

**NOTE: This agreement must be properly executed.**

**Execution of this agreement by individuals must  
be witnessed in all cases and an Affidavit of  
Execution must be appended.**

**THIS AGREEMENT MADE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_.**

**BETWEEN:**

**(hereinafter called "the First Party")  
OF THE FIRST PART**

**- and -**

**(hereinafter called "the Second Party")  
OF THE SECOND PART**

**WHEREAS the First Party is or is entitled to become the registered owner  
of the following or proposed subdivided parcel:**

**(hereinafter called Parcel "A")**

**AND WHEREAS the Second Party is or is entitled to become the registered  
owner of the following or proposed subdivided parcel:**

**(hereinafter called Parcel "B");**

(Parcel "A" and Parcel "B" hereinafter sometimes collectively referred to herein as "the land" or "the parcels");

AND WHEREAS Parcel "A" and Parcel "B" are parcels immediately adjoining each other;

AND WHEREAS there is erected on Parcel "A" and on Parcel "B", a building having as to Parcel "A" a wall on and adjoining the common boundary line existing between Parcel "A" and Parcel "B" and having as to Parcel "B" a wall on and adjoining the common boundary line existing between Parcel "A" and Parcel "B";

AND WHEREAS the wall erected on Parcel "A" and on Parcel "B" form a single centre wall on both sides of the common boundary line existing between Parcel "A" and Parcel "B";

AND WHEREAS the parties hereto have agreed to use of the said centre wall and foundations therefore as a party wall (hereinafter called "the party wall");

AND WHEREAS The Town of High River, being a municipal corporation existing under the laws of the Province of Alberta (hereinafter referred to as "The Town") requires the creation of certain rights, encroachments and other rights of owners of each portion of the land as a condition of subdivision and approval and to the existence of a party wall, structural features and the proximity of separate utility installations;

NOW THEREFORE in consideration of the premises and the sum of One Dollar (\$1.00) now paid by the First Party and the Second Party each to the other (receipt whereof is hereby acknowledged) and the protection of each Parcel and its respective owners the First party covenants and agrees with the Second Party and the Second Party covenants with the First Party as follows:

1. The First Party, as owner of Parcel "A" (the servient tenement) does hereby grant unto the owner of Parcel "B" (the dominant tenement) his heirs, successors and assigns, the rights, privileges, covenants and easements hereinafter described.
2. The Second Party, as owner of Parcel "B" (the servient tenement) does hereby grant unto the owner of Parcel "A" (the dominant tenement) his heirs, successors and assigns, the rights, privileges, covenants and easements hereinafter described.
3. The single centre wall and foundations therefor located both above and below ground level on and adjoining the common boundary existing between Parcel "A" and Parcel "B" is and is hereby declared to be a party wall between the building erected on Parcel "A" and the building erected on Parcel "B" and shall be used and maintained as a party wall and owned jointly by the owners of the Parcels upon which such party wall has been constructed. The middle line of the party wall is on the dividing line between Parcel "A" and Parcel "B" and shall coincide with the common boundary existing between Parcel "A" and Parcel "B".
4. Any encroachment by the party wall or the fire wall or lot wall located on, near or adjoining the common boundary between Parcel "A" and Parcel "B" where such wall extends beyond the party wall and which wall has been solely erected and constructed for the purpose of support of the roof of one of the dwelling units only (which said fire wall or lot wall shall be deemed to be included in the definition of "party wall" but is sometimes hereinafter referred to as an "extension wall") and the foundation and

footings therefor and any existing projections such as roof eaves, eavestroughs, gables, overhangs, trims or exterior cladding shall constitute a perpetual right, privilege and easement insofar as it encroaches on the dominant and servient tenements respectively. Each owner, its agents, contractors or employees shall have access to the adjoining lot to the extent reasonably required for the purpose constructing, maintaining, repairing and rebuilding the party wall and the utilities thereon or thereunder. Either of the owners of Parcels "A" and "B", its agents, contractors or employees shall have the right to break through the party wall and to dig up the land for the purpose of repairing or restoring sewage and water lines and other utilities, subject to the obligation to restore the party wall and the land to their previous condition at this own expense and the payment to the adjoining owner of any damages caused thereby.

5. The owner of either Parcel, its agents, contractors or employees may rebuild the whole or any portion of the party wall excepting an extension wall in the event of its partial or total destruction, and the cost of repairs and maintenance of the party wall in the event of its partial or total destruction, except in the case of negligence by one of the owners or his agents, employees, invitees or tenants, shall be borne equally by the owners from time to time of Parcels "A" and "B" and each owner hereby agrees to so contribute upon request to such cost PROVIDED THAT whenever the party wall or any portion thereof is rebuilt it shall be erected on the place where it now stands and shall be of the same size and of the same or similar materials and of like quality with the present or last existing party wall and shall be constructed in accordance with the minimum standards provided in the building bylaw applicable in the municipality or in the absence of such a bylaw, then in accordance with the minimum standards provided by the Alberta Building Code (2014).

