

**Return Address**

Haggen, Inc.  
 2211 Rimland  
 Bellingham, WA 98226  
 Attn: Thomas F. Kenney



200202150126  
 Skagit County Auditor

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**Document Title(s) (or transactions contained therein):**

1. Subordination, Non-Disturbance and Attornment Agreement

ISLAND TITLE CO. 032187

- 2.

- 3.

ACCOMMODATION RECORDING

**Reference Number(s) of Documents assigned or released:**  
 (on page \_\_\_ of documents(s))

200107200125

**Grantor(s) (Last name first, then first name and initials):**

1. HAGGEN, INC.
2. BRIAR DEVELOPMENT BURLINGTON LLC
- 3.
4. ☐ Additional names on page \_\_\_ of document.

**Grantee(s) (Last name first, then first name and initials):**

1. HORIZON BANK
- 2.
- 3.
4. ☐ Additional names on page \_\_\_ of document.

**Legal description (abbreviated: i.e. lot, block, plat or section, township, range)**

Lot A of BOUNDARY LINE ADJUSTMENT SURVEY NO. BLA6-00

☒ Full legal is on Exhibit A of document.

**Assessor's Property Tax Parcel/Account Numbers**

340406-1-077-0000 and 4392-000-010-0006

Island Title Company has placed  
 this document for recording as a  
 customer courtesy and accepts no  
 liability for its accuracy or validity

**SUBORDINATION, NON-DISTURBANCE,  
ESTOPPEL AND ATTORNMENT AGREEMENT**

Date: FEBRUARY 8, 2002

From: HAGGEN, INC. ("Tenant") and  
BRIAR DEVELOPMENT BURLINGTON LLC ("Landlord")

To: HORIZON BANK ("Lender")

**RECITALS**

A. Tenant has entered into a lease with Landlord (the "Lease") covering premises (the "Premises") described more particularly on attached Exhibit A, a memorandum of which was recorded in the real estate records of Skagit County, Washington under file No. 200107200125.

B. Lender has agreed to make a loan to Landlord (the "Loan") secured by a Deed of Trust (the "Deed of Trust") encumbering the Premises, which was recorded in the real estate records of Skagit County under file No. 200107160159.

C. Lender has been requested by Tenant and by Landlord to enter into a non-disturbance agreement with Tenant and Tenant has been requested by Lender to subordinate the Lease to the Deed of Trust.

NOW, THEREFORE, in consideration of the promises and mutual covenants hereinafter contained, the parties hereto mutually covenant and agree as follows:

1. The Lease and any extensions, renewals, replacements or modifications thereof, and all of the right, title and interest of the Tenant in and to said Premises, including but not limited to any option or right of first refusal to purchase Premises, or any acquisition of title to the Premises by Tenant during the term of the Deed of Trust, are and shall be subject and subordinate to the Deed of Trust and to all of the terms and conditions contained herein, and to any renewals, modifications, replacements, consolidations and extensions of the indebtedness secured thereby.

2. Lender consents to the Lease and, in the event of foreclosure of said Deed of Trust, or in the event Lender comes into possession or acquires title to the premises as a result of the enforcement or foreclosure of the Deed of Trust, or as a result of any other means, Lender agrees to recognize Tenant and further agrees that Tenant shall not be disturbed in its possession of the Premises for any reason other than one which would entitle the Landlord to

SUBORDINATION, NON-DISTURBANCE, ESTOPPEL  
AND ATTORNMENT AGREEMENT  
[Horizon-Haggen-LLC SNDA 1-25-02]



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terminate the Lease under its terms or would cause, without further action by such Landlord, the termination of the Lease or would entitle such Landlord to dispossess the Tenant from the Premises.

3. Tenant agrees with Lender that if the interests of Landlord in the Premises shall be transferred to and owned by Lender by reason of foreclosure or other proceedings brought by it, or by any other manner, Tenant shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be affected in accordance with any option therefor in the Lease, with the same force and effect as if Lender were the Landlord under the Lease, and Tenant does hereby attorn to Lender as its Landlord, said attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon Lender succeeding to the interest of the Landlord in the Premises. Tenant agrees, however, upon the election of and written demand by Lender after Lender receives title to the Premises, to promptly execute an instrument in confirmation of the foregoing provisions, satisfactory to Lender, in which Tenant shall acknowledge such attornment and shall set forth the terms and conditions of its tenancy.

4. In the event that the Landlord shall default in the performance or observance of any of the terms, conditions or agreements in the Lease, Tenant shall give written notice thereof to the Lender and the Lender shall have the right (but not the obligation) to cure such default. Tenant shall not take any action with respect to such default under the Lease, including and without limitation, any action in order to terminate, rescind or void the Lease or to withhold any rental thereunder for a period of ten (10) days after receipt of such written notice thereof by the Lender with respect to any such default capable of being cured by the payment of money and for a period of thirty (30) days after receipt of such written notice thereof by the Lender with respect to any other such default.

5. This Agreement shall bind and inure to the benefit of all parties hereto, their successors and assigns. As used herein the term "Tenant" shall include the Tenant, its successors and assigns; the words "foreclosure" and "foreclosure sale" as used herein shall be deemed to include the acquisition of Landlord's estate in the Premises by voluntary deed (or assignment) in lieu of foreclosure; the word "Lender" shall include the Lender herein specifically named and any of its successors and assigns, including anyone who shall succeed to Landlord's interest in the Premises by, through or under foreclosure of the Deed of Trust, and the word "Bond Trustee" shall include the Bond Trustee herein specifically named and any of its successors and assigns, including anyone who shall succeed to Landlord's interest in the Premises by, through or under foreclosure of the Deed of Trust.

