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INSTRUMENT NUMBER

**2012-00472**

2012 Jan 05 03:27:57 PM

*Sheryl J. Dowling*

REGISTER OF DEEDS



RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:  
Katz Law Firm  
7227 Metcalf Avenue, First Floor  
Overland Park, Kansas 66204

### ASSIGNMENT AND ASSUMPTION OF RIGHTS UNDER ECR

This Assignment and Assumption of Rights Under ECR (this "**Agreement**") is made effective as of 4<sup>th</sup> day of January, 2012, by and between Papillion Development Land, LLC, a Nebraska limited liability company, (hereinafter referred to as "**Assignor**" or "**Grantor**"), and Shadow Lake Towne Center, LLC, a Delaware limited liability company (hereinafter referred to as "**Assignee**" or "**Grantee**") (mailing address of Grantee is One East Washington Street, Suite 300, Phoenix, AZ 85004.)

### WITNESSETH:

WHEREAS, concurrently with the execution and delivery of this Agreement, Assignor is selling certain real property to Assignee, which is legally described on **Exhibit A** attached hereto (the "**Property**"), which conveyance is evidenced by the recording of that certain Special Warranty Deed dated the date hereof.

WHEREAS, the Property is subject to that certain Declaration of Reciprocal Easements, Covenants and Restrictions recorded June 20, 2006 as Document No. 2006-20802 as amended by that certain First Amendment to Declaration of Reciprocal Easements, Covenants and Restrictions recorded December ~~11, 2011~~ 11, 2011 as Document No. ~~2011-00000~~ 2011-00000 (as amended, the "**ECR**"); and

WHEREAS, Assignor has agreed to assign to Assignee certain of Assignor's rights, titles and interests under the ECR as hereinafter set forth.

NOW, THEREFORE, in consideration of the receipt of Ten Dollars (\$10.00), the assumptions by Assignee hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignor does hereby ASSIGN, SET OVER and DELIVER to Assignee, its successors and assigns, all of Assignor's rights, titles and interests under the ECR as owner of the Property. Assignor specifically reserves all of Assignor's rights, titles and interests under the

ECR as the "Developer" thereunder and as owner of any property subject to the ECR other than the Property.

2. Assignee hereby assumes and agrees to perform all of the covenants, liabilities and obligations as owner of the Property only (and not with respect to the covenants, liabilities and obligations of the "Developer" or the owner of any property subject to the ECR other than the Property) pursuant to the terms of the ECR which arise on or after the date of this Agreement.

3. Assignor has not received any written notice of default under the ECR, and, to the best of Assignor's knowledge, Assignor is unaware of any default, the ECR has not been assigned or amended in any way, except as set forth herein, and the ECR is in full force and effect.

4. Assignor hereby represents and warrants to Assignee that at the time of execution and delivery of this Agreement, Assignor is the "Developer" under the ECR and has the right to grant this Assignment as set forth herein.

5. This Agreement shall inure to the benefit of, and be binding upon, the successors, executors, administrators, legal representatives and assigns of the parties hereto.

6. This Agreement shall be construed under and enforced in accordance with the laws of the State of Nebraska.

7. All capitalized terms used herein shall have the meanings set forth in the ECR, unless otherwise defined herein.

8. This Agreement may be executed in one or more counterparts, and it shall not be necessary that any one of the counterparts be executed by all of the parties hereto. Each fully or partially executed counterpart shall be deemed an original, but all of such counterparts taken together shall constitute one and the same instrument.

EXECUTED and effective as of the date first above written.

ASSIGNOR:

PAPILLION DEVELOPMENT LAND, LLC,  
a Nebraska limited liability company

By: RED Consolidated Holdings, LLC, a Delaware  
limited liability company, its manager

By: 

Name: Michael L. Ebert  
Title: Principal

ASSIGNEE:

SHADOW LAKE TOWNE CENTER, LLC,  
a Delaware limited liability company

By: Papillion Holdings SPE, LLC, a Delaware limited liability  
company, its managing member

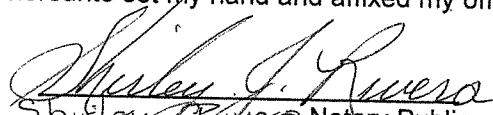
By: 

Name: Michael L. Ebert  
Title: President

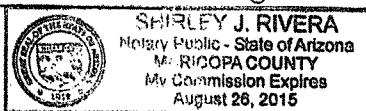
STATE OF Arizona )  
 ) ss.  
COUNTY OF Maricopa )

Now on this 29<sup>th</sup> day of December 2011, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Michael L. Ebert, Principal of RED Consolidated Holdings, LLC, a Delaware limited liability company, Manager of Papillion Development Land, LLC, a Nebraska limited liability company, who is personally known to me to be the same person who executed the within instrument on behalf of said company, and who duly acknowledged the execution of the same to be his free act and deed and the free act and deed of said company.

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

  
Shirley J. Rivera, Notary Public  
(Print Name)


My Commission Expires: \_\_\_\_\_



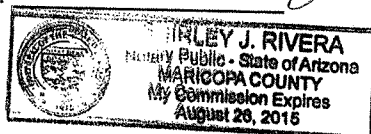
STATE OF Arizona )  
 ) ss.  
COUNTY OF Maricopa )

Now on this 29<sup>th</sup> day of December 2011, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Michael L. Ebert, President of Papillion Holdings SPE, LLC, Manager Member of Shadow Lake Towne Center, LLC, a Delaware limited liability company, who is personally known to me to be the same person who executed the within instrument on behalf of said company, and who duly acknowledged the execution of the same to be his free act and deed and the free act and deed of said company.

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

  
Shirley J. Rivera, Notary Public  
(Print Name)

My Commission Expires: \_\_\_\_\_



**EXHIBIT A**  
**THE "PROPERTY"**

Lot 7, Shadow Lake Towne Center, an Addition to the City of Papillion, in Sarpy County, Nebraska, according to the Plat filed April 27, 2006 at Instrument No. 2006 13991, and Lot 1, Shadow Lake Towne Center Replat 4, an Addition to the City of Papillion, in Sarpy County, Nebraska, according to the Plat filed December 12, 2011 at Instrument No. 2011 31456; together with benefits of that certain Declaration of Ingress and Egress in Instrument No 2006 15269; and in Declaration of Reciprocal Easements, Covenants and Restrictions in Instrument No. 2006 20802, all in the records of Sarpy County, Nebraska.