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AMD

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**FOURTH AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR 370 NORTH**

THIS FOURTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR 370 NORTH ("Declaration") is made effective on this 20th day of December, 2021, by Dowd Grain Company, Inc., a Nebraska corporation, TKA Properties, LLP, a Nebraska limited liability partnership, and NEXGEN RE, LLC, a Nebraska limited liability company, and shall pertain to and be recorded against the real property legally described as follows:

Lots 1 through 7, Lots 10 and 11, Lot 14, Lots 16 and 17, Outlots A and B, 370 North being a platting of Tax Lot 5 and part of the South 1/2 of the SE 1/4 all in the South 1/2 of Section 26, T14N, R11E of the 6th P.M., a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska.

Lots 1 and 2, 370 North Replat One, a Subdivision in Sarpy County, Nebraska, being a replatting of Lots 8 and 9, 370 North, a Subdivision in Sarpy County, Nebraska.

Lots 2 through 7, 370 North Replat Two, a Subdivision in Sarpy County, Nebraska, being a replatting of Lot 15, 370 North, a Subdivision in Sarpy County, Nebraska.

Outlots "A" and "B", 370 North Replat Three, a Subdivision in Sarpy County, Nebraska, being a replatting of Outlots "A" and "B", 370 North, 370 North, a Subdivision in Sarpy County, Nebraska.

Lot 1 and Outlot "A", 370 North Replat Four, a Subdivision in Sarpy County, Nebraska, being a replatting of Lot 1, 370 North Replat Two, a Subdivision in Sarpy County, Nebraska and Outlot "E", 370 North, a Subdivision in Sarpy County, Nebraska.

Lots 1 and 2, 370 North Replat Five, a Subdivision in Sarpy County, Nebraska, being a replatting of Lots 12 and 13, 370 North, a Subdivision in Sarpy County, Nebraska.

RECITALS

WHEREAS, the Declaration of Covenants, Conditions, Restrictions and Easements for 370 North dated June 19, 2017 was recorded on June 21, 2017 at Instrument No. 2017-14411 in the Records of the Sarpy County Register of Deeds (the "Original Covenants"), which was recorded against the following real property:

Lots 1 through 17 and Outlots A through E, 370 North being a platting of Tax Lot 5 and part of the South 1/2 of the SE 1/4 all in the South 1/2 of Section 26, T14N, R11E of the 6th P.M., a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska

WHEREAS, on or about April 29, 2019, 370 North Replat One was recorded as Instrument No. 2019-08230 in the Office of the Sarpy County Register of Deeds; said 370 North Replat One being a replatting of Lots 8 and 9, 370 North, a Subdivision in Sarpy County, Nebraska; and

WHEREAS, on or about June 4, 2019, 370 North Replat Two was recorded as Instrument No. 2019-11393 in the Office of the Sarpy County Register of Deeds; said 370 North Replat Two being a replatting of Lot 15, 370 North, a Subdivision in Sarpy County, Nebraska; and

WHEREAS, on or about July 2, 2019, 370 North Replat Three was recorded as Instrument No. 2019-14136 in the Office of the Sarpy County Register of Deeds; said 370 North Replat Two being a replatting of Outlots "C" and "D", 370 North, a Subdivision in Sarpy County, Nebraska; and

WHEREAS, a Corrective Affidavit dated September 18, 2019 was recorded on September 23, 2019 at Instrument No. 2019-22528 in the Records of the Sarpy County Register of Deeds (the "Corrective Affidavit"); and

WHEREAS, an Amendment to Covenants dated September 18, 2019 was recorded on September 23, 2019 at Instrument No. 2019-22529 in the Records of the Sarpy County Register of Deeds (the "First Amendment to Covenants"); and

WHEREAS, on or about March 16, 2021, 370 North Replat Four was recorded as Instrument No. 2021-10115 in the Office of the Sarpy County Register of Deeds; said 370 North Replat Four being a replatting of Lot 1, 370 North Replat Two, a Subdivision in Sarpy County, Nebraska and Outlot "E", 370 North, a Subdivision in Sarpy County, Nebraska; and

WHEREAS, on or about March 29, 2021, a Second Amendment to Covenants was recorded at Instrument No. 2021-11998 in the Records of the Sarpy County Register of Deeds (the "Second Amendment to Covenants"); and

WHEREAS, on or about September 17, 2021, 370 North Replat Five was recorded as Instrument No. 2021-35352 in the Office of the Sarpy County Register of Deeds; said 370 North Replat One being a replatting of Lots 12 and 13, 370 North, a Subdivision in Sarpy County, Nebraska; and

WHEREAS, on or about Dec. 27, 2021, a Third Amendment to Covenants was recorded at Instrument No. 2021-47148 in the Records of the Sarpy County Register of Deeds (the "Third Amendment to Covenants"); and

WHEREAS, the Original Covenants, the Corrective Affidavit, the First Amendment to Covenants, the Second Amendment to Covenants and the Third Amendment to Covenants shall be collectively referred to herein the "Covenants"; and

WHEREAS, pursuant to Section 13.2 of the Covenants, the Covenants or any provisions thereof, may be terminated, modified, or amended with respect to all or any portion of 370 North, by a vote of all Owners holding at least 2/3rds of the memberships in the Association; and

WHEREAS, the Owners holding in excess of 2/3rds of the memberships in the Association have voted to approve this Fourth Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for 370 North; and

WHEREAS, the Owners holding in excess of 2/3rds of the memberships in the Association have executed this Fourth Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for 370 North.

NOW, THEREFORE, in consideration of the following covenants and conditions the parties agree as follows:

1. A new Article 9.2.6 should be added as follows:

9.2.6 A car wash, except that a car wash shall be a permitted use on Lot 4, 370 North Replat Two, a Subdivision in Sarpy County, Nebraska.

2. The existing Article 9.2.4 shall be eliminated and the following substituted therefor:

9.2.4 Retail and wholesale vehicle parts and supplies, provided that nothing herein shall prevent the sale, installation, or service of such products as an incidental part of any business, such as a convenience store selling motor oil and/or similar vehicle accessories and supplies, a "Batteries Plus" type retail store selling vehicle batteries, or a "Stereo West" type retail store selling and installing vehicle audio systems.

3. Article 8.11 and Exhibit "C" of the Covenants pertain to the Lot 15 Visibility Corridor and the Lot 15 Visibility Corridor Requirements and provide that they may be amended after September 30, 2019 by the Architectural Control Committee (the "ACC") with the written consent of NEXGEN RE, LLC, Successor-in-Interest to Synergy Group, LLC (the owner of Lots 1 and 2, 370 North Replat Five, and Lot 14, 370 North, both being subdivisions in Sarpy County, Nebraska). The ACC, with the required written consent, has amended Article 8.11 and Exhibit "C" of the Covenants as follows:

1. Lot 15 Visibility Corridor Requirements No. 2, relating to a 50' setback from 150th Street shall be eliminated.
2. Lot 15 Visibility Corridor Requirements No. 3, relating to a general north-south orientation of a building, shall not apply to Lot 3, 370 North Replat Two, a subdivision in Sarpy County, Nebraska.

4. Provisions Not Amended. All provisions of the Covenants not herein amended shall remain in full force and effect.

5. Conflict. In the event of a conflict between the terms of this Fourth Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for 370 North, the Corrective Affidavit, the First Amendment, the Second Amendment or the Third Amendment, the terms of this Fourth Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for 370 North shall control.

