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Douglas County, NE Assessor/Register of Deeds DIANE L. BATTIATO

**DECLARATION OF EASEMENTS,**

**RESERVATIONS, COVENANTS AND RESTRICTIONS**

**FOR PARCEL 1 AND RAMP C**

**MIDTOWN CROSSING**

**OMAHA, NEBRASKA**

THIS INSTRUMENT PREPARED BY AND  
AFTER RECORDING RETURN TO:

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**DECLARATION OF EASEMENTS,  
RESERVATIONS, COVENANTS AND RESTRICTIONS**

THIS DECLARATION (this "Declaration"), is made and entered into as of JUNE 17<sup>th</sup>, 2016, by EAST CAMPUS REALTY, LLC, a Nebraska limited liability company ("Declarant").

**WITNESSETH:**

WHEREAS, the Declarant owns the real property legally described on Exhibit A attached hereto and made a part hereof (the "Ramp C Parcel"), and the real property legally described on Exhibit B attached hereto and made a part hereof ("Parcel 1"), which together comprise the real property legally described on Exhibit C attached hereto and made a part hereof (collectively, the "Total Tract") located at 3253 Dodge and 225 South 33<sup>rd</sup> Street, Omaha, Nebraska 68131 (each of the Ramp C Parcel and Parcel 1 are sometimes referred to herein as a "Parcel", and together are sometimes referred to herein as the "Parcels"); and

WHEREAS, the Declarant desires and intends by this Declaration to establish, for the benefit of the Ramp C Parcel and all future owners of the Ramp C Parcel, and each part thereof (Declarant on behalf of the Ramp C Parcel, together with all future owners of fee simple title to the Ramp C Parcel, collectively known as the "Ramp C Owner"), certain easements and rights in, over and upon Parcel 1 and certain mutually beneficial restrictions and obligations with respect to the use and maintenance of the Ramp C Parcel; and

WHEREAS, the Declarant desires and intends by this Declaration to establish, for the benefit of Parcel 1 and all future owners of Parcel 1, and each part thereof (the Declarant on behalf of the Parcel 1, together with all future owners of fee simple title to Parcel 1, collectively known as the "Parcel 1 Owner"), certain easements and rights in, over and upon the Ramp C Parcel and certain mutually beneficial restrictions and obligations with respect to the use and maintenance of Parcel 1; and

WHEREAS, each of the Ramp C Owner and Parcel 1 Owner may hereinafter be individually referred to as an "Owner" or collectively referred to as the "Owners"; and

WHEREAS, a building, parking garage and other improvements have been constructed on the Total Tract for commercial uses (said development being sometimes hereinafter referred to as the "Project"); and

WHEREAS, Declarant intends to construct or install within the Parcels from time to time, at or after completion of the Project, certain additional improvements, fixtures or equipment; and

WHEREAS, to provide for the proper, efficient and useful existence, use and operation of each of the Parcels, the parties desire to create, establish and maintain certain easements, reservations, covenants and restrictions relating to the Parcels and certain improvements, fixtures

and equipment that will be or may be constructed or installed therein, or thereon, all as provided for herein.

NOW, THEREFORE, the Declarant, as the legal title holder of the parcel, and for the purposes above set forth, DECLARES AS FOLLOWS:

## **ARTICLE 1 IMPROVEMENTS**

1.1 Project Development. The building developed as part of the Project (the "Building") encompasses the Ramp C Parcel and Parcel 1 and is shown and identified on the drawings (the "Drawings") prepared by Holland Basham Architects (said architect or any other such architect mutually selected by the Owners are hereinafter referred to as the "Architect"). In general, the Drawings provide for (a) with respect to the Ramp C Parcel, a parking garage, and (b) with respect to Parcel 1, a hotel and a grocery store (all of the foregoing, together with the Building and all equipment and utility lines located in or otherwise serving the Building are herein collectively called the "Improvements"). The Drawings, including the plans and specifications described therein, are herein collectively called the "Plans".

### 1.2 Exterior Changes to the Building

(A) Each Owner may change the exterior walls and surfaces of the Building in its Parcel in its discretion.

(B) Each Owner shall have the right, at its sole cost and expense, at any time and from time to time, to construct and maintain additional (in addition to those presently shown on the Plans) grade level entrances and exits or to remove, close or relocate any grade level entrances and exits through that exterior portion of the Building included within its Parcel so long as such modification does not require access to or through the other Parcel. In such case, consent of the other Owner is required which may be granted in such Owner's sole discretion.

1.3 Interior Changes in the Building. Subject to the limitations in this Declaration, each Owner shall have the right, at any time or times, without the consent of any other Owner, to change, alter and revise, from time to time, that portion of the interior of the Building which is hereafter located on or within such Owner's Parcel and to add improvements to or remove improvements from such interior in any manner as such Owner may desire, provided only that: (a) there shall be no material interference with any of the easement rights herein granted to the other Owners, (b) such changes shall not materially interfere with or burden any equipment, utility lines, or other improvements previously constructed and installed (in accordance with the terms and conditions of this Declaration) which is used by or for the benefit of any such other Owner's Parcel, including, without limitation, Shared Equipment and Common Improvements (as those terms are defined in Section 5.3(C) below), provided, however, that the Owner wishing to make such changes may, at its sole cost and expense, relocate such equipment, utility lines or other improvements to a location that is not materially less advantageous or less desirable to such other Owners in order to avoid such material interference or burden by its changes, (c) such change shall be made without cost or expense to the other Owners, (d) such change shall not impair the structural integrity of the Improvements, and (e) such change shall not violate any of the other applicable terms and conditions of this Declaration.

**ARTICLE 2**  
**EASEMENTS APPURTENANT TO THE**  
**RAMP C PARCEL AND RIGHTS RESERVED**

2.1 Support. Parcel 1 Owner hereby grants to Ramp C Owner, non-exclusive easements in the locations as shown on the Plans for support of those pillars, columns, beams, members, joists, and other supports of whatever nature (collectively the "Supports") now or hereafter constructed or existing in the Parcel as may be reasonably necessary or which may be required by applicable laws, codes, ordinances or permits, for or in connection with the support of that portion of the Building and the Improvements constructed in the Ramp C Parcel. Without limiting the generality or scope of the preceding sentence, Parcel 1 Owner shall have the right and obligation to maintain, repair, and replace said Supports as located in its Parcel as and when necessary or appropriate, but shall do so in a way that will minimize the interference with the use and enjoyment of the Ramp C Parcel by the Ramp C Owner and its tenants, licensees, permittees and guests and, except in an Emergency Situation (as defined in Section 2.5 below), only after giving reasonable advance notice to Ramp C Owner. Nothing in this Section 2.1 shall be construed to allow the Ramp C Owner the right to require additional Supports in that portion of the Building constructed on Parcel 1 beyond those set forth in the Plans, or to increase the support requirements of that portion of the Building constructed in the Ramp C Parcel beyond those set forth in the Plans.

2.2 Common Walls, Ceilings and Floors. Parcel 1 Owner hereby grants to Ramp C Owner, non-exclusive easements for support and enclosure with respect to those walls, ceilings and horizontal slabs, if any, constructed in and along the common boundaries of Parcel 1 and the Ramp C Parcel, and non-exclusive easements for enclosure with respect to all roofs and other enclosing surfaces of the Building.

2.3 Equipment and Utilities. Parcel 1 Owner hereby grants to Ramp C Owner, its tenants and their respective contractors the following: (a) a non-exclusive easement and right to install, own, use, maintain and repair that certain equipment listed or designated on **Exhibit D** attached hereto or as set forth on the Plans and made a part hereof (including, but not limited to, the right to run all accompanying wires, pipes, cables, connectors and conduits through Parcel 1 to the Ramp C Parcel as necessary to operate such equipment), or such other ancillary or replacement equipment (either similar or functionally equivalent) which may, from time to time, supplement or replace said equipment (the foregoing collectively referred to as the "Ramp C Owner's Equipment"), at, and only at, the locations in Parcel 1 shown on or referred to in the Plans or otherwise installed in the initial construction of the Building (except that if any substitute or replacement equipment is larger or otherwise requires more space than the then-existing Ramp C Owner's Equipment, such substitute or replacement equipment shall also be permitted and this grant of easement shall automatically be expanded so as to include and permit it so long as it does not interfere with the then use of Parcel 1); (b) a non-exclusive easement and right to connect the Ramp C Owner's Equipment, or any other equipment of Parcel 1, to those systems serving Parcel 1 or to the Shared Equipment located on Parcel 1, on which such Ramp C Owners Equipment or other equipment is dependent for operation at the points of connection shown on or referred to in the Plans or otherwise existing at the initial construction of the Building, provided that Ramp C Owner shall be obligated to pay its equitable share of the cost relating to its use of such systems or Shared Equipment as reasonably determined by Parcel 1 Owner; (c) to the extent not encompassed by the foregoing, a non-exclusive easement and right

to install and maintain utility lines (including, but not limited to, the right to gas, water, electricity, sewer, and telephone and other communications lines, together with all accompanying wires, connectors and conduits), as may reasonably be or become, necessary or appropriate, at said locations and points of connection in Parcel 1 existing at the initial construction of the Building or at such other locations and points of connection approved by Parcel 1 Owner, such approval not to be unreasonably withheld or delayed; (d) a non-exclusive easement and right to inspect, maintain, repair and replace the Shared Equipment and the Common Improvements located on Parcel 1 in the event Parcel 1 Owner breaches its obligations under Section 5.3(C) below; and (e) with respect of all of the foregoing, a right of access to said locations and points of connection on Parcel 1 for the purposes set forth in this Section 2.3 subject to any applicable terms and conditions contained in this Declaration. Each of the Owners burdened by the easement set forth in this Section 2.3 shall have the right at its sole cost and expense to relocate within its Parcel any facilities and easements which burden its Parcel and benefit the Ramp C Owner, so long as such relocation does not have a material adverse effect on the benefited Parcel.

