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SUBMITTED <u>Croker, Huck, Kasher, De</u> wit

FILED SARPY CO. NE. INSTRUMENT NUMBER

2014-02614

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REGISTER OF DEEDS

After recording, please return to: James F. Kasher, Esq. CROKER, HUCK, KASHER, DeWITT, ANDERSON & GONDERINGER, L.L.C. 2120 South 72nd Street, Suite 1200 Omaha, NE 68124

FIFTH AMENDMENT TO RESTRICTIVE COVENANTS FOR HILLTOP INDUSTRIAL PARK, A SUBDIVISION IN SARPY COUNTY, NEBRASKA

THIS FIFTH AMENDMENT TO RESTRICTIVE COVENANTS is made on the date hereinafter set forth by HILLTOP INDUSTRIAL PARK, L.L.C., a Nebraska limited liability company (the "Declarant") and the other undersigned owners of Lots in Hilltop Industrial Park, which Declarant and other owners constitute the owners of a majority of the land (by square footage of the Lots) in Hilltop Industrial Park.

WITNESSETH:

WHEREAS, the Declarant is the declarant under certain Restrictive Covenants applicable to Hilltop Industrial Park, a subdivision in Sarpy County, Nebraska (the "Original Declaration") which Original Declaration was filed in the office of the Register of Deeds of Sarpy County, Nebraska on March 11, 1998 as Instrument No. 1998-005465, and which Original Declaration was amended and restated by that certain First Amendment to Restrictive Covenants for Hilltop Industrial Park (the "First Amendment"), which First Amendment was filed in the office of the Register of Deeds of Sarpy County, Nebraska on October 25, 2002 as Instrument No. 2002-42518, and was further amended by that certain Second Amendment to Restrictive Covenants for Hilltop Industrial Park (the "Second Amendment"), which Second Amendment was filed in the office of the Register of Deeds of Sarpy County, Nebraska on January 15, 2003 as Instrument No. 2003-02595, and was further amended by that certain Third Amendment to Restrictive Covenants for Hilltop Industrial Park (the "Third Amendment"), which Third Amendment was filed in the office of the Register of Deeds of Sarpy County, Nebraska on March 20, 2006 as Instrument No. 2006-09334, and was further amended by that certain Fourth Amendment to Restrictive Covenants for Hilltop Industrial Park (the "Fourth Amendment"), which Fourth Amendment was filed in the office of the Register of Deeds of Sarpy County, Nebraska on November 5, 2013 as Instrument No. 2013-34082 (the Original Declaration, as amended by the First Amendment, the Second Amendment, the Third Amendment,

and the Fourth Amendment is hereinafter referred to as the "Declaration")(capitalized terms used but not otherwise defined herein are as defined in the Declaration); and

WHEREAS, the Declaration governs the Properties, which are now known as: Lot 1 and the north 95 feet of Lot 2, Lot 6, Lot 7, Lot 18 and the north 212 feet of Lot 19, Lot 24 and the north 142 feet of Lot 25, and Lot 33, Hilltop Industrial Park; Lot 3, Hilltop Industrial Park Replat 1; Lot 1, Hilltop Industrial Park Replat 2; Lot 1, Hilltop Industrial Park Replat 3; Lot 1, Hilltop Industrial Park Replat 4; Lot 1, Hilltop Industrial Park Replat 5; Lots 1 and 2, Hilltop Industrial Park Replat 8; Lots 1 and 2, Hilltop Industrial Park Replat 8; Lots 1 and 2, Hilltop Industrial Park Replat 9; Lots 1 and 2, Hilltop Industrial Park Replat 10; Lot 1, Hilltop Industrial Park Replat 11; Lots 1 and 2, Hilltop Industrial Park Replat 12; and Lots 1, 2, and 3, Hilltop Industrial Park Replat 13, all as platted and recorded in Sarpy County, Nebraska; and

WHEREAS, pursuant to the terms and conditions of Paragraph 16 of the Declaration, the Declaration may be amended by an instrument executed by the owners of a majority of the land (by square footage of Lots) subject to the Declaration, and pursuant to such provision, the Declarant and the other undersigned owners, who together constitute the owners of a majority of the land (by square footage of Lots) subject to the Declaration, desire to amend the Declaration as hereinafter set forth.

NOW THEREFORE, the Declaration is hereby amended as set forth below:

- 1. Section 3 of the Declaration is deleted in its entirety and replaced by the following new Section 3:
 - 3. <u>Building Set-Backs</u>. With respect to all Lots adjoining Lynam Drive on the north, there shall be a minimum set-back of thirty-five feet (35') from Lynam Drive. With respect to all Lots adjoining Lynam Drive on the south, there shall be a minimum set-back of seventy feet (70') from Lynam Drive. There shall be a minimum set-back of seventy feet (70') from both 132nd Street and Cornhusker Road, except that the minimum set-back from 132nd Street and from Cornhusker Road for Lot 3, Hilltop Industrial Park Replat 13, shall be fifty feet (50') rather than seventy feet (70'). There shall be a minimum set-back of one hundred fifty feet (150') from all public streets other than Lynam Drive, 132nd Street, and Cornhusker Road (the applicable minimum set-backs for which are addressed in the preceding sentences of this Section 3). Except as set forth in the Special Amendment to Restrictive Covenants recorded on June 29, 2007 as Instrument No. 200719533, there shall otherwise be a minimum side yard and rear yard set-back of ten feet (10') from the respective Lot line. Signs, awnings, canopies or other similar items shall not extend more than two feet (2') from any building into the set-back area.
- 2. In all other respects, the Declaration heretofore executed, as previously amended, is hereby ratified and confirmed in its original form.