6. This Agreement shall not be modified or amended except in writing signed by the parties hereto.



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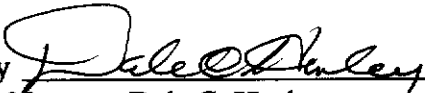
IN WITNESS WHEREOF the parties hereto have placed their hands and seals the day and year first above written.

**LANDLORD:**

**BRIAR DEVELOPMENT BURLINGTON LLC**

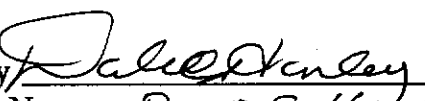
By: Briar Management LLC, Manager

By: Briar Development Company, Manager

By   
Name: Dale C. Henley The 2/15/02  
Title: President & CEO

**TENANT:**

**HAGGEN, INC.**


By  7/2/12/02  
Name: DALE C. HENLEY  
Title: PRESIDENT & CEO

**LENDER:**

**HORIZON BANK**

By   
Name: DALE A. HOLT  
Title: VICE PRESIDENT

**HORIZON BANK**

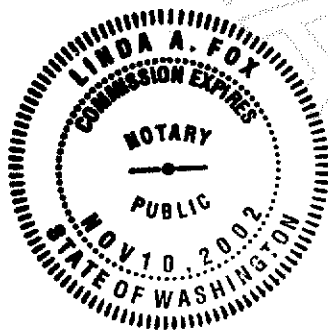
By   
Name: Paul C. Eickmeyer  
Title: Vice President



STATE OF WASHINGTON )  
COUNTY OF WHATCOM ) ss.

On Feb. 12, 2002 before me personally appeared  
DALE HENLEY to me known to be the PRESIDENT & CEO of  
Briar Development Company, as Manager of Briar Management LLC, as Manager of Briar  
Development Burlington LLC, that executed the within and foregoing instrument and  
acknowledged the instrument to be the free and voluntary act and deed of such entity, for the  
uses and purposes therein mentioned, and on oath stated that she/he was authorized to execute  
the instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and  
year first above written.



Linda A. Fox  
(Signature of Notary)

LINDA A. FOX  
(Print or stamp name of Notary)

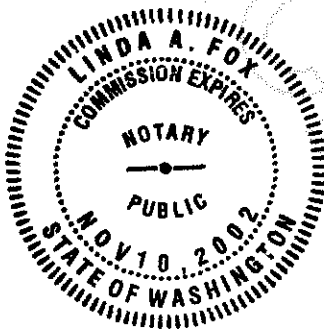
NOTARY PUBLIC in and for the State  
of Washington, residing at Blaine  
My appointment expires: Nov. 10/02



STATE OF WASHINGTON )  
COUNTY OF WHATCOM ) s.s.

On FEB 12, 2002 before me personally appeared DALE HENLEY to me known to be the PRESIDENT & CEO of Haggen, Inc. that executed the within and foregoing instrument and acknowledged the instrument to be the free and voluntary act and deed of such entity, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first written.



Linda A. Fox  
Signature of Notary

LINDA A. FOX  
(Print or stamp name of Notary)

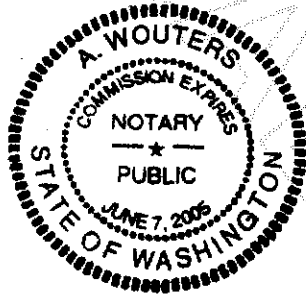
NOTARY PUBLIC in and for the State of  
Washington, residing at Blaine  
My appointment expires: NOV 10/02



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

On FEBRUARY 08, 2002 before me personally appeared  
PAUL C. EICKMEYER to me known to be the VICE PRESIDENT of  
HORIZON BANK, that executed the within and foregoing instrument and  
acknowledged the instrument to be the free and voluntary act and deed of such entity, for the  
uses and purposes therein mentioned, and on oath stated that she/he was authorized to execute  
the instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and  
year first above written.



A. Wouters  
(Signature of Notary)

A. Wouters  
(Print or stamp name of Notary)

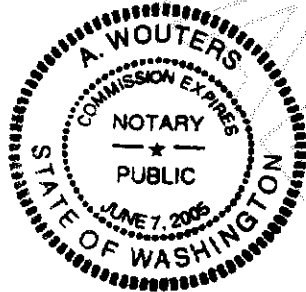
NOTARY PUBLIC in and for the State  
of Washington, residing at FELNDALE.  
My appointment expires: 6/7/2005.



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

On FEBRUARY 08, 2002 before me personally appeared  
DALE A. E. HOLT to me known to be the VICE PRESIDENT of  
HORIZON BANK, that executed the within and foregoing instrument and  
acknowledged the instrument to be the free and voluntary act and deed of such entity, for the  
uses and purposes therein mentioned, and on oath stated that she/he was authorized to execute  
the instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and  
year first above written.



A. Wouters.  
(Signature of Notary)

A. Wouters  
(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State  
of Washington, residing at FELDALE  
My appointment expires: 6/7/2005





**EXHIBIT A**  
**TO**  
**SUBORDINATION, NON-DISTURBANCE,**  
**ESTOPPEL AND ATTORNMENT AGREEMENT**  
**LEGAL DESCRIPTION**

Lot A of BOUNDARY LINE ADJUSTMENT SURVEY NO. BLA6-00  
approved July 28, 2000 recorded July 28, 2000, under Auditor's File  
No. 200007280054, records of Skagit County, Washington; being a  
Portion of Government Lot 1, Section 6, Township 34 North, Range 4 East  
of the Willamette Meridan.

Situated in Skagit County, Washington.

