

**FIRST AMENDMENT TO THE SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
SOUTHPARK**

THIS FIRST AMENDMENT TO THE SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS OF SOUTHPARK ("First Amendment") is made and entered into this 22nd day of August, 2005 by the SouthPark Owner's Association, Inc., a Colorado nonprofit corporation (the "Owner's Association").

RECITALS

WHEREAS, SouthPark, a joint venture (the "Original Declarant"), as predecessor-in-interest to the Owner's Association, executed that certain Declaration of Covenants, Conditions and Restrictions of SouthPark dated August 19, 1981 and recorded on October 14, 1981 in Book 3509 at Page 499 of the records of the Clerk and Recorder of Arapahoe County, Colorado, and on April 5, 1983 in Book 470 at Page 514 of the records of the Clerk and Recorder of Douglas County, Colorado (the "Initial Declaration"); and

WHEREAS, the Initial Declaration was amended and restated pursuant to that Amended and Restated Declaration of Covenants, Conditions and Restrictions of SouthPark dated November 12, 1984 and recorded on November 15, 1984 in Book 4308 at page 91 of the records of the Clerk and Recorder of Arapahoe County, Colorado and on November 19, 1984 in Book 548 at Page 918 of the records of the Clerk and Recorder of Douglas County, Colorado (the "Amended and Restated Declaration"); and

WHEREAS, the Initial Declaration and Amended and Restated Declaration were amended pursuant to that certain First Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions of SouthPark dated September 17, 1990 and recorded on September 28, 1990 in Book 6016 at Page 650 of the records of the Clerk and Recorder of Arapahoe County, Colorado and in Book 962 at Page 875 in the records of the Clerk and Recorder of Douglas County, Colorado (the "First Amendment to Amended and Restated Declaration"); and

WHEREAS, the Initial Declaration, Amended and Restated Declaration and First Amendment to Amended and Restated Declaration were again amended and restated pursuant to that certain Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of SouthPark dated June 26, 1992 and recorded on July 13, 1992 in Book 6358 at Page 604 of the records of the Clerk and Recorder of Arapahoe County, Colorado and on July 13, 1992 in Book 1069 at Page 1002 of the records of the Clerk and Recorder of Douglas County, Colorado (the "Second Amended and Restated Declaration"); and

RECEIVED IN THIS CONDITION

Arapahoe County Clerk & Recorder, Nancy A. Doty

Reception #: B6102458

Receipt #: 5289216

Recording Fee: \$121.00

Pages Recorded: 24

Date Recorded: 7/14/2006 10:43:53 AM



WHEREAS, the Second Amended and Restated Declaration was extended to the SouthPark Property known as Hilltop pursuant to that certain Extension of Declaration dated February 25, 1999 and recorded on March 1, 1999 at Reception No. A9034411 of the records of the Clerk and Recorder of Arapahoe County, Colorado (the "Hilltop Extension"); and

WHEREAS, the Second Amended and Restated Declaration was extended to the SouthPark Property known as the Ridge pursuant to that certain Extension of Declaration dated December 16, 1999 and recorded Reception No. A91998438 of the records of the Clerk and Recorder of Arapahoe County, Colorado (the "Ridge Extension") in accordance with the provisions of said Ridge Extension; and

WHEREAS, the Initial Declaration, Amended and Restated Declaration, First Amendment to Amended and Restated Declaration, Second Amended and Restated Declaration, Hilltop Extension and Ridge Extension are collectively referred to as the "Declaration"; and

WHEREAS, Article 7.2 of the Amended and Restated Declaration provides that the Declaration may be modified or amended with the written consent of the Owners of fifty-one percent (51%) of the Property, on an acreage basis (other than the Common Area) subject to the Declaration; and

WHEREAS, the undersigned Owners, being Owners of more than fifty-one percent (51%) of the Property, on an acreage basis (other than the Common Area) subject to the Declaration, desire to modify and amend the Declaration in the manner hereinafter set forth.