IN WITNESS WHEREOF, the Declarant and the other undersigned owners have executed this Fifth Amendment to Restrictive Covenants effective as of the date of the last of the signatures below.

HILLTOP INDUSTRIAL PARK, L.L.C. a Nebraska limited liability company

By:

Rudolph Mudra, President

STATE OF NEBRASKA
) ss.
COUNTY OF Dueg las
)

The foregoing instrument was acknowledged before me this $\frac{1}{2}$ day of $\frac{1}{2}$ day of

Notary Public

GENERAL NOTARY - State of Nebraska
HELEN M. THURMAN
My Comm. Exp. March 2, 2015

March 2 2015

00543761.DOCX

	K & J INVESTMENTS, L.L.C. By:
	Its Represafafly
STATE OF NEBRASKA) ss.	
COUNTY OF Sarpy)	
The foregoing instrument was ackn 2014, by Stoken L.L.C., a Nebraska limited liability compan	owledged before me this the day of February, of K & J Investments, y, on behalf of the company.
	Michalle a. Lehan Notary Public
	GENERAL NOTARY - State of Nebraska MICHELLE A LEHAN My Comm. Exp. November 8, 2017

	By: Approper
STATE OF NEBRASKA)) ss. COUNTY OF Sar Qu)	
The foregoing instrument was acknowledged to the control of the co	owledged before me this had of February, of McHill, LLC, a
Nebraska limited liability company, on beha	Trichelle A. Hohan
	Notary Public GENERAL NOTARY - State of Nebraska

MICHELLE A LEHAN
My Comm. Exp. November 8, 2017

GLASS CONTRACTORS, INC.

	Its PRESIDENT
STATE OF NEBRASKA	
COUNTY OF SARPY)	SS.
The foregoing instrument was 2014, by	acknowledged before me this $\frac{4}{2}$ day of $\frac{1}{1}$ day of $\frac{1}{1}$ of GLASS corporation, on behalf of the corporation.
GENERAL NOTARY - State (RAYMOND B. My Comm. Exp. Sept	PHIE

FORD'S MERCANTILE WAREHOUSES CO.

	By: Relief Detail Its President
STATE OF NEBRASKA) ss.	
COUNTY OF TRANS.	
The foregoing instrument was acknowledge 2014, by For D For D Warehouses Co., a Nebraska corporation, or	owledged before me this 4 day of Ferrally, of Ford's Mercantile n behalf of the corporation.
GENERAL NOTARY - State of N RAYMOND B. P My Comm. Exp. Sept. 2	ILLE 1

MFEIVB, LLC

	By: for MMey Its Member
STATE OF NEBRASKA) (SS. COUNTY OF Doug for)	
The foregoing instrument was ack 2014, by Joh Meyevs Nebraska limited liability company, on be	cnowledged before me this the day of the company. day of the company. day of the company.
	Adele M. Thuman Notary Public
	GENERAL NOTARY - State of Nebraska HELEN M. THURMAN My Comm. Exp. March 2, 2015 March 2 2015

	CANNONBALL EXPRESS, INC.
	By: Resident
STATE OF NEBRASKA) ss.	
COUNTY OF Douglas) ss.	
The foregoing instrument was ackn 2014, by Bruce Meyen, , a Nebraska corporation, on behalf of the contact of t	president , of Cannonball Express, Inc.
	Talo M. Thueman Notary Public
	GENERAL NOTARY - State of Nebraska HELEN M. THURMAN My Comm. Exp. March 2, 2015 March 2-201

	MEYERS FAMILY ENTERPRISES IV, LLC
	By: Jen Meyers Its Menber
STATE OF NEBRASKA)
COUNTY OF Sarpy) ss.)
The foregoing instrument was by John Meyers LLC, a Nebraska limited liability co	s acknowledged before me this
	Alexa G. Ranum
GENERAL NOTARY - State of Nebrasi STEVEN G. RANUM My Comm. Exp. Oct. 30, 2016	

	MYTTY PROPERTIES, LLC
	By: Mlluno Whah
	its <u>CPO</u>
STATE OF NEBRASKA)	
COUNTY OF Douglas) ss.	
The foregoing instrument was ackr 2014, by Kathy W.'/l.ams ,	nowledged before me this
LLC, a Nebraska limited liability company	, on behalf of the company.
	Brun for
	Notary Public

GENERAL NOTARY - State of Nebraska BRUCE FOX My Comm. Exp. June 6, 2016