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EDWARD N. TARDON
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

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RESTAURANT RESTRICTION AGREEMENT

This Restaurant Restriction Agreement ("Agreement"), is made and entered into as of this ~~20~~ day of November, 2000 ("Effective Date"), by and between FIRST DATA RESOURCES INC. ("Seller"), and KEYSTONE PROPERTIES, L.L.C. ("Purchaser")

WITNESSETH:

WHEREAS, Seller is the owner of certain real estate more particularly described on Exhibit A attached hereto (the "First Data Property"); and

WHEREAS, Seller and Purchaser have entered into that certain Option Agreement dated March 4, 2000 (the "Option") pursuant to which Purchaser has the option to purchase all or a portion of "Lot 8" of the Ak-Sar-Ben Business and Education Campus (as defined herein), more particularly described on Exhibit B (the "Keystone Property") upon which Purchaser intends to construct a hotel and restaurant; and

WHEREAS, pursuant to the terms of the Option, Seller has agreed to impose a restaurant restriction upon the First Data Property and any future real estate purchased by Seller after the Effective Date ("After-Acquired Property") that is located in the Ak-Sar-Ben Business and Education Campus, an addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska more particularly described on Exhibit C attached hereto (the "Ak-sar-ben Business and Education Campus") as provided herein.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. **Restaurant Restriction:** Subject to the limitations set forth below, no portion of the First Data Property or the After-Acquired Property, if any, shall be used, occupied or operated as a Restaurant (as defined herein) (the "Restaurant Restriction"). As used in this Agreement, the term "Restaurant" shall mean a stand-alone establishment that, as its primary function, prepares and serves food items to members of the general public for on-premises consumption and includes a dining area where such food products are to be consumed. The term Restaurant, as used in this Agreement shall specifically exclude self-performed or third party food services, cafeterias, food court or vending areas within any office building or office campus complex and cafeterias, dining amenities, coffee shops, or other food service areas located within the same building as and used in connection with a different use, such as, but not by way of limitation, a hotel, book store or department store. Subject to the limitations set forth below, the First Data Property and the After-Acquired Property, if any, shall be restricted from use as a Restaurant only during such periods as Purchaser or its assigns continuously operates a Restaurant on the Keystone Property.
2. **Term and Scope of Restriction:** Notwithstanding anything to the contrary contained herein, the foregoing Restaurant Restriction shall not be effective and shall not encumber the First Data Property or the After-Acquired Property, if any, until such time as Purchaser develops and begins operation of a Restaurant on the Keystone Property. If Purchaser or its assigns fails to commence operation of a Restaurant on the Keystone Property within five (5) years after the Effective Date of this Agreement and thereafter to continuously operate a Restaurant on the Keystone Property, the provisions of this Agreement shall terminate and be null and void without the need of further documentation or agreement by the parties. In the event this Agreement and the Restaurant Restriction are rendered void as provided herein, Seller shall have the right, on its own accord, to execute and record an acknowledgment of termination of this Agreement. Subject to the requirement that Purchaser develop and operate a Restaurant within five (5) years of the Effective Date, the term of the Restaurant Restriction as to the First Data Property shall be for a

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period of time ending twenty (20) years after the Effective Date, and the term for the Restaurant Restriction as to the After-Acquired Property shall be for a period ending ten (10) years after the Effective Date, unless terminated as provided herein. Notwithstanding the foregoing, if during the term of this Agreement, Seller intends to sell any of the First Data Property or any of the After-Acquired Property that is subject to the Restaurant Restriction to an unrelated third party ("Third Party") for use as a Restaurant, Purchaser shall have the right to either purchase the property intended to be sold (the "Sale Property") on such terms provided in a Third Party offer acceptable to Seller ("Third Party Offer", or the "Offer") or release the Restaurant Restriction from the Sale Property. Said election must be made within fifteen (15) days of Seller's providing Purchaser with notice of the Third Party Offer as provided in Section 3 of this Agreement. If Purchaser fails to make an election within such fifteen (15) day period (the "Acceptance Period"), Purchaser shall be deemed to have elected not to purchase the Sale Property and the Sale Property shall be released from the Restaurant Restriction. Upon Seller's receipt of Purchaser's notice of its election to purchase the Sale Property (the "Acceptance Notice"), Purchaser shall step into the shoes of the Third Party under the Offer as if the Offer were signed by the Third Party on the date of the Acceptance Notice, and all time periods which began to run as of the acceptance of the Offer, or a contract memorializing the Offer (for example, contingency periods and periods for payment of earnest money and other deposits), shall be deemed to begin running as of the date of the Acceptance Notice.

