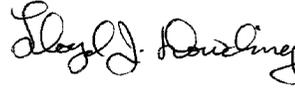


COUNTER <u>PM</u>
VERIFY <u>PM</u>
FEES \$ <u>70.00</u>
CHG <u>SFILE</u>
SUBMITTED <u>CROKER, HUCK, KASHER, DEWIT</u>

FILED SARPY CO. NE.  
INSTRUMENT NUMBER

**2014-02614**

2014 Feb 05 03:47:28 PM



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 6; Lots 1 and 2, Hilltop Industrial Park Replat 7; Lot 1, 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. Building Set-Backs. 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.



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

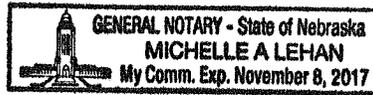
K & J INVESTMENTS, L.L.C.

By:   
Its Representative

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF Sarpy            )

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of February, 2014, by El Storm, Representative, of K & J Investments, L.L.C., a Nebraska limited liability company, on behalf of the company.

Michelle A. Lehan  
Notary Public











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

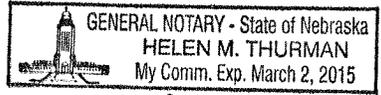
CANNONBALL EXPRESS, INC.

By: *Bruce Meyers*  
Its PRESIDENT

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF Douglas        )

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of February, 2014, by Bruce Meyers, President, of Cannonball Express, Inc. a Nebraska corporation, on behalf of the corporation.

*Helen M. Thurman*  
Notary Public



*March 2, 2015*



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

MYTTY PROPERTIES, LLC

By: *Kathleen Williams*  
Its *CEO*

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF *Douglas*        )

The foregoing instrument was acknowledged before me this *4* day of *February*, 2014, by *Kathy Williams*, *CEO*, of MYTTY PROPERTIES, LLC, a Nebraska limited liability company, on behalf of the company.

*Bruce Fox*  
Notary Public