2.4 Construction Easement. Subject to the terms of Section 14.1, with respect to, and in connection with any exterior or interior changes to be made to the Ramp C Parcel (pursuant to Sections 1.2 and 1.3 above), from time to time, after the initial construction of the Ramp C Parcel and the Ramp C Improvements, Parcel 1 Owner hereby grants the Ramp C Owner, its tenants and their respective contractors, a temporary, non-exclusive easement to enter Parcel 1 for the purpose of constructing said changes. The easements and all other rights granted to Ramp C Owner in or by the provisions of this Section shall exist from the commencement of said changes to the Ramp C Parcel until the completion thereof.

If, in the performance of said construction, Ramp C Owner causes any damage to Parcel 1, the Parcel 1 Improvements, the Shared Equipment or the Common Improvements, Ramp C Owner shall, at its sole cost and expense, promptly repair and restore the damage thereto.

2.5 Emergency Access. Each Owner hereby grants to each other Owner, and its tenants, contractors, licensees, invitees, permittees and guests, a non-exclusive easement for ingress and egress by persons, materials and equipment in an Emergency Situation on, over, across and through any and all service corridors and any hallways and stairwells necessary for emergency ingress and egress. For purposes of this Declaration, "Emergency Situation" means: (a) a situation impairing or imminently likely to impair structural support or any Improvements critical to the operation of the Building as a whole or to the operation of any component part thereof; (b) a situation causing or imminently likely to cause bodily injury to persons or substantial physical damage to all or any portion of the Building or any property within or about the Building; or (c) a situation which materially interferes with the beneficial use by any Owner of its Parcel. The duration of an Emergency Situation shall be deemed to include the time reasonably necessary to remedy the Emergency Situation.

2.6 Property Benefited. The easements granted in this ARTICLE 2 are for the benefit of and appurtenant to the Ramp C Parcel, are perpetual (except as otherwise provided in Section 2.4 above) and run with the land.

**ARTICLE 3**  
**EASEMENTS APPURTENANT TO PARCEL 1**  
**AND RIGHTS RESERVED**

3.1 Support. Ramp C Owner hereby grants to Parcel 1 Owner, non-exclusive easements in the locations as shown on the Plans for support of those pillars, columns, beams, members, joists, and other supports of whatever nature (collectively the "Supports") now or hereafter constructed or existing in the Parcel as may be reasonably necessary or which may be required by applicable laws, codes, ordinances or permits, for or in connection with the support of that portion of the Building and the Improvements constructed in Parcel 1. Without limiting the generality or scope of the preceding sentence, Ramp C Owner shall have the right and obligation to maintain, repair, and replace said Supports as located in its Parcel as and when necessary or appropriate, but shall do so in a way that will minimize the interference with the use and enjoyment of Parcel 1 by the Parcel 1 Owner and its tenants, licensees, permittees and guests and, except in an Emergency Situation (as defined in Section 2.5 above), only after giving reasonable advance notice to Parcel 1 Owner. Nothing in this Section 3.1 shall be construed to allow the Parcel 1 Owner the right to require additional Supports in that portion of the Building constructed on Ramp C Parcel beyond those set forth in the Plans, or to increase the support requirements of that portion of the Building constructed in Parcel 1 beyond those set forth in the Plans.

3.2 Common Walls, Ceilings and Floors. Ramp C Owner hereby grants to Parcel 1 Owner, non-exclusive easements for support and enclosure with respect to those walls, ceilings and horizontal slabs, if any, constructed in and along the common boundaries of the Ramp C Parcel and Parcel 1, and non-exclusive easements for enclosure with respect to all roofs and other enclosing surfaces of the Building.

3.3 Equipment and Utilities. Ramp C Owner hereby grants to Parcel 1 Owner, its tenants and their respective contractors the following: (a) a non-exclusive easement and right to install, own, use, maintain and repair that certain equipment listed or designated on **Exhibit E** attached hereto or as set forth on the Plans and made a part hereof (including, but not limited to, the right to run all accompanying wires, pipes, cables, connectors and conduits through Ramp C to the Parcel 1 Parcel as necessary to operate such equipment), or such other ancillary or replacement equipment (either similar or functionally equivalent) which may, from time to time, supplement or replace said equipment (the foregoing collectively referred to as the "Parcel 1 Owner's Equipment"), at, and only at, the locations in Ramp C shown on or referred to in the Plans or otherwise installed in the initial construction of the Building (except that if any substitute or replacement equipment is larger or otherwise requires more space than the then-existing Parcel 1 Owner's Equipment, such substitute or replacement equipment shall also be permitted and this grant of easement shall automatically be expanded so as to include and permit it so long as it does not interfere with the then use of Ramp C); (b) a non-exclusive easement and right to connect the Parcel 1 Owner's Equipment, or any other equipment of Ramp C, to those systems serving Ramp C or to the Shared Equipment located on Ramp C, on which such Parcel 1 Owners Equipment or other equipment is dependent for operation at the points of connection shown on or referred to in the Plans or otherwise existing at the initial construction of the Building, provided that Parcel 1 Owner shall be obligated to pay its equitable share of the cost relating to its use of such systems or Shared Equipment as reasonably determined by Ramp C Owner; (c) to the extent not encompassed by the foregoing, a non-exclusive easement and right

to install and maintain utility lines (including, but not limited to, the right to gas, water, electricity, sewer, and telephone and other communications lines, together with all accompanying wires, connectors and conduits), as may reasonably be or become, necessary or appropriate, at said locations and points of connection in Ramp C existing at the initial construction of the Building or at such other locations and points of connection approved by Ramp C Owner, such approval not to be unreasonably withheld or delayed; (d) a non-exclusive easement and right to inspect, maintain, repair and replace the Shared Equipment and the Common Improvements located on Ramp C in the event Ramp C Owner breaches its obligations under Section 5.3(C) below; and (e) with respect of all of the foregoing, a right of access to said locations and points of connection on Ramp C for the purposes set forth in this Section 3.3 subject to any applicable terms and conditions contained in this Declaration. Each of the Owners burdened by the easement set forth in this Section 3.3 shall have the right at its sole cost and expense to relocate within its Parcel any facilities and easements which burden its Parcel and benefit the Parcel 1 Owner, so long as such relocation does not have a material adverse effect on the benefited Parcel.

3.4 Parcel 1 Rights in Ramp C; Roof of Ramp C. Parcel 1 Owner shall be allowed to maintain (i) an entrance to Parcel 1 on the ground floor of Parcel 1 as shown on the Plans for entrance to its improvements; (ii) so long as a grocery is a tenant in Parcel 1, cart corrals as currently located in Ramp C Parcel; and (iii) refrigeration units on the Roof level of Ramp C Parcel as currently configured (or subject to expansion as set forth in Section 2.3); (iv) security cameras and lights to secure Parcel 1 as reasonably necessary; (v) use of Ramp C stairwells and elevators for access and egress from Parcel 1 as currently configured; and (vi) ingress and egress over Ramp C Parcel to reach electrical and equipment rooms in Parcel 1 as currently shown on the Plans.

3.5 Construction Easements. Subject to the terms of Section 14.1, with respect to, and in connection with any exterior or interior changes to be made to Parcel 1 (pursuant to Sections 1.2 and 1.3 above), from time to time, after the initial construction of the Parcel 1 and Parcel 1 Improvements, Ramp C Owner hereby grants the Parcel 1 Owner, its tenants and their respective contractors, a temporary, non-exclusive easement to enter Ramp C for the purpose of constructing said changes. The easements and all other rights granted to Parcel 1 Owner in or by the provisions of this Section shall exist from the commencement of said changes to Parcel 1 until the completion thereof.

If, in the performance of said construction, Parcel 1 Owner causes any damage to Ramp C Parcel, the Ramp C Improvements, the Shared Equipment or the Common Improvements, Parcel 1 Owner shall, at its sole cost and expense, promptly repair and restore the damage thereto.

3.6 Emergency Access. Each Owner hereby grants to each other Owner, and its tenants, contractors, licensees, invitees, permittees and guests, a non-exclusive easement for ingress and egress by persons, materials and equipment in an Emergency Situation on, over, across and through any and all service corridors and any hallways and stairwells necessary for emergency ingress and egress.



3.7 Property Benefited. The easements granted in this ARTICLE 3 are for the benefit of and appurtenant to Parcel 1, are perpetual (except as otherwise provided in Section 3.5 above) and run with the land.

## **ARTICLE 4 FURTHER RIGHTS RESERVED**

4.1 Changes in Use. Except as expressly prohibited or limited by other provisions of this Declaration, including, but not limited to, Section 5.2, each Owner shall have the right to change, from time to time, the use of those portions of the Improvements owned by such Owner in any manner as such Owner may desire, provided only that: (i) there shall be no material interference with the easement rights granted herein to the other Owner, and (ii) each Parcel shall remain restricted and limited to any uses permitted by the applicable zoning ordinance (or such variances, special use permits or other authorizations or approvals which may be obtained).

4.2 Signs, Lights and Awnings. Notwithstanding anything contained herein to the contrary, each Owner shall have the sole and exclusive right to place and maintain awnings, lighting, signs and other similar types of displays (collectively, the "Signs") on the entire exterior and façade of the Building in its Parcel for any purpose including business identification of the Owner and for each retail business established in the Parcel displaying the name or trade name of such business. Subject to the foregoing, each Owner shall, at its sole cost and expense, inspect, maintain, repair and replace, as and when necessary, its Signs. Declarant may install all signs, lights and awnings or similar displays in its sole discretion so long as the same comply with all applicable laws and ordinances.

4.3 Rules and Regulations. Subject to all the terms and conditions of this Declaration, and except to the extent (if any) expressly prohibited or limited by other provisions of this Declaration, with respect to the particular portion of the Building owned by each Owner, such Owner shall have the right to make and adopt from time to time reasonable rules and regulations, which shall only be applicable to the respective Parcel owned by the Owner that adopts such rules and regulations, for the protection and welfare of those tenants, invitees, licensees and other occupants of that portion of the Building owned by such Owner, provided such rules and regulations do not diminish, impede, impair or interfere with the other Owner's use or enjoyment of its Parcel or of the easements or rights granted to it by this Declaration. This Section shall not be construed to permit any impairment of the easements or other rights and privileges created by this Declaration.

