remove this Restrictive Covenant or any caveat pursuant hereto from title to the Burdened Lands notwithstanding such determination.

2.5 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 enforceable to the fullest extent permitted by law.

2.6 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.

2.7 This Restrictive Covenant is granted by the Grantor in accordance with the provisions of section 68(1) of the *Land Titles Act (Alberta)* R.S.A. 2000, Chapter L-4.

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

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 _____, 200__.

GRANTOR:

Centron Residential Corporation

Per: _____

Per: _____

GRANTEE:

Centron Residential Corporation

Per: _____

Per: _____

**SCHEDULE "A" TO A RESTRICTIVE COVENANT
AGREEMENT MADE THIS ____ DAY OF _____, 200__.**

LEGAL DESCRIPTION OF SERVIENT LANDS

PLAN _____
BLOCK
LOTS

EXCEPTING THEREOUT ALL MINES AND MINERALS

**SCHEDULE "B" TO A RESTRICTIVE COVENANT
AGREEMENT DATED THIS ___ DAY OF ____, 200_**

LEGAL DESCRIPTION OF DOMINANT LANDS

PLAN _____
BLOCK
LOTS

EXCEPTING THEREOUT ALL MINES AND MINERALS