



200201310086  
Skagit County Auditor

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**RETURN ADDRESS:**

GB Home Equity  
Attn: Post Closing,  
Collateral Clerk  
P.O. Box 240140  
Milwaukee, WI  
53224-9007

LAND TITLE COMPANY OF SKAGIT COUNTY

P99813

**HAZARDOUS SUBSTANCES CERTIFICATE AND INDEMNITY AGREEMENT**

Reference # (if applicable): 1453228233

Additional on page \_\_\_\_

Grantor(s):

1. WALL, DARIN S

Grantee(s)

1. Guaranty Home Equity Corporation d/b/a GB Home Equity

Legal Description: PTN LOT 83, BIG LAKE WATERFRONT TRS

Additional on page 2

Assessor's Tax Parcel ID#: P62101

**THIS HAZARDOUS SUBSTANCES AGREEMENT dated January 25, 2002, is made and executed among DARIN S WALL, 24127 SANDSTONE LANE, MOUNT VERNON, WA 98274 (sometimes referred to below as "Borrower" and sometimes as "Indemnitor"); and Guaranty Home Equity Corporation d/b/a GB Home Equity, GBHE Bellevue, 1800 112th Avenue, NE, Suite 308, Bellevue, WA 98004 (referred to below as "Lender").**

**HAZARDOUS SUBSTANCES AGREEMENT**

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For good and valuable consideration and to induce Lender to make a Loan to Borrower, each party executing this Agreement hereby represents and agrees with Lender as follows:

**PROPERTY DESCRIPTION.** The word "Property" as used in this Agreement means the following Real Property located in SKAGIT County, State of Washington:

THAT PORTION OF LOT 83, "FIRST ADDITION BIG LAKE WATER FRONT TRACTS, SKAGIT COUNTY, WASHINGTON", AS PER PLAT RECORDED IN VOLUME 4 OF PLATS, PAGE 15, RECORDS OF SKAGIT COUNTY, WASHINGTON, LYING NORTHEASTERLY OF THAT PORTION CONVEYED FOR RIGHT-OF-WAY TO SKAGIT COUNTY BY DEED RECORDED IN VOLUME 218 OF DEEDS, PAGE 329, RECORDS OF SKAGIT COUNTY, WASHINGTON.

The Real Property or its address is commonly known as 24127 SANDSTONE LANE, MOUNT VERNON, WA 98274. The Real Property tax identification number is P62101.

**REPRESENTATIONS.** The following representations are made to Lender, subject to disclosures made and accepted by Lender in writing:

**Use of Property.** After due inquiry and investigation, Lender has no knowledge, or reason to believe, that there has been any use, generation, manufacture, storage, treatment, refinement, transportation, disposal, release, or threatened release of any Hazardous Substance by any person on, under, or about the Property.

**Hazardous Substances.** After due inquiry and investigation, Lender has no knowledge, or reason to believe, that the Property, whenever and whether owned by previous Occupants, has ever contained asbestos, PCB or other Hazardous Substances, whether used in construction or stored on the Property.

**No Notices.** Lender has received no summons, citation, directive, letter or other communication, written or oral, from any agency or department of any county or state or the U.S. Government concerning any intentional or unintentional action or omission on, under, or about the Property which has resulted in the releasing, spilling, leaking, pumping, pouring, emptying or dumping of Hazardous Substances into any waters or onto any lands or where damage may have resulted to the lands, waters, fish, shellfish, wildlife, flora, air or other natural resources.

**AFFIRMATIVE COVENANTS.** Subject to disclosures made and accepted by Lender in writing, Lender covenants with Lender as follows:

**Use of Property.** Lender will not use and does not intend to use the Property to generate, manufacture, refine, transport, treat, store, handle or dispose of any Hazardous Substances.

**Compliance with Environmental Laws.** Lender shall cause the Property and the operations conducted on it to comply with any and all Environmental Laws and orders of any governmental authority having jurisdiction under Environmental Laws, and shall obtain, keep in effect and comply with all governmental permits and authorizations required by Environmental Laws with respect to such Property or operations. Lender shall furnish Lender with copies of all such permits and authorizations and any amendments or renewals of them and shall notify Lender of any expiration or revocation of such permits or authorizations.