3. **Notice.** Any notice or other communication required hereunder shall be in writing and shall be delivered by (i) personal delivery; (ii) United States registered or certified mail, return receipt requested; (iii) overnight commercial package courier providing confirmation of delivery, in all events prepaid and addressed; or (iv) by telefax, with confirmation that the telefax was sent, followed by mailing by regular U.S. mail, addressed as follows:

If to Seller: First Data Resources Inc.
c/o First Data Properties
12500 East Belford Avenue, Suite M 16-S
Englewood, Colorado 80112
Attention: Randy S. Dessau
Telefax: (720) 332-0098

With a copy to: Blackwell Sanders Peper Martin
720 Olive Street, Suite 2400
St. Louis, Missouri 63101
Attention: David A. Linenbroker
Telefax: (314) 345-6060

If to Purchaser: Keystone Properties, L.L.C.
11606 Nicolaus Street
Omaha, Nebraska 68154
Attention: Larry Richling and/or Robert Green
Telefax: (402) 553-6525

With a copy to: Cline Williams Wright Johnson and Oldfather
1125 South 103rd Street, Suite 720
Omaha, Nebraska 68124
Attention: Rochelle Mullen and/or Thomas Huston
Telefax: (402) 397-1806

Each party hereto shall have the right to change its foregoing address for notices by written notice to the other party to such effect. Notice shall be deemed given (i) upon receipt if sent by personal delivery, overnight

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delivery, or telefax, (ii) upon the second business day following the date it is deposited in the first class U.S. mail if sent registered or certified mail.

- 4. **Successor and Assigns:** The restrictive covenant granted herein shall run with the land and shall bind the First Data Property and the After Acquired Property, if any, and the owners thereof for the respective terms set forth herein and its benefits shall run with the Keystone Property, including Purchaser and its assigns during their ownership thereof, subject to the provisions of this Agreement.
- 5. **Counterparts.** This Agreement may be executed by the parties in counterparts, each of which shall be deemed an original, but all of which shall be deemed one and the same document. This Agreement shall be deemed fully executed and effective upon separate execution by both parties, whether or not such execution is made to the same page.

IN WITNESS WHEREOF, the undersigned have caused this Agreement Restrictive Covenant to be executed effective as of the Effective Date.

SELLER:

FIRST DATA RESOURCES INC.,
a Delaware corporation

By: [Signature]

Name: Randy S. Dessau

Title: Its Authorized Agent

PURCHASER:

KEYSTONE PROPERTIES, L.L.C., a
Nebraska limited liability company

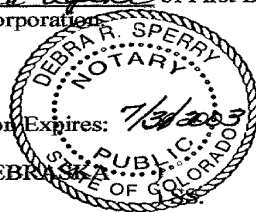
By: [Signature]

Name: LARRY RICHLING

Title: PARTNER

STATE OF Colorado)
) SS.
COUNTY OF Douglas)

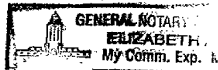
The foregoing instrument was acknowledged before me this 2nd day of November, 2000, by Randy S. Dessau, the authorized agent of First Data Resources Inc., a Delaware corporation, on behalf of the corporation.



[Signature]
Notary Public

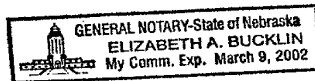
My Commission Expires: 7/3/2003
STATE OF NEBRASKA)
) PUBLIC
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 30 day of Nov, 2000, by Larry Richling, the member/partner of Keystone Properties, L.L.C., a Nebraska limited liability company, on behalf of said limited liability company.