4.4 Easements for Encroachments. There is hereby granted in favor of each Owner, a perpetual exclusive easement for the ownership, operation and maintenance of Improvements which hereafter encroach the other Owner's Parcel (the "Other Parcel"), but only to the extent that said encroachments are caused by unintentional minor deviations in construction or the shifting or settling of the Improvements and do not cause damage to, or impede or impair the use of, the Improvements on the Other Parcel. In addition, to the extent the Improvements once constructed, materially encroach upon the Other Parcel in such a manner as to materially reduce the other Owner's use of its Parcel, an easement is hereby granted to maintain the Improvements in such location, but such grant shall not restrict the other Owner's rights to sue for any damages resulting therefrom. Notwithstanding the foregoing, a valid easement for an encroachment shall



in no event be created in favor of any Owner if such encroachment occurred due to the willful conduct of said Owner.

4.5 Ingress-Egress Easement. Each Owner ("Grantor") hereby grants to the other Owner (and its tenants, employees, contractors, invitees and guests) ("Grantee"), a perpetual non-exclusive easement for ingress and egress to and from Grantee's Parcel by persons, materials and equipment on, over and across those sidewalks, walkways and driveways located on the Grantor's Parcel, if any.

## **ARTICLE 5 COVENANTS AND RESTRICTIONS**

5.1 Association as Owner. Each Owner hereto covenants and agrees that if all or any part of such Owner's interest in its Parcel (the "Submitted Parcel") is hereafter submitted to the provisions of the Nebraska Condominium Act, as amended from time to time, or to any other form of condominium ownership authorized by applicable law (the "Condominium Act") the association of all of the condominium unit owners of the Submitted Parcel (the "Association") acting through a duly elected management board or other body administering such Association in accordance with the Condominium Act (the "Board of Managers"), shall have the power and authority to act for and bind all the individual condominium unit owners with respect to all the provisions, terms and conditions of this Declaration. For all purposes of this Declaration, from and after such time as a Parcel is or becomes a Submitted Parcel, the Association shall be deemed to be the "Owner" of the Submitted Parcel, with all the rights, obligations, duties, liabilities and responsibilities of said Owner together with the benefits and burdens of the easements granted in this Declaration. In connection therewith and with this Section 5.1, the Association, through its Board of Managers, shall have whatever powers and authorities are granted in this Declaration to the Owner of the Submitted Parcel. However, notwithstanding the preceding provisions of this Section 5.1 or any other contrary provision of this Declaration, from and after such time as a Parcel is or becomes a Submitted Parcel, any and all liens, charges, security interests or encumbrances of any kind whatsoever (collectively, "Liens") which ARTICLE 5 and ARTICLE 6 of this Declaration provides is to be a Lien against or upon a Parcel shall automatically also become and be at all times a Lien upon the entire Submitted Parcel and all components thereof and interests therein, including (without limitation) the fee interest (and all other ownership interests) in each and every condominium unit in or comprising the Submitted Parcel. The provisions of the preceding sentence shall govern and control over all inconsistent or contrary provisions of this Declaration.

5.2 No Overloading. Each Owner does hereby covenant and agree that it will not permit that portion of the Building constructed on and located within its Parcel to be used or occupied so as to exceed the load-bearing capacity for said portion of the Building as designed and constructed.

5.3 Damage to and Repair of Improvements; Apportionment of Costs. Except as otherwise provided in this Section, each Owner shall cause that portion of the Improvements located in its Parcel always to be in good condition and repair. If any portion of the Improvements is damaged or destroyed by fire or other casualty, any repair, restoration or construction performed in connection therewith shall comply with all of the following standards: (a) such repair, restoration or construction shall result in improvements as architecturally,

functionally and aesthetically identical as is practically possible to the Improvements existing prior to such damage or destruction, unless prohibited by law or unless the Owners unanimously agree otherwise; (b) to the extent reasonably possible, such repair, restoration or construction work shall be carried out in such manner as not to interfere materially with any of the easements herein granted to either Owner, and the Improvements as repaired, restored or constructed shall be such as fully to permit and facilitate the originally-intended benefits, use and enjoyment of all of, and as not to diminish, limit, interfere with or adversely affect in any way any of, the easements and other rights herein granted to any Owner; (c) such construction shall not have any material adverse effect on the structural integrity of any portion of the Improvements; and (d) the improvements as so repaired, restored or constructed shall not violate the zoning ordinance or any other applicable laws. Each Owner hereto shall, with due diligence, repair, rebuild and restore that portion of the Improvements damaged or destroyed by fire or other casualty which is located within its Parcel (or shall cause the same to be done), and shall do so in compliance with the foregoing standards. Notwithstanding any of the foregoing provisions of this Section to the contrary, it is mutually understood and agreed that:

(A) Ramp C Owner shall own, and pay and be solely responsible for the maintenance, repair and replacement of all of the Ramp C Owner's Equipment, utility lines, and all pipes, wires, cables and other facilities used to make its connections referred to in Section 2.3 and other related improvements, wherever located, pursuant to the provisions of Section 2.3. Ramp C Owner covenants and agrees that it will keep all such equipment, utility lines and other improvements in good and safe condition and repair.

(B) Parcel 1 Owner shall own, and pay and be solely responsible for the maintenance, repair and replacement of all of Parcel 1 Owner's Equipment, utility lines, and all pipes, wires, cables and other facilities used to make its connections referred to in Section 3.3 and other related improvements, wherever located, pursuant to the provisions of Section 3.3. Parcel 1 Owner covenants and agrees that it will keep all such equipment, utility lines and other improvements in good and safe condition and repair.

(C) The Ramp C Owner shall inspect, maintain, repair and replace the Shared Equipment and Common Improvements (both as hereinafter defined), wherever located in the Building, with the direct actual cost attributable to any such inspection, maintenance, repair and replacement (the "Shared Cost") to be shared proportionately between the parties hereto in accordance with the Common Maintenance Percentages (as defined below), unless such cost is incurred due to the action or inaction of one of the Owners (or its tenants, contractors, licensees, invitees, permittees and guests) in which event the responsible Owner shall pay such cost. Parcel 1 Owner shall pay its proportionate share of the Shared Cost to the Ramp C Owner within thirty (30) days after receipt of written notice detailing the nature of the work performed and the amount of the Shared Cost. Unless otherwise agreed to in writing by the Owners, the Owners shall not be required to pay all or any portion of its proportionate share of the Shared Cost prior to such work being performed and completed. In the event that the Ramp C Owner desires to use its personnel to perform any inspection, maintenance, repair or replacement services relating to the Shared Equipment or Common Improvements, the Shared Cost of such services, as determined by the Ramp C Owner, shall be approved in writing by the other Owner prior to the performance of said services, such approval not to be unreasonably withheld or delayed. Notwithstanding the foregoing, each Owner shall inspect, maintain, repair, replace, and clean, as and when necessary, at its sole cost and expense, entry doors and hardware (including glass),

windows (including glass), landscaping and associated fencing (other than Common Improvements), and light bulbs located on that portion of the Building situated within such Owner's Parcel. Each Owner, at its sole cost and expense, shall keep its Parcel clean and free of insects, rodents, vermin, and other pests or unhealthy conditions. To insure compliance, each Owner (or their respective tenants) shall cause extermination services, including treatment for insects, spiders, rats, mice, moles, and other rodents, to be provided to their respective Parcel by a reputable exterminator as required. For purposes of this Declaration, (i) "Shared Equipment" shall mean the equipment that services more than one Parcel as listed on Exhibit F attached hereto and made a part hereof or as set forth on the Plans, including such other equipment (either similar or functionally equivalent) which may, from time to time, replace said equipment and/or any structural components of the Improvements which affect more than one Parcel; (ii) "Common Improvements" shall mean those improvements that benefit more than one Parcel as listed on Exhibit G attached hereto and made a part hereof or as set forth on the Plans, including such other improvements (either similar or functionally equivalent) which may, from time to time, replace said improvements; and (iii) "Common Maintenance Percentages" shall mean 73% with respect to the Ramp C Owner, and 27% with respect to the Parcel 1 Owner. In the event a utility or service is used by an owner to a greater extent than the other owner, the Common Maintenance Percentages may be modified to take into account the parties' usage as reasonable determined by the Ramp C Owner.

(D) The Owners agree that the utilities of each Owner, including, but not limited to, the exterior lighting and Signs, shall, to the maximum extent possible, be separately metered and separately paid for by each such Owner. To the extent that any utilities servicing more than one Parcel cannot reasonably be separately metered, said utility costs shall be paid proportionately by the parties hereto in accordance with the Common Maintenance Percentages.

(E) If all or a substantial part of the Ramp C Parcel Improvements or Parcel 1 Improvements is damaged or destroyed by fire or other casualty, the Ramp C Owner or the Parcel 1 Owner shall be required, at its sole cost and expense, to restore or replace said Improvements located on its respective Parcel, making such replacements in accordance with the standards set forth in this Section 5.3; provided, however, that the Owner who incurred the casualty shall be released from its obligation to restore or replace said Improvements if a written release from said obligations is obtained from the other Owner, in its sole and absolute discretion. If at any time any Owner so obligated to repair and restore such damage (the "Obligated Owner") shall not proceed diligently with any repair or restoration of such damage which adversely and materially affects an easement in favor of the other Owner or services to be furnished the other Owner under this Declaration, then (i) the other Owner may give written notice to the Obligated Owner specifying the respect or respects in which such repair or restoration is not proceeding diligently and, if, upon expiration of ten (10) days after the receipt of such notice, any such repair or restoration work is still not proceeding diligently, then the other Owner may perform such repair and restoration and may take all appropriate steps to carry out the same; or (ii) in an Emergency Situation, the other Owner may immediately perform such repair or restoration and may take all appropriate steps to carry out the same. The other Owner in so performing such repair and restoration shall be entitled to use any insurance proceeds (and any other monies held for such repair and restoration pursuant to the immediately succeeding paragraph) which are available as a result of any such damages for application to the cost and expense of any such repair or restoration and shall also be entitled to reimbursement upon demand from the Obligated Owner for all costs and expenses incurred by the other Owner in

excess of said insurance proceeds (and any other monies held for such repair and restoration). For purposes of this Subparagraph, architects and engineers' fees, construction manager's fees, attorneys' fees, consultants' fees, title insurance premiums and other similar costs and expense relating to repair or restoration shall be included in the costs and expenses of any such repair or restoration.