**Preventive, Investigatory and Remedial Action.** Lender shall exercise extreme care in handling Hazardous Substances if Lender uses or encounters any. Lender, at Lender's expense, shall undertake any and all preventive, investigatory or remedial action (including emergency response, removal, containment and other remedial action) (a) required by any applicable Environmental Laws or orders by any governmental authority having jurisdiction under Environmental Laws, or (b) necessary to prevent or minimize property damage (including damage to Occupant's own property), personal injury or damage to the environment, or the threat of any such damage or injury, by releases of or exposure to Hazardous Substances in connection with the Property or operations of any Occupant on the Property. In the event Lender fails to perform any of Lender's obligations under this section of the Agreement, Lender may (but shall not be required to) perform such obligations at Lender's expense. All such costs and expenses incurred by Lender under this section and otherwise under this Agreement shall be reimbursed by Lender upon demand with interest at the Loan default rate, or in the absence of a default rate, at the Loan interest rate. Lender and Lender intend that Lender shall have full recourse to Lender for any sum at any time due to Lender under this Agreement. In performing any such obligations of Lender, Lender shall at all times be deemed to be the agent of Lender and shall not be responsible for any Environmental Law or to any performance be deemed to be assuming any responsibility of Lender under any Environmental Law or to any third party. Lender hereby irrevocably appoints Lender as Lender's attorney-in-fact with full power to perform such of Lender's obligations under this section of the Agreement as Lender deems necessary and appropriate.

**Notices.** Lender shall immediately notify Lender upon becoming aware of any of the following:

- (1) Any spill, release or disposal of a Hazardous Substance on any of the Property, or in connection with any of its operations if such spill, release or disposal must be reported to any governmental authority under applicable Environmental Laws.
- (2) Any contamination, or imminent threat of contamination, of the Property by Hazardous Substances, or any violation of Environmental Laws in connection with the Property operations conducted on the Property.
- (3) Any order, notice of violation, fine or penalty or other similar action by any governmental authority relating to Hazardous Substances or Environmental Laws and the Property or the operations conducted on the Property.
- (4) Any judicial or administrative investigation or proceeding relating to Hazardous Substances or Environmental Laws and to the Property or the operations conducted on the Property.
- (5) Any matters relating to Hazardous Substances or Environmental Laws that would give a reasonably prudent Lender cause to be concerned that the value of Lender's security interest in the Property may be reduced or threatened or that may impair, or threaten to impair, Lender's ability to perform any of its obligations under this Agreement when such performance is due.

**Access to Records.** Lender shall deliver to Lender, at Lender's request, copies of any and all documents in Lender's possession or to which it has access relating to Hazardous Substances or Environmental Laws and the Property and the operations conducted on the Property, including without limitation results of laboratory analyses, site assessments or studies, environmental audit reports and other consultants' studies and reports.

**Inspections.** Lender reserves the right to inspect and investigate the Property and operations on it at any time and from time to time, and Lender shall cooperate fully with Lender in such inspection and investigations. If Lender at any time has reason to believe that Lender or any Occupants of the Property are not complying with all applicable Environmental Laws or with the requirements of this Agreement or that a material spill, release or disposal of Hazardous Substances has occurred on or under the Property, Lender may require Lender to furnish

appropriate.

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Lender at Indemnitor's expense an environmental audit or a site assessment with respect to the matters of concern to Lender. Such audit or assessment shall be performed by a qualified consultant approved by Lender. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to any Indemnitor or to any other person.

**INDEMNITOR'S WAIVER AND INDEMNIFICATION.** Indemnitor hereby indemnifies and holds harmless Lender and Lender's officers, directors, employees and agents, and Lender's successors and assigns and their officers, directors, employees and agents against any and all claims, demands, losses, liabilities, costs and expenses (including without limitation attorneys' fees at trial and on any appeal or petition for review) incurred by such person (a) arising out of or relating to any investigatory or remedial action involving the Property, the operations conducted on the Property or any other operations of Indemnitor or any Occupant and required by Environmental Laws or by orders of any governmental authority having jurisdiction under any Environmental Laws, or (b) on account of injury to any person whatsoever or damage to any property arising out of, in connection with, or in any way relating to (i) the breach of any covenant contained in this Agreement, (ii) the violation of any Environmental Laws, (iii) the use, treatment, storage, generation, manufacture, transport, release, spill disposal or other handling of Hazardous Substances on the Property, (iv) the contamination of any of the Property by Hazardous Substances by any means whatsoever (including without limitation any presently existing contamination of the Property), or (v) any costs incurred by Lender pursuant to this Agreement. In addition to this indemnity, Indemnitor hereby releases and waives all present and future claims against Lender for indemnity or contribution in the event Indemnitor becomes liable for cleanup or other costs under any Environmental Laws.