AMENDMENT

NOW THEREFORE, in consideration of the forgoing, the undersigned Owners hereby modify and amend the Declaration as follows:

1. Any and all powers and duties granted to the SouthPark Architectural and Development Control Committee by the Declaration may also be exercised and performed by the Owner's Association. The Owner's Association may delegate the exercise and performance of such powers and duties to any committee or subcommittee as it shall see fit, including any SouthPark Architectural and Development Control Committee ("ADCC"). Notwithstanding the foregoing, the Owner's Association shall not exercise and perform or delegate the exercise and performance of such powers and duties in contravention of the terms of the Ridge Extension providing for the establishment, composition and function of the Ridge at SouthPark Architectural and Development Control Committee.
2. Subject to the terms of the Ridge Extension providing for the establishment, composition and function of the Ridge at SouthPark

Architectural and Development Control Committee ("RADCC"), the Owner's Association shall be, and hereby is, empowered to create such other committee(s) and subcommittee(s) as it shall see fit, to exercise and perform such powers and duties and to be governed by such procedures as the Owner's Association shall prescribe. Except for the powers and duties reserved to the RADCC under the Ridge Extension, the Owner's Association itself may also exercise and perform any and all powers and duties to be exercised and performed by any such committee(s) and subcommittee(s).

3. Article 4.5 of the Second Amended and Restated Declaration shall be, and is hereby, modified and amended as follows: Review Fee. Each submittal to the Committee by an Owner for the approval of the plans and specifications for the construction of an Improvement shall be delivered to the Owner's Association and shall be accompanied by payment by such Owner of an initial deposit in an amount specified by the Owner's Association, to be applied to the actual total costs of review, including the Post-Construction Inspection as hereinafter defined. A submittal to the Committee for approval of the plans and specifications for the construction of any supplement, revision, addition, alteration or modification to any Improvement (an "Improvement Modification") shall be delivered to the Owner's Association and shall be accompanied by payment from the Owner making such submittal of an initial deposit to be applied to the actual total costs of review in an amount specified by the Owner's Association, and estimated by the Owner's Association to meet those actual total costs, including the Post-Construction Inspection as hereinafter defined. Every Owner making a submittal for the approval of the plans and specifications for the construction of an Improvement or Improvement Modification shall be liable to the Owner's Association for the actual total costs of review, including the Post-Construction Inspection as hereinafter defined, and shall make payment of any balance due in excess of the initial deposit therefor upon receipt of a statement from the Owner's Association for such balance due. If any balance due is not paid within thirty (30) days of the Owner's receipt of written notice thereof, the unpaid balance due together with interest thereon at the rate of eighteen percent (18%) per annum, or such other rate as the Owner's Association shall from time to time specify in accordance with applicable law, from the original due date until paid in full and all costs and expenses of collection thereof, including but not limited to reasonable attorney's fees, shall constitute a lien on the Building Site or Undivided Tract and may be enforced as provided in Article 6 and Article 9 of the Second Amended and Restated Declaration, subject to the right to release individual Condominium Units as set forth in Article 9.2 of the Second Amended and Restated Declaration. No plans or specifications shall be reviewed or considered unless and until the review fee is paid.

4. Upon completion of construction of an Improvement or Improvement Modification, and in any case not later than thirty (30) days after the issuance of a Certificate of Occupancy for any Improvement or Improvement Modification, the Owner of the Building Site or Undivided Tract upon which the Improvement or Improvement Modification has been constructed shall notify the Owner's Association in writing, delivered by postage prepaid U.S. first class, certified or registered mail, or via electronic mail, of the completion of such construction and the need for an inspection. The Owner's Association shall cause an inspection of the construction to be performed by it, or its designated committee or subcommittee, in accordance with the then current Procedural Guidelines Governing the Conduct of Architectural Development Committees within SouthPark to determine whether the Improvement or Improvement Modification has been constructed in accordance with the approved plans and specifications therefor (the "Post-Construction Inspection"). Following the Post-Construction Inspection, the Owner's Association, or its designated committee or subcommittee, shall issue a written report setting forth any matters which fail to comply with the approved plans and specifications and the time limit required for correction of same, or, if none, the approval of the Owner's Association, or its designated committee or subcommittee. The Owner's Association shall have full power and authority, pursuant to its Bylaws and the Declaration, to establish, make, enforce and amend such reasonable rules and regulations requiring Improvements and Improvement Modifications be constructed and maintained in accordance with the approved plans and specifications therefor and with the Declaration, including applicable Development Guidelines, as it shall see fit, including penalties and fines for any violation thereof. The Owner's Association may compel compliance with any such rules and regulations by imposition, recordation and foreclosure of a lien upon the affected Building Site or Undivided Tract as well as all other forms of remedies as provided in Article 6 and Article 9 of the Second Amended and Restated Declaration, subject to the right to release individual Condominium Units as set forth in Article 9.2 of the Second Amended and Restated Declaration. In the event of any such exercise of its powers to so compel compliance, any sums due to the Owner's Association shall bear interest at the rate of eighteen percent (18%) per annum, or such other rate as the Owner's Association shall from time to time specify in accordance with applicable law, from the original due date until paid in full.
5. The Owner's Association shall have full power and authority, pursuant to its Bylaws and the Declaration, to establish, make, enforce and amend such reasonable rules and regulations regarding timely and complete payment of assessments by members as it shall see fit, including penalties and fines for failure to make timely and complete payment of assessments. The rate of interest that unpaid assessments shall bear set forth in Article