If the cost and expense of performing any repair and restoration provided for in this Section shall exceed the amount of available insurance proceeds, if any, paid by reason of the damage, then such excess cost and expense, including the cost of any applicable deductible under the insurance policy (or the entire amount of such cost and expense, if there are no insurance proceeds) shall be borne by the Owners in proportion to the cost and expense of repairing to their former condition their respective portions of the Building, and either Owner may require that the other Owner make deposit of security for the payment of their respective share of such excess costs into a joint account or escrow with a mutually-agreeable financial institution or title insurance company located in Omaha, Nebraska.

Upon completion of the repair and restoration of any damage to the Building, any remaining insurance proceeds from the Building Insurance Policy (as defined in Section 5.4 below) paid by reason of such damage shall be refunded to each Owner in proportion to the ratio of insurance proceeds attributed to such Owner's portion of the Building by the insurer to the total insurance proceeds made available by the insurer for the repair and restoration. The right of any Owner to payment of excess insurance proceeds, if any, shall be subject to the rights of the Parcel Mortgagees for such portion of the Building.

#### 5.4 Insurance.

(A) The Owners shall procure and maintain Commercial Property Insurance (the "Building Insurance Policy") insuring against loss or damage to the Building, including without limitation all Improvements within the Building (the "Covered Improvements"), pursuant to an "all risk" or a broad scope of "covered perils" form of coverage (which shall, at a minimum, contain the coverages enumerated in Insurance Services Office, Inc. Broad Causes of Loss Form, together with insurance for loss of rental income or business interruption and extra expense and insurance against boiler and machinery risks, on a comprehensive, blanket basis covering the Building and Covered Improvements on a repair or replacement basis for an amount not less than one hundred percent (100%) of the Full Insurable Value (as hereinafter defined) of the Building and the Covered Improvements therein. The Full Insurable Value shall be determined from time to time by an appraisal prepared by the insurance company or an independent appraiser chosen by the Owners, the cost of such appraisal to be shared by the Owners proportionately based on the Full Insurable Value of their respective portions of the Building, including the Covered Improvements therein. The Building Insurance Policy shall name the Owners as insureds as their interests may appear and their lender if required. The Building Insurance Policy shall be written on a repair and replacement cost basis with agreed amount endorsements in lieu of any coinsurance clauses, if reasonably available. Each Owner shall be responsible to pay its proportionate cost of the premiums payable with respect to the Building Insurance Policy proportionately based on the Full Insurable Value of their respective portions of the Building, including the Covered Improvements therein. For purposes of this Section, "Full Insurable Value" means actual replacement cost of the Building and the Covered

Improvements therein, exclusive of the cost of: (i) excavation, foundations and footings below the lowest basement floor; and (ii) tenant improvements made to the Parcels.

(B) The Owners shall procure and maintain a single commercial general liability insurance policy covering claims for personal and bodily injury, death or property damage occurring in, on, within, upon or about the Total Tract, or any portion thereof, or as a result of operations thereon or the actions of any Owner or its lessees, agents or employees. Such insurance shall be maintained in such amounts as from time to time shall be carried by those multi-use buildings of similar size and class as the Building within the downtown area of Omaha, Nebraska, but in all events with limits of not less than \$1,000,000 per occurrence with additional umbrella liability insurance coverage of not less than \$10,000,000, if reasonably available. The commercial general liability insurance policy shall name the Owners as insureds as their interests may appear. Each Owner shall be responsible to pay its proportionate cost of the premiums payable with respect to such policy proportionately in accordance with the Common Maintenance Percentages.

(C) Insurance policies required by this Section shall be purchased from insurance companies authorized and licensed to transact business in the State of Nebraska who shall have a current A.M. Best's Rating of "A-" or better and an A.M. Best's Financial Size Category of not less than VIII.

(D) All of the policies of insurance required to be obtained by the Owners pursuant to this Section: (i) shall provide that the knowledge or acts or omissions of any insured party shall not invalidate the policy as against any other insured party or otherwise adversely affect the rights of any other insured party under such policy; (ii) shall provide by endorsement or otherwise, that the insurance shall not be invalidated should any of the insureds under the policy waive in writing prior to a loss any or all rights of recovery against any party for loss occurring to the property insured under the policy; and (iii) shall provide for a minimum of thirty (30) days' advance written notice of cancellation, non-renewal or material modification thereof, except as otherwise provided by law.

(E) Limits of liability or types of insurance specified in this Section shall be reviewed by the Owners no less often than annually at least thirty (30) days before the expiration of each policy to determine if such limits, deductible amounts and types of insurance are reasonable and prudent in view of the type, place and amount of risk to be transferred, are in compliance with this Section and whether, on a risk management basis, additional types of insurance or endorsements against special risks should be carried or whether required coverages or endorsements should be deleted. Initially, deductible amounts for insurance required under subparagraphs (A) and (B) above shall not exceed \$10,000. Such limits shall be increased or decreased, deductible amounts increased or decreased, or types of insurance shall be modified, if justified, based upon said annual review, and upon the approval of any such increase, decrease or modification by the Owners, the Owners shall, at any Owner's election, execute an instrument in recordable form evidencing such increase, decrease or modification, which any Owner may record with the Recorder as a supplement to this Declaration; provided that no agreement regarding a decrease in limits of liability, an increase in the deductible amounts, or elimination of any types of coverages shall be effective without the written consent of the Owners and the Parcel Mortgagees (as defined in Section 14.3).

(F) Should any Owner fail to pay its share of the premiums or other costs for any of the joint policies, then the other Owner may pay the defaulting Owner's share of such costs in which event the other Owner shall have the remedies stated in ARTICLE 6 hereof.

(G) Provided that such a waiver does not invalidate the respective policy or policies or diminish or impair the insured's ability to collect under such policy or policies or unreasonably increase the premiums for such policy or policies unless the party to be benefited by such waiver pays such increase, and without limiting any release or waiver of liability or recovery contained elsewhere in this Declaration, each of the Owners, for itself and for each party claiming under, by or through such Owner, hereby waives all claims for recovery from the other Owners for any loss or damage to any of its property insured (or required hereunder to be insured) under valid and collectible insurance policies to the extent of any recovery collectible (or which would have been collectible had such insurance required hereunder been obtained) under such insurance policies plus any deductible amounts.

(H) The insurance coverage required under this Article may be effected under, in part or in total, under a blanket policy or policies covering the Project and other property and assets not constituting a part of the Project; provided that any such blanket policy shall provide coverage in an amount and scope which is at least equal to what would be provided if the required coverage was purchased on an individual basis and which shall in any case comply in all other respects with the requirements of this Article.

5.5 Lien Claims. If, by reason of labor or material furnished or claimed to have been furnished to or on behalf of or at the request of another Owner ("Benefited Party"), any construction or similar lien or liens shall be placed, at any time or times, upon any part of the Parcel owned by or easements benefiting another Owner, the Benefited Party covenants and agrees that it will: (i) notify the other Owner of the existence of such lien promptly after learning of its existence; and (ii) within thirty (30) days after its receipt of written demand to do so from the other Owner, cause said lien or liens to be released, bonded over or title insured over in a manner reasonably satisfactory to the other Owner and, if the other Owner's Parcel is encumbered by a Parcel Mortgage (as hereinafter defined in Section 14.3), cause said lien or liens to be contested in the manner specified in such Parcel Mortgage. If the Benefited Party fails to comply with the provisions of the preceding sentence within the time period provided for therein, the other Owner may, after giving thirty (30) days prior written notice thereof to the Benefited Party and the failure of the Benefited Party to cure within such thirty (30) day period, pay all amounts necessary to release such lien or liens (but only if it obtains, and duly records in the appropriate real estate records of Douglas County, Nebraska, a recordable full, complete and final waiver, release and satisfaction of such lien or liens duly executed and acknowledged by all holders of such liens) without inquiry as to the validity thereof and it shall then be entitled to reimbursement from the Benefited Party for such payment in accordance with the provisions of ARTICLE 6.

## **ARTICLE 6 REMEDIES**

6.1 Reimbursement and Liens. Any Owner required to pay the other Owner by the terms of this Declaration shall do so within ten (10) business days after its receipt of a written demand therefor accompanied by such backup or supporting documentation (including, without

limitation, invoices, statements for payment, and receipts or other evidences of payment), if any, as the Owner from whom payment is demanded may reasonably request. If at any time any Owner shall fail within such ten (10) day period to pay the other Owner then demanding such payment ("Damaged Party") any amount which the defaulting Owner is obligated to pay the Damaged Party pursuant to this Declaration, then, in addition to any other rights or remedies, the Damaged Party shall have a lien, upon the recording of a notice of lien in the office of the Register of Deeds of Douglas County, Nebraska against the Parcel owned by the Defaulting Owner to secure payment of such amount and to secure payment of all interest accruing thereon pursuant to the provisions of Section 6.2. The notice of lien shall identify this Declaration, the original parties hereto, the date of recording this Declaration in said office and the recording number of such recording and state the name of the Damaged Party, the name of the defaulting Owner, the amount then due the Damaged Party, and the Parcel (by its legal description) to which such lien is to attach. Said lien shall remain in full force and effect until such amount and interest are paid in full or it has otherwise been released pursuant to a recordable written instrument of full, complete and final release signed by the Damaged Party. Said lien may be foreclosed by a proceeding in equity or at law, all as provided by, and in accordance with, applicable law.

6.2 Interest. In event of the failure of the Defaulting Party (as defined in Section 6.4 below) to so pay the Damaged Party within said ten (10) day period, interest shall accrue on the unpaid amount from the date of such demand to the date of such payment at an annual rate equal to the lesser of (a) the highest rate of interest permitted by law or (b) a rate equal to two (2) points above the Prime Rate or Corporate Base Rate in effect from time to time during such period of non-payment at Mutual of Omaha Bank, or its successor.