**PAYMENT: FULL RECOURSE TO INDEMNITOR.** Indemnitor intends that Lender shall have full recourse to Indemnitor for Indemnitor's obligations under this Agreement as they become due to Lender. Such liabilities, losses, claims, damages and expenses shall be reimbursable to Lender as Lender's obligations to make payments with respect thereto are incurred, without any requirement of waiting for the ultimate outcome of any litigation, claim or other proceeding, and Indemnitor shall pay such liability, losses, claims, damages and expenses to Lender as so incurred within thirty (30) days after written notice from Lender. Lender's notice shall contain a brief itemization of the amounts incurred to the date of such notice. In addition to any remedy available for failure to pay periodically such amounts, such amounts shall thereafter bear interest at the Loan default rate, or in the absence of a default rate, at the Loan interest rate.

**SURVIVAL.** The covenants contained in this Agreement shall survive (A) the repayment of the indebtedness, (B) any foreclosure, whether judicial or nonjudicial, of the Property, and (C) any delivery of a deed in lieu of foreclosure to Lender or any successor of Lender. The covenants contained in this Agreement shall be for the benefit of Lender and any successor to Lender, as holder of any security interest in the Property or the indebtedness secured thereby, or as owner of the Property following foreclosure or the delivery of a deed in lieu of foreclosure.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Agreement:

**Amendments.** What is written in this Agreement is Indemnitor's entire agreement with Lender concerning the matters covered by this Agreement. To be effective, any change or amendment to this Agreement must be in writing and must be signed by whoever will be bound or obligated by the change or amendment.

**Arbitration.** Indemnitor and Lender agree that all disputes, claims and controversies between us whether individual, joint, or class in nature, arising from this Agreement or otherwise, including without limitation contract and tort disputes, shall be arbitrated pursuant to the Rules of the American Arbitration Association in effect at the time the claim is filed, upon request of either party. No act to take or dispose of any Property shall constitute a waiver of this arbitration agreement or be prohibited by this arbitration agreement. This includes, without limitation, obtaining injunctive relief or a temporary restraining order; invoking a power of sale under any deed of trust or mortgage; obtaining a writ of attachment or imposition of a receiver; or exercising any rights relating to personal property, including taking or disposing of such property with or without judicial process pursuant to Article 9 of the Uniform Commercial Code. Any disputes, claims, or controversies concerning the lawfulness or reasonableness of any act, or exercise of any right, concerning any Property, including any claim to rescind, reform, or otherwise modify any agreement relating to the Property, shall also be arbitrated, provided however that no arbitrator shall have the right or the power to enjoin or restrain any act of any party. Judgment upon any award rendered by any arbitrator may be entered in any court having jurisdiction. Nothing in this Agreement shall preclude any party from seeking equitable relief from a court of competent jurisdiction. The statute of limitations, estoppel, waiver, laches, and similar doctrines which would otherwise be applicable in an action brought by a party shall be applicable in any arbitration proceeding, and the commencement of an arbitration proceeding shall be deemed the commencement of an action for these purposes. The Federal Arbitration Act shall apply to the construction, interpretation, and enforcement of this arbitration provision.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Agreement, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the indebtedness payable on demand and shall bear interest at the Credit Agreement rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Indemnitor also will pay any court costs, in addition to all other sums provided by law.

**Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

**Notices.** Subject to applicable law, and except for notice required or allowed by law to be given in another manner, any notice required to be given under this Agreement shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Agreement. Any person may change his or her address for notices under this Agreement by giving formal written notice to the other person or persons, specifying that the purpose of the notice is to change the person's address. For notice purposes, Indemnitor agrees to keep Lender informed at all times of Indemnitor's current address. Subject to applicable law, and except for notice required or allowed by law to be given in another manner, if there is more than one Indemnitor, any notice given by Lender to any Indemnitor is deemed to be notice given to all Indemnitors. It will be Indemnitor's responsibility to tell the others of the notice from Lender.

**Governing Law.** This Agreement will be governed by and interpreted in accordance with federal law and the laws of the State of Washington. This Agreement has been accepted by Lender in the State of Washington.



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**Choice of Venue.** If there is a lawsuit, Indemnitor agrees upon Lender's request to submit to the jurisdiction of the courts of Milwaukee County, State of Wisconsin.

**Joint and Several Liability.** All obligations of Indemnitor under this Agreement shall be joint and several, and all references to Indemnitor shall mean each and every Indemnitor. This means that each Indemnitor signing below is responsible for all obligations in this Agreement.

**No Waiver by Lender.** Indemnitor understands Lender will not give up any of Lender's rights under this Agreement unless Lender does so in writing. The fact that Lender delays or omits to exercise any right will not mean that Lender has given up that right. If Lender does agree in writing to give up one of Lender's rights, that does not mean Indemnitor will not have to comply with the other provisions of this Agreement. Indemnitor also understands that if Lender does consent to a request, that does not mean that Indemnitor will not have to get Lender's consent again if the situation happens again. Indemnitor further understands that just because Lender consents to one or more of Indemnitor's requests, that does not mean Lender will be required to consent to any of Indemnitor's future requests. Indemnitor waives presentment, demand for payment, protest, and notice of dishonor. Indemnitor hereby waives notice of acceptance of this Agreement by Lender.