9.2 of the Second Amended and Restated Declaration shall be, and is hereby, modified and amended to be at the rate of eighteen percent (18%) per annum. The Owner's Association may hereafter from time to time modify and amend said rate of interest as it sees fit in accordance with applicable law. The Owner's Association may enforce penalties and fines for failure to make timely and complete payment of assessments by imposition, recordation and foreclosure of a lien upon the affected Building Site or Undivided Tract as well as all other forms of remedies as provided in Article 6 and Article 9 of the Second Amended and Restated Declaration, subject to the right to release individual Condominium Units as set forth in Article 9.2 of the Second Amended and Restated Declaration. In the event of any such enforcement of a penalty and/or fine for failure to make timely and complete payment of assessments, any sums due to the Owner's Association shall bear interest at the rate of eighteen percent (18%) per annum, or such other rate as the Owner's Association shall from time to time specify in accordance with applicable law, from the original due date until paid in full.

- 6. Except as expressly set forth in this Modification, the Declaration remains unmodified and in full force and effect. In the event of any conflict between the terms of the Declaration and the terms of this Modification, this Modification shall control. This Modification may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall be considered and construed together as one and the same instrument.

IN WITNESS WHEREOF, the undersigned, as the Owners of more than fifty-one percent (51%) of the Property, on an acreage basis (other than the Common Area) subject to the Declaration, have executed this Modification the day and year first written above.

OWNER:

LA Ridge Developers, LLC
Name of Individual or Entity

By: [Signature]

Title: _____

Kous


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OWNER: PAT Dunphy
8080 South Park Lane
8040 South Park Lane
Name of Individual or Entity

By: 

Title: Ind.

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OWNER: STEPHEN MATTINGLY

SOUTH PARK OFFICE
Name of Individual or Entity

By: Stephen Mattingly

Title: PRESIDENT

*SOUTH PARK OFFICE
1500 W. CANAL COURT, Bldg. B.
LITTLETON, CO 80120-5615*

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OWNER:

SOCC Real Estate LLC
Name of Individual or Entity

By: [Signature]

Title: Manager

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OWNER:

South Park, LLC

Name of Individual or Entity

By: Steven W. Rasmussen

Title: Member

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OWNER:

Myles Enterprises, Inc.
Name of Individual or Entity

By: Ronald S. Myles

Title: President

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OWNER:

South Park Vacant Ground LLC

Name of Individual or Entity

By: _____

Title: _____

Michael D. McHesson
9/13/05

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OWNER:

SouthPark Health Center, LLC
Name of Individual or Entity

By: Eunice P. Lee DMD

Title: President

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OWNER:

Alapahoe Digestive Disease Center
Name of Individual or Entity

By: 

Title: CEO

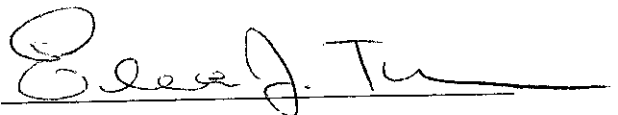
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OWNER:

TIAA-CREF, a Separate Real Estate Account
Name of Individual or Entity

By: 

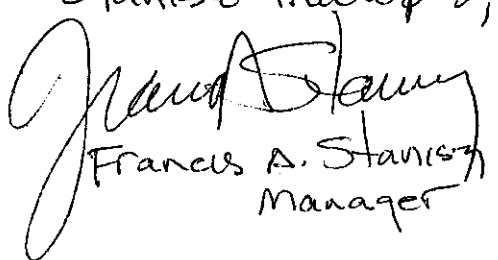
Title: Property Manager
as Authorized Agent for TIAA-CREF, a
Separate Real Estate Account.