6.3 Priority of Liens. The liens provided for in Section 6.1 shall take precedence and have priority over any mortgage or other encumbrance which may be a lien on the Parcel and Improvements owned by the Defaulting Party, other than a mortgage or trust deed recorded prior to the recording of the notice of lien as hereinafter provided, irrespective of whether the amounts secured by such mortgage or trust deed are disbursed before or after the recording of said notice of lien.

6.4 Other Remedies. In addition to the remedies stated in this Declaration, if at any time any Owner shall fail, after the expiration of ten (10) business days after receiving written notice of a payment default, to make any payment required to be made hereunder or, after the expiration of thirty (30) days after receiving written notice of a non-payment default, to perform any other covenants or agreements herein contained (the "Defaulting Party"), then the other Owner(s), collectively or individually, as the case may be, shall have (subject to the limitations in Section 6.5): (i) all rights and remedies at law or in equity, including, but not limited to, the right to specifically enforce such covenant or agreement or the right to enjoin such violation; and (ii) in the case of a non-payment default, upon prior written notice given to the Defaulting Party, the right to perform any obligation as to which the Defaulting Party is in default, which in such event (a) the other Owner(s) shall have a temporary non-exclusive easement of access on and across the Defaulting Party's Parcel to the extent reasonably necessary to perform the Defaulting Party's obligation, and (b) all costs and expenses reasonably incurred by the other Owner(s) in performing such defaulted obligation shall be payable to the other Owner(s) in accordance with Section 6.1 above. Notwithstanding anything to the contrary contained in the preceding sentence, if any such non-payment default cannot be reasonably cured within the thirty (30) day cure



period, such failure shall not constitute an event of default hereunder so long as the Defaulting Party promptly commences to cure such default after notice from the other Owner(s) and thereafter continuously prosecutes the curing of such default to completion. In addition, in the event of a final judicial determination of default hereunder, the non-prevailing Owner(s) shall be obligated to pay all costs and expenses, including, but not limited to, reasonable attorneys' fees, incurred by the prevailing Owner(s) in successfully enforcing or defending an action pursuant to or in connection with this Declaration.

6.5 Limitation of Liability. The enforcement of any rights or obligations contained in this Declaration against any Owner shall be limited to the interest of such Owner in its Parcel and the Improvements located thereon. No judgment against any Owner shall be subject to execution on, or be a lien on, any property or assets of such Owner other than that Owner's interest in its Parcel and the Improvements located thereon.

## **ARTICLE 7 ESTOPPEL CERTIFICATES**

Each Owner (the "Certifying Owner") shall, from time to time at reasonable intervals (and in no event more frequently than once in any period of 180 consecutive days), within ten (10) business days after written request from any other Owner (the requesting Owner having a reasonable business purpose therefor (which purpose shall be described in such written request)), execute, acknowledge and deliver to the requesting Owner, a certificate stating:

(A) That the terms and provisions of this Declaration are unmodified or, if modified, identifying the modification agreements;

(B) Whether the Certifying Owner has actual knowledge of, or has given the requesting Owner written notice of the existence of any default hereunder by the requesting Owner which has not yet been cured and, if so, specifying the nature and extent of such default;

(C) The total amount of all liens (if any) then being asserted hereunder by the Certifying Owner against the requesting Owner: and

(D) Such other matters as may be reasonably requested.

## **ARTICLE 8 NOTICES**

All notices, demands, elections, consents, approvals or other communications required, permitted or desired to be given or served hereunder shall be in writing and shall be delivered personally, or sent by United States registered or certified mail, postage prepaid, return receipt requested, or by overnight express courier, postage prepaid, and addressed to the parties at their respective addresses set forth below and the same shall be effective upon receipt if delivered personally or by overnight express courier, or three (3) business days after deposit if mailed.

If to Ramp C Owner:

East Campus Realty, LLC  
Mutual of Omaha Plaza  
Omaha, NE 68175  
Attn: President

If to Parcel 1 Owner:

Midtown Crossing Parcel 1 Condominium Association  
c/o East Campus Realty, LLC  
Mutual of Omaha Plaza  
Omaha, NE 68175  
Attn: President

Either Owner may change its address for receipt of notices hereunder by written notice given to the other Owner at least ten (10) business days prior to the effective date of such change, which notice shall specify its new notice address (which must be in the United States of America and which must be not greater than three in total number of names and their respective addresses). So long as any Parcel is subject to the Condominium Act, (i) the other Owner may, but shall not be obligated to, give personal notice to any individual condominium unit owner, homeowner, notice to the Association, through its Board of Managers, shall be deemed sufficient, and (ii) the Association alone, through its Board of Managers, shall be empowered to give notice on behalf of any or all individual condominium unit owners under this Declaration, which notice shall be binding on the individual condominium unit owners.

## **ARTICLE 9 REAL ESTATE TAXES**

9.1 Tax Division. When separate real estate tax bills are received, (i) Ramp C Parcel Owner shall pay the real estate taxes, special assessments and any and all other taxes and assessments of every kind or nature levied upon all or any portion of Ramp C Parcel, (ii) Parcel 1 Owner shall pay the real estate taxes, special assessments and any and all other taxes and assessments of every kind or nature levied upon all or any portion of Parcel 1. Each owner of a condominium unit located within a Submitted Parcel shall pay the real estate taxes, special assessments, and any and all other taxes and assessments of every kind or nature levied upon his or its unit ownership.

### 9.2 Apportionment of Real Estate Taxes.

(A) At any time that Parcel 1 and the Ramp C Parcel are not separately assessed and taxed, each Owner shall pay its respective portion of such real estate taxes, special assessments and any and all other taxes and assessments of every kind or nature levied upon or with respect to the Total Tract. The Ramp C Owner will allocate taxes to Parcel 1 and the Ramp C Parcel proportionally based upon the assessed valuation of each Parcel, except in the event a certificate of occupancy is issued for only one of the Parcels, in which event the tax allocation shall be subject to equitable adjustment as agreed to by the Owners.

(B) Upon receipt of the undivided real estate tax bills for the Total Tract, Ramp C Owner shall promptly forward a copy of same to Parcel 1 Owner together with Ramp C Owner's initial determination of their respective shares of such tax bills pursuant to the apportionment method stated in subparagraph (A) above. Parcel 1 Owner shall provide written

notice within ten (10) business days of its receipt of such determination of any objection(s) thereto, in which event Parcel 1 Owner and Ramp C Owner shall cooperate with each other and reach a fair and reasonable agreement as to the determination of their respective shares of such tax bills. In the event Parcel 1 Owner does not provide any such written notice of objection, Parcel 1 Owner shall deliver to Ramp C Owner a cashier's or certified check made payable to the Douglas County Collector for its allocable share of the tax bills within ten (10) days after the objection period expires. Ramp C Owner shall no later than fifteen (15) days prior to the due date for such payment, forward such check from Parcel 1 Owner together with Ramp C Owner's share of the undivided tax bill to the Douglas County Collector and shall forward a copy of the receipt for same to Parcel 1 Owner when it is received. In the event an Owner shall fail to pay its share of any tax or other charge which is due and which such Owner is obligated to pay pursuant to this ARTICLE 9, such non-paying Owner shall be liable for the amount of such Owner's share of the tax or other charge, including the amount of any interest or penalty amounts accrued thereon.

(C) If Ramp C Owner attempts to obtain a lowering of the assessed valuation upon the Total Tract or takes other action for the purpose of reducing taxes thereon with respect to any period prior to the time that Parcel 1 and the Ramp C Parcel are separately assessed and taxed, Parcel 1 Owner shall cooperate with Ramp C Owner in such attempt and shall share in the costs incurred in proportion to its share of the real estate taxes. Any refund received as a result of such action shall be apportioned between Parcel 1 Owner and Ramp C Owner in the same manner as the real estate taxes are shared. Nothing contained herein shall affect the independent right of each Owner to protest taxes and other charges to the extent the same affect only such Owner's Parcel.

9.3 Failure to Pay Taxes. If, prior to the time separate tax bills are obtained, any Owner (the "Defaulting Owner") shall fail to pay any tax or other charge, or share thereof, which is due and which the Defaulting Owner is obligated to pay pursuant to this ARTICLE 9, and if such unpaid tax or charge is a lien or encumbrance on the portion of the Total Tract owned by the other Owner, or if any lawful authority would have the right to sell or otherwise foreclose against the portion of the Total Tract owned by the other Owner or extinguish any easement benefiting the other Owner by reason of such nonpayment, or subjects the other Owner to personal liability for the same, then the other Owner may, after ten (10) days' written notice to the Defaulting Owner, pay such tax or charge, or share thereof, together with any interest and penalties thereon, and the Defaulting Owner shall, upon demand, reimburse the other Owner for the amount of such payment, including the amount of any interest or penalty amounts accrued thereon together with interest on the monies advanced by the other Owner from the date of such demand to the date of the Defaulting Owner's payment, at an annual rate equal to the lesser of (a) the highest rate of interest permitted by law, or (b) a rate equal to two (2) points above the Prime Rate or Corporate Base Rate in effect from time to time during such period of non-payment at Mutual of Omaha Bank, or its successor.

9.4 Applicability. Those provisions of this ARTICLE 9 which relate to the issuance of an undivided real estate tax bill for the Total Tract shall only apply to an undivided tax bill which became due on December 31, 2014 (and any subsequent tax years for which bills are issued on an undivided basis for the Total Tract).

**ARTICLE 10  
ADDITIONAL EASEMENTS**

The Easements set forth on the survey attached hereto as **Exhibit H**, if any, are granted as set forth thereon.

**ARTICLE 11  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
CERTAIN RECIPROCAL RIGHTS AND EASEMENTS FOR MIDTOWN CROSSING  
AT TURNER PARK**

The Total Tract is subject to the terms and provisions of that certain Declaration of Covenants, Conditions and Restrictions of Certain Reciprocal Rights and Easements for Midtown Crossing at Turner Park recorded on February 11, 2010, as Document No. 2010012982 ("Campus REA") which delineates the rights, obligations and privileges of the Declarant with respect to the interrelationship of the Total Tract and the other land located at Midtown Crossing. Each Owner is subject to the terms and provisions of the Campus REA. The Ramp C Owner shall be responsible for fulfilling all of the obligations under the Campus REA for the benefit of the Total Tract and providing any services required under the Campus REA. The costs and expenses due to compliance with the Campus REA shall be shared by the Owners in their Common Maintenance Percentages as set forth herein. All use of the Total Tract is subject to and must be in compliance with the terms of the Campus REA.