[Signature]
Notary Public

My Commission Expires



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EXHIBIT A**FIRST DATA PROPERTY LEGAL DESCRIPTION**

LOTS FOUR (4), FIVE (5), SIX (6), SEVEN (7) AND EIGHT (8), AK-SAR-BEN BUSINESS & EDUCATION CAMPUS, AN ADDITION TO THE CITY OF OMAHA, AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY, NEBRASKA.

Parcel One – Maryland Plaza Parcel

THAT PART OF THE NW 1/4 OF THE NW 1/4 OF SECTION 25, T15N, R12E OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT 1000.4 FEET SOUTH OF AND 33.0 FEET EAST OF THE NW CORNER OF SAID NW 1/4, SAID POINT BEING THE SW CORNER OF A TRACT OF LAND DESCRIBED ON A DEED RECORDED IN BOOK 1232 AT PAGE 498 OF THE DOUGLAS COUNTY RECORDS AND HEREINAFTER CALLED TRACT "A";

THENCE S89°50'39"E (ASSUMING THE WEST LINE OF SAID NW 1/4 TO BEAR NORTH AND SOUTH) 19.69 FEET ON THE SOUTH LINE OF SAID TRACT "A" TO THE POINT OF BEGINNING, SAID POINT BEING ON THE EAST LINE OF 72ND STREET;

THENCE CONTINUING S89°50'39"E 180.31 FEET ON THE SOUTH LINE OF SAID TRACT "A" TO THE SE CORNER THEREOF;

THENCE NORTH 272.96 FEET ON THE EAST LINE OF SAID TRACT "A" TO THE NE CORNER THEREOF, SAID CORNER BEING ON THE SOUTH LINE OF THE ABANDONED CHICAGO AND NORTH WESTERN RAILROAD RIGHT-OF-WAY;

THENCE N 30°41'31"W 353.90 FEET ON THE NORTH LINE OF SAID TRACT "A" AND ON THE SOUTH LINE OF SAID ABANDONED RAILROAD TO THE EAST LINE OF 72ND STREET;

THENCE SOUTHERLY ON THE EAST LINE OF 72ND STREET ON THE FOLLOWING DESCRIBED EIGHT COURSES;

THENCE S05°41'46"W 26.21 FEET; THENCE S00°01'01"E 9.38 FEET;

THENCE S17°02'27"E 10.07 FEET; THENCE S 00°00'54"E 69.98 FEET;

THENCE S 18°14'29"W 9.42 FEET; THENCE S00°01'00"E 428.94 FEET;

THENCE S 16°03'11"E 10.04 FEET; THENCE SOUTH 14.20 FEET TO THE POINT OF BEGINNING.

Parcel Two – Heller Painting Contractor Parcel

PART OF THE NW 1/4 OF THE NW 1/4 OF SECTION 25, T15N, R12E OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, TOGETHER WITH PART OF THE ABANDONED CHICAGO AND NORTH WESTERN RAILROAD RIGHT-OF-WAY LYING WITHIN SAID NW 1/4, ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW 1/4;

THENCE SOUTH (ASSUMED BEARING) 1020.40 FEET ON THE WEST LINE OF SAID NW 1/4 TO A POINT ON THE WESTERLY EXTENSION OF THE SOUTH LINE OF A TRACT OF LAND DESCRIBED ON A "GENERAL WARRANTY DEED" RECORDED IN BOOK 2111 AT PAGE 318 OF THE DOUGLAS COUNTY RECORDS AND HEREINAFTER CALLED TRACT "A";

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THENCE S89°56'20"E 233.00 FEET ON THE SOUTH LINE OF SAID TRACT "A" AND ITS EXTENSION TO THE POINT OF BEGINNING, SAID POINT BEING ON THE SOUTHERLY EXTENSION OF A WEST LINE OF SAID TRACT "A";

THENCE CONTINUING S89°56'20"E 173.81 FEET ON THE SOUTH LINE OF SAID TRACT "A" TO THE SE CORNER THEREOF;