6. Prior to the rebuilding of the party wall, excepting an extension wall, the party who intends to actually rebuild shall send to the other party, plans and specifications of the party wall to be rebuilt and request the other's written approval thereof. Upon

written approval by the other party of the said plans and specifications, the party so requesting may proceed with the rebuilding in accordance therewith. Should written approval not be received within seven (7) days after request, then any party may make a submission pursuant to the Arbitration Act, R.S.A. 1980 chapter A-43, as amended, and there shall be two (2) arbitrators, one named by each party, and they shall proceed to make their determination pursuant to the Schedule thereof and the parties shall be bound by the terms of the said Act.

7. Whenever the party wall, excepting an extension wall, is rebuilt, any injury caused by construction of such rebuilding shall be made good, and any rebuilding shall be of good materials and workmanship and when rebuilt shall remain a party wall subject to the terms of this Agreement. Except as otherwise provided herein, the respective owners of the Parcels shall not alter or change the party wall, excepting an extension wall, in any manner, interior decoration excepted.

8. The use of the party wall by the owners from time to time of Parcels "A" and "B" shall be perpetual but no covenant herein shall be personally binding upon a party from time to time except in respect of a breach occurring during the period that he is the owner of the Parcel "A" or of the Parcel "B", as the case may be.

9. No part of the estate in fee simple of Parcel "A" upon which the party wall is constructed shall become vested in the owner of Parcel "B" and no part of the estate in fee simple of Parcel "B" on which the centre wall is constructed shall become vested in the owner of Parcel "A".

10. If either owner is in breach of his covenants to repair, rebuild, maintain or contribute to the costs of the party wall or damage done to adjoining parcel by virtue of the exercise of any rights under this Agreement, the other owner may repair, rebuild, maintain or pay for the party wall or other damage as required, and may recover the cost of same from the owner in breach to the extent that

such owner is obligated to contribute to the cost, and shall be entitled to file a Builder's Lien against the Parcel of the owner in breach.

11. Each owner shall have the right to encroach on the adjoining Parcel to repair or replace any extension wall or projections and the owner thereof, his agents, contractors or employees is hereby granted an easement for such reasonable access as is required to maintain, repaint, refinish, repair or replace or otherwise maintain any extension wall or projection. Where such extension wall faces and abuts the property line of the adjoining Parcel, the owner such adjoining Parcel covenants and agrees that he will not erect, construct or attach any apparatus or device of any nature or kind whatsoever, nor will he suffer, permit, or allow any use on his Parcel which will or would be likely to hinder, molest, annoy or otherwise cause nuisance to the other owner or interfere with maintenance of such extension wall. The party to whom the benefit of the within easement is granted shall not damage any grass, shrubbery, bushes, plants or improvements on the Parcel of the party granting the easement and, in the event of any such damage, the party suffering such damage shall be entitled to be compensated therefor.

12. In the event of the destruction of the building on either Parcel, the obligations on the part of the owner therefor to rebuild the party wall shall cease where said owner provides written notice that the destroyed building will not be reconstructed so as to attach to the party wall.

13. The owner of each Parcel, its agents, contractors, or employees shall have the right to enter onto the other parcel to the extend reasonably required to dig up, inspect, repair, maintain and replace such overhead or underground utilities including incoming conduit and service wires, junction boxes and meter bases servicing one or both Parcels as may be located on one or both Parcels. Where such works are performed, the owner performing such work shall expeditiously restore the other Parcel, where

disturbed by such works, to the condition that existed prior to the performance of such works. The owner of each Parcel shall be responsible for a one half share of all reasonable costs incurred by the owner of either Parcel "A" or Parcel "B" for work on utilities which provide service to both the said Parcels, save and except where said inspection, repair, maintenance or replacement is caused by the negligence of one owner, in which case said negligent owner shall be responsible for all costs.

14. Any provision herein found or made void or unenforceable by any court under law shall not void or render unenforceable the remaining provisions hereof.

15. The rights, privileges and easements granted and the restrictive covenants and conditions made herein shall run with and be legally annexed to the land including both Parcel "A" and Parcel "B" and they shall extend to and ensure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns of the parties hereto respectively.

16. The rights, privileges, covenants and easements hereby granted shall not be extinguished in the event that title to or ownership of either of the Parcels which adjoin each other shall be vested in the same person. Further and in any event, if any such extinguishment shall occur and title for such adjoining Parcel shall thereafter be divested from such common ownership, thereafter the successors in title to such Parcels shall be and remain bound to and in respect of the rights, privileges, covenants and easements hereby granted and entitled to the benefits thereof as rights, privileges and obligations which are created under and by virtue of this Agreement.



17. Nothing contained in this Agreement shall be construed so as to alter the rights of any mortgage of either Parcel to obtain payment of insurance monies in rebuilding, reinstating or repairing all of any part of the dwelling units located on the land or at its option to have such insurance monies paid to it or paid to it partly in one way and partly in the other or applied in whole or in part of the mortgage debt or any part thereof whether due or not then due.

18. The parties hereto agree to register this Agreement or a Caveat or other encumbrance relating thereto in the Land Titles Office for the South Alberta Land Registration District.

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement as of the day and year first above written.

\_\_\_\_\_  
WITNESS

Name (printed):

\_\_\_\_\_  
FIRST PARTY

Name (printed):

\_\_\_\_\_  
WITNESS

Name (printed):

\_\_\_\_\_  
SECOND PARTY

Name (printed):