**ARTICLE 12  
ARBITRATION**

12.1 The following matters shall be submitted for arbitration to the American Arbitration Association (the "AAA") pursuant and subject to the provisions of this ARTICLE 12:

(A) All disputes, claims or controversies arising under this Declaration involving an amount not exceeding \$250,000 (in 2008 equivalent dollars) which shall not be resolved within sixty (60) days after same have arisen; and

(B) All other matters which are required or permitted under the provisions of this Declaration to be submitted for, or determined by, arbitration.

Any such dispute, claim, controversy or matter is referred to herein as a "Matter". Arbitration of any Matter shall be initiated by any Owner making a written demand therefor by giving written notice thereof to the other Owners and by filing a copy of such demand with the AAA. The AAA shall have jurisdiction upon the giving of such notice and the filing of such demand. Any such arbitration shall be held in Omaha, Nebraska, and shall be conducted and completed in an expeditious manner and without delay.

12.2 Unless otherwise agreed to in writing by the parties to the arbitration, within twenty (20) business days after the notice demanding arbitration has been given, the parties shall jointly designate one arbitrator to resolve the Matter. If the parties fail to designate the arbitrator within such time period, an arbitrator shall be appointed in accordance with the procedures set forth in the applicable AAA rules, provided, however, that in any event such arbitrator shall be

experienced as to the design, construction and/or operation, as the Matter requires, of high-rise, multi-use structures similar to the Building. Except where contrary to the provisions set forth in this Declaration, the rules of the AAA for commercial arbitration shall apply to the arbitration of any Matter. During the twenty (20) day time period referenced above, the parties may agree in writing to any additions, deletions or changes to the applicable arbitration rules.

12.3 The arbitrator shall commence hearings within sixty (60) days of selection, unless the Owners who are parties to the arbitration or the arbitrator agree upon an expedited or delayed schedule of hearings. Prior to the hearings any such Owner may send out requests to compel document production from the other Owners. Disputes concerning the scope of document production and enforcement of the document requests shall be subject to agreement by such Owners or may be ordered by the arbitrator to the extent reasonable. The arbitrator may obtain independent legal counsel or other professional consultants to aid in resolution of legal or other questions presented in the course of arbitration to the extent reasonably necessary to the fair resolution of the Matter and to the extent that it is economical to do so considering the financial consequences of the Matter. The arbitrator in rendering a decision may base such decision only on the facts presented in the course of arbitration and shall not modify or amend the provisions of this Declaration. Subject to the other terms hereof, if any Owner fails or refuses to appear at and participate in an arbitration hearing after due notice, the arbitrator may hear and determine the Matter upon evidence produced by the appearing Owners. The arbitration costs shall be borne equally by each Owner, except that each Owner shall be responsible for its own expenses.

12.4 Unless otherwise agreed in writing, the Owners shall continue to perform all obligations and make all payments due under this Declaration in accordance with this Declaration during the course of any arbitration constituted or conducted under the provisions of this ARTICLE 12. The obligation of the Owners to continue performance and make payments despite the existence of an arbitration hereunder shall be enforceable by any party to the Matter by application to any court of competent jurisdiction for an injunctive order requiring the immediate performance of such obligations as provided in the preceding sentence until such time as any Matter is resolved as provided in this ARTICLE 12.

12.5 With respect to any Matter subject to arbitration under this ARTICLE 12, it is agreed that the arbitration provisions of this ARTICLE 12 shall be the sole remedy of the Owners under this Declaration. Notwithstanding any other provisions of this Declaration, the foregoing agreement to arbitrate shall be specifically enforceable under prevailing arbitration law. The foregoing agreement to arbitrate shall not constitute any agreement or consent to arbitration of any dispute, claim, controversy or matter not described in this ARTICLE 12 or with any person not named or described herein, provided that any arbitration proceeding initiated under the terms of this ARTICLE 12 may, at the request of any party, be joined or consolidated with other arbitration proceedings involving additional parties if the Matter and the subject of such other proceedings arise out of common or interrelated factual occurrences. Any award of the arbitrator shall be final and binding upon the Owners and judgment thereon shall be entered by any court having jurisdiction.

12.6 For purposes of this ARTICLE 12, "2008 equivalent dollars" means the equivalent purchasing power at any time of the value of One Dollar (\$1.00) in calendar year 2008. The 2008 equivalent dollars of any amount shall be determined by multiplying said amount by one (1) plus a fraction, the numerator of which is the amount, if any, by which (x) the

monthly Consumer Price Index (as hereinafter defined) last published prior to the date of such determination exceeds (y) the Consumer Price Index for January, 2008, and the denominator of which is the Consumer Price Index for January, 2008. As used herein, the term "Consumer Price Index" shall mean the Consumer Price Index for Urban Consumers, U.S. City Average, All Items (Base Year 1982-1984 = 100) for the applicable month published by the Bureau of Labor Statistics of the United States Department of Labor or equivalent index agreed to by the Owners if such index is no longer available.

### **ARTICLE 13 NO MERGER**

Notwithstanding any ownership, directly or indirectly, in all or any portion of the Property, in one person or entity, it is the intent and understanding that all such properties and estates shall remain separate and distinct from each other and shall not be merged into such other estates and properties by reason of such common ownership. A merger of any of such estates and properties can only be effected by a written instrument signed by the then owner of such estates and properties and by each mortgage of such estates and properties and recorded in the office of the Recorder

### **ARTICLE 14 MISCELLANEOUS PROVISIONS**

14.1 Minimal Interference. Subject to all the terms and conditions of this Declaration, in fulfilling obligations and exercising rights under this Declaration and in constructing, repairing, maintaining or restoring any improvements on or in either its Parcel or in the portions of another Owner's Parcel in which it has been granted an appropriate easement for such construction, repair, maintenance or restoration, each Owner shall, to the greatest extent practical, minimize interference with another Owner's (and such Owner's tenants', licensees', invitees', permittees' and guests') property, operations, and use and enjoyment of its Parcel and its easements and rights granted hereunder and, to that end, will (except to the extent that emergency conditions do not permit it) give to the other Owner reasonable (and in all events not less than ten (10) business days') advance notice of work which may interfere with the property or operations of the other Owner (or its tenants, licensees, or permittees) and will (except to the extent that emergency conditions do not permit it) arrange with the other Owner for reasonable and definite times and conditions at and under which such work shall be done provided that, in non-Emergency Situations where the work would adversely affect the business operations conducted on the Parcel, the Owner shall use reasonable efforts to perform the work outside of the other Owner's normal business hours. Without limitation of the foregoing, an immediate need to repair or replace utility lines which service either Parcel and which run through the other Parcel shall be deemed an Emergency Situation hereunder and the Owner of such affected Parcel shall have the right to immediately enter the other Parcel at any time to make necessary repairs.

14.2 Ownership Votes. In any instance under this Declaration where a decision needs to be made by more than one Owner, a meeting shall be called at the request of any two or more Owners and at such meeting the agenda will contain such items on which consensus needs to be reached. An Ownership Majority will control the disposition of any issues put to a vote. "Ownership Votes" means the number of the votes that each Owner is allocated hereunder and is entitled to cast in each case where the consent, approval or agreement of an Ownership Majority

is required to be obtained under the terms of this Declaration or as otherwise requested by one or more Owners. In the event the decision affects less than all of the Owners, the vote shall be held with the affected Owners and an Ownership Majority of those Owners shall control with the total Ownership Votes for those affected Owners being recalculated to total 100%. The schedule set forth immediately below indicates the number of Ownership Votes attributable to and held by each respective portion of the Total Tract and therefore available to be cast by the respective Owner thereof:

<u>Owner</u>	<u>Number of Ownership Votes</u>
Ramp C Parcel	50%
Parcel 1	50%

For purposes of this Declaration, "Ownership Majority" means 51% or more of the Ownership Votes.

14.3 Ramp C Owner Responsibilities. The Ramp C Owner shall be responsible for the matters set forth in this Declaration as the responsibility of the Ramp C Owner, including but not limited to as set forth in Section 5.3 hereof, as well as the following:

(A) City Water. Maintenance of the Facilities which are shared for the use of more than one (1) Owner necessary to supply city water to the Total Tract.

(B) Gas and Electric Facilities. Maintenance of the Facilities which are shared for the use of more than one (1) Owner necessary to supply gas and electric service to any of the Total Tract.

(C) Building Insurance Policy. If requested by the Owners, the Ramp C Owner shall obtain and keep in force the Building Insurance Policy set forth in this Declaration.

(D) General Services. The cost of providing the aforementioned services will be allocated between the Owners in accordance with the Common Maintenance Percentages set forth herein. The cost of a Building Insurance Policy shall be allocated based upon the insurance company's valuation of the Parcels or as mutually agreed.

14.4 Term. This Declaration and each easement, covenant, provision and restriction contained in this Declaration shall remain in full force and effect unless and until this Declaration has been fully and completely released of record by a written instrument executed by both Owners. Easements created hereunder shall not be presumed abandoned by non-use or the occurrence of damage or destruction of a portion of the Building subject to an easement, unless the Owner benefited by such easement states in writing its intention to abandon the easement, provided that the consent of the Parcel Mortgagee shall also be required with respect to any such abandonment.

14.5 Release from Liability. Each Owner hereby releases the other Owners hereto, its beneficiaries and its directors, officers, partners, members, managers, agents and employees from all loss, liability, damage and expense arising from its negligent acts or omissions that are



covered by the insurance required to be obtained by the Owners pursuant to Section 5.4 hereof, or any other insurance procured by said Owner.

