



201303110103
Skagit County Auditor

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File No: **NCS-585933-CLE**

Date: **March 07, 2013**

Declarant: **KeyBank National Association**

Abbreviated Legals: **Lots 11-15, Block 98, Amended Plat of Burlington, 4076-098-015-0008; and (0.8300 ac) HAGGEN CENTER BINDING SITE PLAN #1, AF# 200207100176, Lot 3, (DK 12)**

Assessor's Tax Parcel Nos: **P71963; and P119328**

GUARDIAN NORTHWEST TITLE CO.

105191-1

WHEN RECORDED, MAIL TO:

KeyBank National Association
Mailcode: OH-01-10-0605
100 Public Square, Suite 600
Cleveland, Ohio 44113-2207
Attention: Real Estate Asset Manager (PID No. 3695)

THIS INSTRUMENT PREPARED BY:

Jones Day
901 Lakeside Avenue
Cleveland, Ohio 44114
Attn: Stephen C. Mixter

DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS ("**Declaration**") is made the 6th day of March, 2013, by KEYBANK NATIONAL ASSOCIATION, a national banking association ("**Declarant**")

RECITALS:

- A. Pursuant to a Real Estate Sale Agreement (the "**Agreement**"), dated January 23, 2013, Declarant agreed to sell and convey that certain parcel of real property located at 201 East Fairhaven Avenue, Burlington, Washington, and described on Exhibit A attached hereto (the "**Restricted Property**").

B. Declarant desires to impose certain restrictions on the Restricted Property, subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the above premises and of the covenants herein contained, the Declarant does hereby declare that the Restricted Property and all present and future owners, lessees and occupants of the Restricted Property shall be and hereby are subject to the terms, covenants, and restrictions hereinafter set forth and shall be used in full compliance with and subject to this Declaration and, in connection therewith, Declarant covenants and agrees as follows:



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1. Restriction on Use. During the Term (as hereinafter defined), neither the Restricted Property, nor any portion thereof, shall be used for any of the following purposes: Operating (i) a retail banking facility or a financial institution, including, without limitation, branch banking, savings and loans, credit union and check cashing, and the operation of an automated teller machine, or (ii) a facility engaged in any other banking use (including, without limitation, mortgage, financial, trust, investment or lending services); or placing signage on the Restricted Property for any entity engaged in any of the foregoing uses.
2. Term. This Declaration restricting the use of the Restricted Property shall expire and have no further force or effect on the earlier of (i) the date that none of the following parties owns, leases or otherwise occupies the Benefitted Property (as hereinafter defined): (1) Declarant, (2) any entity resulting from a merger or consolidation with Declarant or any organization purchasing substantially all of the assets of Declarant, (3) any entity succeeding to substantially all the business and assets of Declarant, (4) any subsidiary, affiliate or parent of Declarant, (5) any entity controlling, controlled by or under common control with Declarant; or (ii) ten (10) years following the date of recording of this Declaration (in either such case, the "Term").
3. Benefitted Property. This Declaration runs with and for the benefit of that certain real property located at 711 Haggan Drive, Burlington, Washington and described in Exhibit B attached hereto (hereinafter the "**Benefitted Property**") and shall inure to the benefit of Declarant and its successor(s) and assign(s).
4. Specific Performance. Declarant confirms that damages at law may be an inadequate remedy for a breach or threatened breach of any provisions hereof. The rights and obligations hereunder shall be enforceable by specific performance, injunction, or other equitable remedy, but nothing herein contained is intended to or shall limit or affect any rights at law or by statute or otherwise of Declarant or the owners(s) of the Benefitted Property for a breach or threatened breach of any provisions hereof. The rights and obligations of Declarant hereunder shall be enforceable in equity as well as at law or otherwise.
5. Severability. In the event that any portion of these restrictions shall be determined by any court of competent jurisdiction to be unenforceable, such restrictions shall be modified, rewritten, or interpreted to include as much of their nature and scope as possible as will render them enforceable. Each of the provisions herein shall be deemed a separate and severable covenant.
6. Successors and Assigns. This Declaration shall restrict the use of the Restricted Property for the full Term and shall be binding upon each party having any fee, leasehold or other interest therein and their successor(s) and assign(s), and shall inure to the benefit of Declarant and its successor(s) and assign(s).
7. Attorneys' Fees. If any action is brought because of any breach of or to enforce or interpret any of the provisions of this Declaration, the party prevailing in such action shall be entitled to recover from the other party reasonable attorneys' fees and court costs



incurred in connection with such action, the amount of which shall be fixed by the court and made a part of any judgment rendered.

8. Interpretation. This Declaration shall be governed by and construed in accordance with the internal laws of the State in which the Restricted Property is located. The section headings contained in this Declaration are for purposes of reference only and shall not limit, expand, or otherwise affect the construction of any provisions of this Declaration. Exhibits A and B attached hereto are by this reference incorporated herein and made a part hereof.

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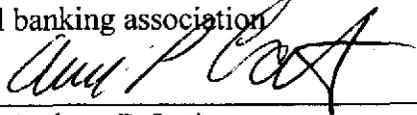


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IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the day and year first above written.

DECLARANT:

KEYBANK NATIONAL ASSOCIATION, a national banking association

By: 

Name: Andrew P. Latimer

Its: Senior Vice President



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STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public in and for said County and State aforesaid, on this date personally appeared Andrew P. Latimer, the Senior Vice President of KEYBANK NATIONAL ASSOCIATION, a national banking association, known to me to be the same person whose name is subscribed to the foregoing instrument, and he acknowledged that he signed and delivered said instrument in the capacity indicated above, as his own free and voluntary act and as the free and voluntary act of the Declarant therein for the uses and purposes therein set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this 7th day of March, 2013.

Stephen P. Mixter
Notary Public for the indicated State

My Commission Expires: _____



STEPHEN C. MIXTER
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.



EXHIBIT A

LEGAL DESCRIPTION OF THE RESTRICTED PROPERTY

SITUATED IN THE COUNTY OF SKAGIT AND STATE OF WASHINGTON, AND BEING LOTS 11 THROUGH 15, BLOCK 98, AMENDED PLAT OF BURLINGTON, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE(S) 17, RECORDS IN SKAGIT COUNTY, WASHINGTON.



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EXHIBIT B

LEGAL DESCRIPTION OF THE BENEFITTED PROPERTY

LOT 3 OF CITY OF BURLINGTON BINDING SITE PLAN ENTITLED HAGGEN CENTER
BINDING SITE PLAN NO. 1, RECORDED ON JULY 10, 2002, UNDER AUDITORS FILE
NO. 200207100176, RECORDS OF SKAGIT COUNTY, WASHINGTON; BEING A
PORTION OF GOVERNMENT LOT 1, IN SECTION 6, TOWNSHIP 34 NORTH, RANGE 4
EAST OF THE WILLAMETTE MERIDIAN.

FIRST AMERICAN TITLE INS. CO.
NATIONAL COMMERCIAL SERVICES
No. NCS-585933-C1E



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