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OWNER:

Stanisz Hultop 3, LLC

Francis A. Stanisz,
Manager

Stanisz Hultop 3, LLC
Name of Individual or Entity

By: 

Title: Manager

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Stanisly Hilltop L2, LLC
Francis A. Stanisly
Francis A. Stanisly
manager

OWNER:

Francis Hilltop L2, LLC
Name of Individual or Entity

By: *[Signature]*

Title: *manager*

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OWNER:

Stanislaw Hutaj K3, LLC
Francis A. Stanislaw,
Manager

FAIR Hutaj K3, LLC
Name of Individual or Entity

By:

Title:

Manager

9.2 of the Second Amended and Restated Declaration shall be, and is hereby, modified and amended to be at the rate of eighteen percent (18%) per annum. The Owner's Association may hereafter from time to time modify and amend said rate of interest as it sees fit in accordance with applicable law. The Owner's Association may enforce penalties and fines for failure to make timely and complete payment of assessments by imposition, recordation and foreclosure of a lien upon the affected Building Site or Undivided Tract as well as all other forms of remedies as provided in Article 6 and Article 9 of the Second Amended and Restated Declaration, subject to the right to release individual Condominium Units as set forth in Article 9.2 of the Second Amended and Restated Declaration. In the event of any such enforcement of a penalty and/or fine for failure to make timely and complete payment of assessments, any sums due to the Owner's Association shall bear interest at the rate of eighteen percent (18%) per annum, or such other rate as the Owner's Association shall from time to time specify in accordance with applicable law, from the original due date until paid in full.

6. Except as expressly set forth in this Modification, the Declaration remains unmodified and in full force and effect. In the event of any conflict between the terms of the Declaration and the terms of this Modification, this Modification shall control. This Modification may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall be considered and construed together as one and the same instrument.

IN WITNESS WHEREOF, the undersigned, as the Owners of more than fifty-one percent (51%) of the Property, on an acreage basis (other than the Common Area) subject to the Declaration, have executed this Modification the day and year first written above.

OWNER:

HuTop 5, LLC
Name of Individual or Entity

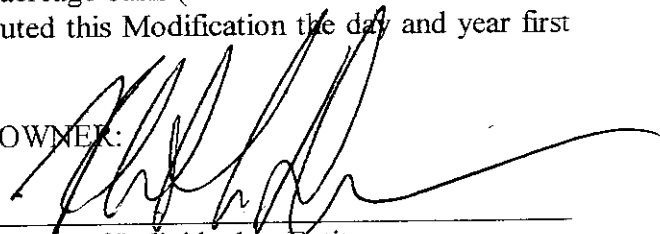
By: [Signature]
Title: Managing Partner

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OWNER:



Name of Individual or Entity

Robert L. Drabkin

By: _____

Title: Regional Director

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OWNER:

RHR INVESTMENT, LLC
Name of Individual or Entity

By: R. Lelivichkei

Title: owner

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OWNER: 8020 Southpark Circle
First Industrial Realty Trust
Name of Individual or Entity

By: Graham Riley
Graham Riley
Title: Regional Director

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OWNER: 8100 Southpark Way

First Industrial Realty Trust

Name of Individual or Entity

Graham Riley,

Regional Director

By:

Graham Riley

Title: Regional Director

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OWNER:

NATIONAL DIST CO
Name of Individual or Entity

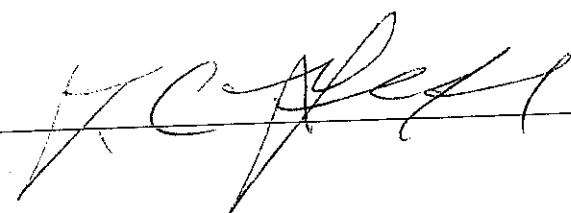
By: 

Title: V.P.

APPROVED:

SOUTHPARK OWNER'S ASSOCIATION, INC.

By: _____



Title: Secretary

Return to:

CUSTOM MANAGEMENT GROUP, INC.
2950 SOUTH JAMAICA COURT #101
AURORA, CO 80014