14.6 Amendments. This Declaration may be amended, changed, modified or cancelled only by the provisions of a written agreement executed by all of the Owners to this Declaration, or their respective successors and assigns, and duly recorded in the real estate records of Douglas County, Nebraska. So long as any portion of the Property is submitted to the Condominium Act, the Association shall, by its authorized officers, execute all amendments to or any termination of this Declaration on behalf of all Unit Owners which amendments or termination shall be binding on all Unit Owners. Any amendment to or termination of this Declaration shall be recorded with the Register of Deeds. All consents and approvals of any of the Owners or any of the holders of the First Mortgages shall not be unreasonably withheld or delayed. Any disapproval of or failure to consent to any matter hereunder shall be in writing and shall state in reasonable detail the reason or reasons therefore.

14.7 Third Parties. Except as may be specifically set forth in this Declaration with respect to rights of Parcel Mortgagees, nothing contained in this Declaration is intended to create any third-party beneficiary rights in favor of anyone not a party to this Declaration, under any statutes, laws, codes, ordinances, rules, regulations, orders, decrees or otherwise, it being mutually understood and agreed that the terms and provisions of this Declaration shall be for the sole benefit of the Owners hereto and their respective successors and assigns.

14.8 No Waiver. No provision of this Declaration shall be deemed to have been waived by any Owner except to the extent (if any) such waiver is expressly set out in a writing signed by the Owner making such waiver. The failure of any Owner to seek redress for violation of, or to insist upon the strict performance of any covenant or condition of this Declaration, shall not be deemed a waiver thereof or prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation.

14.9 Headings. Headings and captions used in this Declaration are for convenience only and are not intended to interpret or change the meaning of any of the terms or provisions of this Declaration.

14.10 Successors and Assigns. Whether or not specific reference is made to successors and assigns in each term or provision of this Declaration, all of the terms and provisions of this Declaration shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto, and all of the terms and provisions hereof (including, without limitation, all easements and covenants set out in this Declaration) shall run with the land both as a benefit and burden thereon.

14.11 Severability. If any provision of this Declaration or the application thereof is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of this Declaration which can be given effect without the invalid provisions or application, and to this end, all the provisions of this Declaration are declared to be severable.

14.12 Rule Against Perpetuities. If the rule against perpetuities or any other rule of law limits the time during which any provision of this Declaration shall be effective, then each such provision shall continue to be effective until twenty-one (21) years after the death of the last survivor of all of the President and Vice President of the United States of America, serving at the

date at execution of this Declaration, and all of their children and grandchildren living on the date of execution of this Declaration.

14.13 Cooperation. In fulfilling obligations and exercising rights under this Declaration, the Parcel 1 Owner and the Ramp C Owner shall cooperate with each other to promote the efficient operation of each respective portion of the Total Tract and the harmonious relationship amongst them and to protect the value of each of their respective portion, estate or interest in the Total Tract, including, but not limited to, and the obtaining of insurance for the Improvements, including the Building. To that end, the Parcel 1 Owner and the Ramp C Owner shall share all information possessed relating to matters which are the subject of this Declaration, except such information as such Owner may reasonable deem confidential or which may be the subject of litigation and which such Owner is prohibited from revealing pursuant to court order. From time to time after the date hereof, each Owner shall furnish, execute and acknowledge, without charge (except where elsewhere provided herein): (i) such other instruments, documents, materials and information as the other Owners may reasonably request in order to confer to such requesting Owner the benefits contemplated hereby, but only so long as any such request does not restrict or abridge the benefits granted to the other Owners, and (ii) such grants of easements to and agreements with utility companies as the other Owners may reasonably request in order to enable such utility company to furnish utility service, as required by such requesting Owner, provided that the Parcel Mortgagees have first consented in writing to such easements.

14.14 Force Majeure. The Owners shall diligently perform their respective obligations set forth herein. No Owner shall be deemed to be in default in the performance of any obligation created under or pursuant to this Declaration, other than an obligation requiring the payment of a sum of money, if and so long as non-performance of such obligation shall be directly caused by fire or other casualty, national emergency, governmental or municipal laws or restrictions, enemy action, Civil commotion, strikes, lockouts, inability to obtain labor or materials, war or national defense preemptions, acts of God, energy shortages or similar causes beyond the reasonable control of such Owner ("Unavoidable Delay") and the time limit for such performance shall be extended for a period equal to the period of any such Unavoidable Delay; provided, however, that the Owner unable to perform (the "Non-Performing Owner") shall notify the other Owner in writing of the existence and nature of any Unavoidable Delay within five (5) days after the onset of any such Unavoidable Delay. The Non-Performing Owner shall, from time to time upon written request of the other Owner, keep the other Owner fully informed, in writing, of all further developments concerning any such Unavoidable Delay and its non-performance.

14.15 Association Acting for Unit Owners. In the event any portion of the Total Tract is submitted to the Condominium Act and/or so long as such portion of the Total Tract is subject to the provisions of the Condominium Act, all rights, easements and benefits under this Declaration appurtenant to or enjoyed by that portion of the Total Tract shall be exercised by the condominium association established on behalf of the Unit Owners in such portion of the Total Tract, except for such rights or benefits expressly granted to Unit Owners hereunder, and except for easements which by their nature are exercisable only by Unit Owners. Any action to enforce rights, obligations, easements, burdens and benefits under this Declaration on behalf of the applicable Unit Owners or the applicable Association shall be exercised solely by the applicable Association by its duly authorized officers acting pursuant to authority granted by law, the

condominium declaration for such association or resolution of the board of managers of the Association.

14.16 Additional Easements. If it becomes clear that additional easements among the portions of the Total Tract are necessary or desirable to effectuate the purposes of this Declaration, provided said proposed additional easements will not materially interfere with the use and occupancy of any portion of the Building, materially affect access to, or operation of, any portion of the Building, or materially increase the operating costs of, or create any additional expense for, any of the Owners, Declarant hereby reserves the right to determine, create and grant such additional easements as are necessary. In the event any such new easements are created, this Declaration and the Exhibits hereby shall be amended by designating and describing said easements and such amended Declaration shall be signed by Declarant and the Owners, if necessary, to effectuate the grant or creation of such additional easements, and shall be recorded in the land records and shall have the same force, effect and priority as if such new easements were originally contained herein.

14.17 Subdivision. Each Owner shall be able to fully subdivide any portion of the Total Tract owned by it. Each Owner reserves the right to effect a subdivision of its portion of the Property into parcels ("Subdivision") and cause such components to be separately conveyed and owned subject to this Declaration. From and after the occurrence of a Subdivision, the Owner of the Property so subdivided may at its option either (i) cause the owners of the subdivided portions of the Property to jointly and severally perform the obligations and enforce the rights of the Owner of that portion of the Property under this Declaration, or (ii) with the consent of the other Owners, which shall not be unreasonably withheld or delayed, amend this Declaration (the "Subdivision Amendment"), and cause the Subdivision Amendment to be recorded with the Register of Deeds, to reflect the separate ownership of the components; provided, however, that the Subdivision Amendment shall not reduce the obligations of the Owner of the portion of the Property subdivided or increase the obligations or reduce the rights of the other Owners under this Declaration. Each Owner hereby authorizes and irrevocably appoints the other Owners as their attorney-in-fact to execute a Subdivision Amendment, which appointment shall be deemed an appointment with an interest and shall be irrevocable.

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

East Campus Realty, LLC, a Nebraska limited liability company

By:



Kenneth R. Cook  
President

STATE OF NEBRASKA     )  
  ) SS  
COUNTY OF DOUGLAS    )

I, JANICE J. PACKARD, Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Kenneth R. Cook, President of EAST CAMPUS REALTY, LLC, a Nebraska limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument as President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of the company, for the uses and purpose therein set forth.

GIVEN, under my hand and Notarial Seal this of 17 day of JUNE, 2016.



Janice J. Packard  
Notary Public

## **LIST OF EXHIBITS**

- EXHIBIT A - RAMP C PARCEL**
- EXHIBIT B - PARCEL 1**
- EXHIBIT C - TOTAL TRACT**
- EXHIBIT D - RAMP C OWNERS EQUIPMENT (2.3)**
- EXHIBIT E - PARCEL 1 OWNERS EQUIPMENT (3.3)**
- EXHIBIT F - SHARED EQUIPMENT (5.3(C))**
- EXHIBIT G - COMMON IMPROVEMENTS (5.3(C))**
- EXHIBIT H - ADDITIONAL EASEMENTS**

EXHIBIT A

RAMP C PARCEL

SEE ATTACHED

### Ramp C Legal Description

That part of Lot 1, MIDTOWN CROSSING AT TURNER PARK, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska, known as Ramp C, and approximately described as follows:

Commencing at the northwest corner of said Lot 1;

Thence South 87°38'08" West (bearings referenced to the Final Plat of MIDTOWN CROSSING AT TURNER PARK) for 380.67 feet along the north line of said Lot 1;

Thence South 02°21'52" East for 102.32 feet to the northeast corner of said Ramp C and the TRUE POINT OF BEGINNING;

Thence South 02°13'40" East for 54.62 feet;

Thence South 47°12'06" East for 9.88 feet;

Thence South 01°42'14" East for 27.89 feet;

Thence South 84°54'23" West for 5.25 feet;

Thence South 02°10'08" East for 29.19 feet;

Thence South 81°40'25" West for 2.06 feet;

Thence South 12°51'53" West for 46.96 feet;

Thence South 89°22'23" West for 5.42 feet;

Thence South 01°47'58" East for 17.60 feet;

Thence South 87°55'07" West for 25.02 feet;

Thence South 02°17'04" East for 238.02 feet;

Thence North 88°00'00" East for 33.60 feet;

Thence North 02°00'00" West for 0.58 feet;

Thence North 88°00'00" East for 17.69 feet;

Thence South 07°32'12" West for 33.92 feet;

Thence South 87°53'30" West for 253.66 feet to the west line of said Lot 1;

Thence North 02°13'45" West for 452.07 feet along said west line;

Thence North 87°41'24" East for 251.29 feet to the Point of Beginning.