THENCE N59°18'29"E 50.00 FEET ON A LINE PERPENDICULAR TO SAID ABANDONED RAILROAD TO THE CENTERLINE THEREOF;

THENCE N30°41'31"W 424.75 FEET ON THE CENTERLINE OF SAID ABANDONED RAILROAD TO A POINT ON THE NORTHERLY EXTENSION OF A WEST LINE OF SAID TRACT "A", SAID POINT BEING 233.00 FEET EAST OF THE WEST LINE OF SAID NW 1/4;

THENCE SOUTH 390.59 FEET ON A WEST LINE OF SAID TRACT "A" AND ITS NORTHERLY AND SOUTHERLY EXTENSION TO THE POINT OF BEGINNING.

Parcel Three – Chicago & Northwestern Railroad Right-of-Way

THAT PART OF THE ABANDONED CHICAGO AND NORTH WESTERN RAILROAD RIGHT-OF-WAY LYING WITHIN THE NW 1/4 OF THE NW 1/4 OF SECTION 25, T15N, R12E OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT 1000.4 FEET SOUTH OF AND 33.0 FEET EAST OF THE NW CORNER OF SAID NW 1/4, SAID POINT BEING THE SW CORNER OF A TRACT OF LAND DESCRIBED ON A DEED RECORDED IN BOOK 1232 AT PAGE 498 OF THE DOUGLAS COUNTY RECORDS AND HEREINAFTER CALLED TRACT "A";

THENCE S89°50'39"E (ASSUMING THE WEST LINE OF SAID NW 1/4 TO BEAR NORTH AND SOUTH) 200.00 FEET ON THE SOUTH LINE OF SAID TRACT "A" TO THE SE CORNER THEREOF;

THENCE NORTH 272.96 FEET ON THE EAST LINE OF SAID TRACT "A" TO THE NE CORNER THEREOF AND THE POINT OF BEGINNING, SAID POINT BEING ON THE SOUTH LINE OF SAID ABANDONED RAILROAD;

THENCE N30°41'31"W 353.90 FEET ON THE NORTH LINE OF SAID TRACT "A" AND ON THE SOUTH LINE OF SAID ABANDONED RAILROAD TO THE EAST LINE OF 72ND STREET;

THENCE N05°41'46"E 25.14 FEET ON THE EAST LINE OF 72ND STREET;

THENCE N09°07'16"E 54.80 FEET ON THE EAST LINE OF 72ND STREET TO THE CENTERLINE OF SAID ABANDONED RAILROAD;

THENCE S30°41'31"E 331.99 FEET ON THE CENTERLINE OF SAID ABANDONED RAILROAD TO THE NORTHERLY EXTENSION OF THE EAST LINE OF SAID TRACT "A";

THENCE SOUTH 97.96 FEET ON THE EXTENSION OF THE EAST LINE OF SAID TRACT "A" TO THE POINT OF BEGINNING.

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EXHIBIT B

KEYSTONE PROPERTY DESCRIPTION

**LOT 8, AK-SAR-BEN BUSINESS AND EDUCATION CAMPUS, AN ADDITION TO
THE CITY OF OMAHA, DOUGLAS COUNTY, NEBRASKA**

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EXHIBIT C

AK-SAR-BEN BUSINESS & EDUCATION CENTER DESCRIPTION

2
(55-00222)
AK-SAR-BEN BUSINESS & EDUCATION CAMPUS, LOTS 1 THROUGH 9,
INCLUSIVE AND OUTLOTS 1, 2 AND 3, BEING PLATTED AS PART OF SECTION
25, TOWNSHIP 15 NORTH, RANGE 12 EAST OF THE 6TH P.M., DOUGLAS
COUNTY, NEBRASKA, AND

1
(55-00224)
LOTS 1 AND 2, AK-SAR-BEN BUSINESS AND EDUCATION CAMPUS REPLAT 2,
DOUGLAS COUNTY, NEBRASKA, AND

2
(55-06902)
LOT 1 - AK-SAR-BEN BUSINESS AND EDUCATION CAMPUS REP2 - NKA
LOTS 1 AND 2 - COLLEGE OF SAINT MARY ADD