**Notices.** Subject to applicable law, and except for notice required or allowed by law to be given in another manner, any notice required to be given under this Agreement shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Agreement. Any person may change his or her address for notices under this Agreement by giving formal written notice to the other person or persons, specifying that the purpose of the notice is to change the person's address. For notice purposes, Indemnitor agrees to keep Lender informed at all times of Indemnitor's current address. Subject to applicable law, and except for notice required or allowed by law to be given in another manner, if there is more than one Indemnitor, any notice given by Lender to any Indemnitor is deemed to be notice given to all Indemnitors. It will be Indemnitor's responsibility to tell the others of the notice from Lender.

**Severability.** If a court finds that any provision of this Agreement is not valid or should not be enforced, that fact by itself will not mean that the rest of this Agreement will not be valid or enforced. Therefore, a court will enforce the rest of the provisions of this Agreement even if a provision of this Agreement may be found to be invalid or unenforceable.

**Successors and Assigns.** Subject to any limitations stated in this Agreement on transfer of Indemnitor's interest, this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Indemnitor, Lender, without notice to Indemnitor, may deal with Indemnitor's successors with reference to this Agreement and the Indebtedness by way of forbearance or extension without releasing Indemnitor from the obligations of this Agreement or liability under the Indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Agreement.

**Waive Jury.** All parties to this Agreement hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

**DEFINITIONS.** The following words shall have the following meanings when used in this Agreement:

**Agreement.** The word "Agreement" means this Hazardous Substances Agreement, as this Hazardous Substances Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Hazardous Substances Agreement from time to time.

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Indebtedness.** The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Credit Agreement or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of, and substitutions for the Credit Agreement or Related Documents and any amounts expended or advanced by Lender to discharge Indemnitor's obligations or expenses incurred by Lender to enforce Indemnitor's obligations under this Agreement, together with interest on such amounts as provided in this Agreement.

**Lender.** The word "Lender" means Guaranty Home Equity Corporation d/b/a GB Home Equity, its successors and assigns. The words "successors or assigns" mean any person or company that acquires any interest in the Credit Agreement.

**Occupant.** The word "Occupant" means individually and collectively all persons or entities occupying or utilizing the Property, whether as owner, tenant, operator or other occupant.

**Property.** The word "Property" means all of Indemnitor's right, title and interest in and to all the Property as described in the "Property Description" section of this Agreement.

**Real Property.** The words "Real Property" mean the real property, interests and rights, as further described in this Agreement.

**EACH PARTY TO THIS AGREEMENT ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT, AND EACH AGREES TO ITS TERMS. NO FORMAL ACCEPTANCE BY LENDER IS NECESSARY TO MAKE THIS AGREEMENT EFFECTIVE. THIS AGREEMENT IS DATED JANUARY 25, 2002.**



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BORROWER:

X [Signature]  
DARIN S WALL A/K/A DARIN WALL

LENDER:

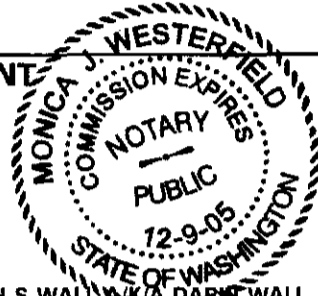
X \_\_\_\_\_  
Authorized Signer

INDIVIDUAL ACKNOWLEDGMENT

STATE OF WA )

) SS

COUNTY OF Snohomish )



On this day before me, the undersigned Notary Public, personally appeared DARIN S WALL A/K/A DARIN WALL, TITLE VESTED AS: DARIN S WALL WHO ACQUIRED TITLE AS DARIN WALL, AS HIS SEPARATE PROPERTY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual described in and who executed the Hazardous Substances Agreement, and acknowledged that he or she signed the Agreement as his or her free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 25 day of January, 2002

By [Signature]  
Notary Public in and for the State of WA

Residing at EVERETT  
My commission expires 12-9-5

LENDER ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )

) SS

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_ and personally known to me or proved to me on the basis of satisfactory evidence to be the \_\_\_\_\_, authorized agent for the Lender that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of the said Lender, duly authorized by the Lender through its board of directors or otherwise, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this said instrument and that the seal affixed is the corporate seal of said Lender.

By \_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

Residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_



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