EXHIBIT B

PARCEL 1

SEE ATTACHED

## Midtown Crossing Parcel 1 Legal Description

That part of Lot 1, MIDTOWN CROSSING AT TURNER PARK, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska, known as Building 1, described as follows:

Commencing at the northeast corner of said Lot 1;

Thence South 87°38'08" West (bearings referenced to the Final Plat of MIDTOWN CROSSING AT TURNER PARK) for 343.88 feet along the north line of said Lot 1 to the intersection with the western most back of curb of the existing driveway turnaround between Building 1 and Midtown Crossing Building 120 Condominium. A condominium created by Declaration of Midtown Crossing Building 200 Condominium recorded in the Deed Records in the office of the Douglas County Nebraska, on February 11, 2010, as Instrument No. 2010012980 (herein after referred to as Building 5 in the legal description of Building 1 and the legal description of the floors within the building situated within boundaries of said Building 1) and the TRUE POINT OF BEGINNING;

Thence along said back of curb line the following nine (9) courses.

1. Thence along a curve to the right (having a radius of 13.48 feet and a long chord bearing South 29°57'57" East for 9.64 feet) for an arc length of 9.86 feet;
2. Thence South 04°05'58" East for 5.45 feet;
3. Thence along a curve to the right (having a radius of 11.47 feet and a long chord bearing South 18°57'04" West for 4.37 feet) for an arc length of 4.40 feet;
4. Thence along a curve to the left (having a radius of 189.53 feet and a long chord bearing South 33°42'40" West for 12.48 feet) for an arc length of 12.48 feet;
5. Thence along a curve to the right (having a radius of 67.33 feet and a long chord bearing South 39°22'51" West for 14.70 feet) for an arc length of 14.73 feet;
6. Thence along a curve to the left (having a radius of 52.99 feet and a long chord bearing South 42°09'50" West for 10.29 feet) for an arc length of 10.30 feet;
7. Thence along a curve to the left (having a radius of 17.70 feet and a long chord bearing South 16°28'37" West for 4.45 feet) for an arc length of 4.46 feet;
8. Thence South 01°36'17" East for 43.53 feet;
9. Thence along a curve to the right (having a radius of 12.70 feet and a long chord bearing South 17°45'14" West for 8.66 feet) for an arc length of 8.83 feet to the extended south building line of Building 1;

Thence South 87°38'46" West for 16.90 feet along said south building line;

Thence North 02°34'27" East for 0.12 feet continuing along said south building line;

Thence South 87°39'37" West for 244.89 feet continuing along said south building line extended to the west line of said Lot 1;

Thence North 02°13'45" West for 92.07 feet along said west line to the chamfered northwest corner of said lot 1;

Thence North 42°41'55" East for 14.16 feet along said chamfered northwest corner to the north line of said Lot 1;

Thence North 87°38'08" East for 277.84 feet to the Point of Beginning.

EXHIBIT C  
TOTAL TRACT

SEE ATTACHED

## Midtown Crossing Parcel 1 Legal Description

That part of Lot 1, MIDTOWN CROSSING AT TURNER PARK, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska, known as Building 1, described as follows:

Commencing at the northeast corner of said Lot 1;

Thence South 87°38'08" West (bearings referenced to the Final Plat of MIDTOWN CROSSING AT TURNER PARK) for 343.88 feet along the north line of said Lot 1 to the intersection with the western most back of curb of the existing driveway turnaround between Building 1 and Midtown Crossing Building 120 Condominium. A condominium created by Declaration of Midtown Crossing Building 200 Condominium recorded in the Deed Records in the office of the Douglas County Nebraska, on February 11, 2010, as Instrument No. 2010012980 (herein after referred to as Building 5 in the legal description of Building 1 and the legal description of the floors within the building situated within boundaries of said Building 1) and the TRUE POINT OF BEGINNING;

Thence along said back of curb line the following nine (9) courses.

1. Thence along a curve to the right (having a radius of 13.48 feet and a long chord bearing South 29°57'57" East for 9.64 feet) for an arc length of 9.86 feet;
2. Thence South 04°05'58" East for 5.45 feet;
3. Thence along a curve to the right (having a radius of 11.47 feet and a long chord bearing South 18°57'04" West for 4.37 feet) for an arc length of 4.40 feet;
4. Thence along a curve to the left (having a radius of 189.53 feet and a long chord bearing South 33°42'40" West for 12.48 feet) for an arc length of 12.48 feet;
5. Thence along a curve to the right (having a radius of 67.33 feet and a long chord bearing South 39°22'51" West for 14.70 feet) for an arc length of 14.73 feet;
6. Thence along a curve to the left (having a radius of 52.99 feet and a long chord bearing South 42°09'50" West for 10.29 feet) for an arc length of 10.30 feet;
7. Thence along a curve to the left (having a radius of 17.70 feet and a long chord bearing South 16°28'37" West for 4.45 feet) for an arc length of 4.46 feet;
8. Thence South 01°36'17" East for 43.53 feet;
9. Thence along a curve to the right (having a radius of 12.70 feet and a long chord bearing South 17°45'14" West for 8.66 feet) for an arc length of 8.83 feet to the extended south building line of Building 1;

Thence South 87°38'46" West for 16.90 feet along said south building line;

Thence North 02°34'27" East for 0.12 feet continuing along said south building line;

Thence South 87°39'37" West for 244.89 feet continuing along said south building line extended to the west line of said Lot 1;

Thence North 02°13'45" West for 92.07 feet along said west line to the chamfered northwest corner of said lot 1;

Thence North 42°41'55" East for 14.16 feet along said chamfered northwest corner to the north line of said Lot 1;

Thence North 87°38'08" East for 277.84 feet to the Point of Beginning.

### Ramp C Legal Description

That part of Lot 1, MIDTOWN CROSSING AT TURNER PARK, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska, known as Ramp C, and approximately described as follows:

Commencing at the northwest corner of said Lot 1;

Thence South 87°38'08" West (bearings referenced to the Final Plat of MIDTOWN CROSSING AT TURNER PARK) for 380.67 feet along the north line of said Lot 1;

Thence South 02°21'52" East for 102.32 feet to the northeast corner of said Ramp C and the TRUE POINT OF BEGINNING;

Thence South 02°13'40" East for 54.62 feet;

Thence South 47°12'06" East for 9.88 feet;

Thence South 01°42'14" East for 27.89 feet;

Thence South 84°54'23" West for 5.25 feet;

Thence South 02°10'08" East for 29.19 feet;

Thence South 81°40'25" West for 2.06 feet;

Thence South 12°51'53" West for 46.96 feet;

Thence South 89°22'23" West for 5.42 feet;

Thence South 01°47'58" East for 17.60 feet;

Thence South 87°55'07" West for 25.02 feet;

Thence South 02°17'04" East for 238.02 feet;

Thence North 88°00'00" East for 33.60 feet;

Thence North 02°00'00" West for 0.58 feet;

Thence North 88°00'00" East for 17.69 feet;

Thence South 07°32'12" West for 33.92 feet;

Thence South 87°53'30" West for 253.66 feet to the west line of said Lot 1;

Thence North 02°13'45" West for 452.07 feet along said west line;

Thence North 87°41'24" East for 251.29 feet to the Point of Beginning.

**EXHIBIT D**

**RAMP C OWNER EQUIPMENT**

Connections (to the Shared Equipment) which exclusively service the Ramp C Parcel.

Main electrical switches exclusively servicing the Ramp C Parcel.

**EXHIBIT E**

**PARCEL 1 OWNER EQUIPMENT**

**NONE**



**EXHIBIT F**  
**SHARED EQUIPMENT**

Fire Protection System (including sprinkler and life safety systems) -The shared portion of the Fire Protection System shall mean all required assemblies and equipment to monitor and deliver a fully functioning sprinkler system and life safety system. This system shall include without limitation all pipes, valves, sprinkler heads, annunciator speakers and strobes, pumps, relays, control systems, control panels insulation, heating tracing, all replacement and additions from time to time, and additional equipment for use in providing fire protection to all Parcels, if applicable.

Electrical System - The shared portion of the Electrical System shall mean all required assemblies and equipment to monitor and deliver a fully functioning system used to provide electrical service to more than one Parcel. This system shall include without limitation the electrical equipment, transformers, switch gear, panels, conduit, cable, wire, junction boxes, circuit breakers, connectors, insulation, other equipment and related apparatus between Omaha Public Power District (or its successor) connection panel, metering equipment and controls, and additional equipment for use in providing electricity to more than one Parcel, and all replacement and additions from time to time, if applicable.

Telecommunications System - The shared portion of the Telecommunications System shall mean all required assemblies and equipment to monitor and deliver a fully functioning system used to provide television or cable service to more than one Parcel. This system shall include without limitation the panels, distribution equipment, computer equipment, junction boxes, wires, conduits, connectors, punch down blocks and other equipment and related apparatus between local carriers and the owners including connection panels, metering equipment and controls and additional equipment for use in providing television or cable service to more than one Parcel, and all replacement and additions from time to time, if applicable.

Gas Distribution System - The shared portion of the Gas Distribution System shall mean all required assemblies and equipment to monitor and deliver a fully functioning system used to provide natural gas service to more than one Parcel. This system shall include without limitation the equipment and related piping and apparatus between Metropolitan Utilities District (or its successor) distribution piping, valves, metering equipment and controls and additional equipment for use in providing natural gas service to more than one Parcel, and all replacement and additions from time to time, if applicable.

Plumbing System - The shared portion of the Plumbing System shall mean required assemblies and equipment to monitor and deliver fully functioning system used to provide domestic water and sewer service to more than one Parcel. This system shall include without limitation the equipment and related piping and apparatus between the City of Omaha's distribution piping of domestic water, valves, manhole structures, metering equipment and controls, and additional equipment for use in providing domestic water service to more than one Parcel, and all replacement and additions from time to time as well as the equipment and related piping and apparatus between the City of Omaha's sewage system including without limitation, piping, valves, metering equipment and controls and additional equipment for use in providing sewer service to more than one Parcel, and all replacement and additions from time to time. This system does not include wholly owned domestic hot water boilers within each Owner's respective Parcel, if applicable.

**EXHIBIT G**  
**COMMON IMPROVEMENTS**

Supports (as defined in Section 2.1).

Below-grade foundations and caissons of the Building.

**EXHIBIT H**

**ADDITIONAL EASEMENTS**

**NONE**