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↓ Brownstein Hyatt Farber Schreck, LLP
410 17th Street, Suite 2200
Denver, CO 80202
Attn: Gregory A. Vallin, Esq.

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NOTE: The attached document is being re-recorded to correct the legal description attached as Exhibit B.

Title of Document: **DECLARATION OF RESTRICTIVE COVENANT**

Date of Document: May 30, 2013

Original Recording Information: Recorded June 4, 2013 at Reception No. 2013000047597

Parties to Document:

Grantor/Owner: DIATC, LLC, a Colorado limited liability company

Grantee/Benefitted Parcel Owner: SARK Colorado, LLC, a Colorado limited liability company

Legal Description: See attached Exhibits A and B

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A

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Type:COV Karen Long, Adams County, CO Recorded As Received

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Denver, CO 80202
Attn: Gregory A. Vallin, Esq.

DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT (this "Covenant") is made effective as of the 30th day of May, 2013 (the "Effective Date"), by DIATC, LLC, a Colorado limited liability company ("Owner"), for the benefit of SARK COLORADO, LLC, a Colorado limited liability company ("Benefitted Parcel Owner").

RECITALS

A. Owner owns certain real property located in Commerce City, in the County of Adams, State of Colorado, more particularly described on Exhibit A attached hereto (the "Project").

B. Simultaneously with execution of this Covenant, Owner is conveying to Benefitted Parcel Owner that portion of the Project more particularly described on Exhibit B attached hereto (the "Benefitted Parcel"), pursuant to that certain Real Estate Contract dated February 12, 2013, by and between Owner and Inderpal S. Chopra, as assigned to Benefitted Parcel Owner (as may be amended, the "Sale Agreement").

C. The balance of the Project (excluding the Benefitted Parcel) shall hereinafter be referred to as the "Restricted Property". Owner intends to sell the Restricted Property to one or more third party purchasers for the development of residential, retail and commercial projects, as and when market conditions allow.

D. Pursuant to the Sale Agreement and to protect the value and marketability of the Benefitted Parcel, Owner has agreed to place of record certain use restrictions against the Restricted Property.

NOW, THEREFORE, for and in consideration of the benefits accruing to the Project and in keeping with the foregoing Recitals, Owner hereby declares that the Restricted Property shall, from and after the Effective Date hereof, be held, occupied, conveyed, leased, mortgaged and otherwise dealt with subject to the following:

1. Use Restriction. Owner covenants that, beginning on the Effective Date, continuing through the date on which Benefitted Parcel Owner has completed construction of its parking lot and related improvements on the Benefitted Parcel, and thereafter so long as the Benefitted Parcel is being operated as a commercial parking lot, Owner shall not sell, lease, develop or otherwise use (either temporarily or permanently) any portion of the Restricted Property for the primary use of a commercial parking lot (the "Use Restriction"). The Use Restriction shall not apply to sales, leases, development or other use of the Restricted Property for uses such as hotels, offices, restaurants or other retail or commercial facilities which may also include parking facilities; it is intended that the use or leasing of individual parking spaces in such facilities will not cause or result in a breach of the Use Restriction so long as such parking facilities are not the primary business operated on the Restricted Property.

2. Duration. The Use Restriction and Covenant shall survive the execution, delivery and recording of any deed for all or any portion of the Restricted Property until such time as the owner of fee simple title to the Benefitted Parcel executes, delivers and records a release thereof.

3. Breach/Enforcement. The Use Restriction is for the benefit of the Benefitted Parcel and shall be enforceable by Benefitted Parcel Owner and its successors and assigns. Benefitted Parcel Owner shall have the right to enforce the Use Restriction directly against the Owner, tenant or occupant of the Restricted Property if such person violates or permits the violation of the terms of this Covenant, and Benefitted Parcel Owner shall be entitled, as a matter of right, to an injunction restraining any further or continued breach or violation of the Use Restriction or other equitable relief. Such right to an injunction or other equitable relief shall be cumulative and in addition to, and not in lieu of, any other remedies to which Benefitted Parcel Owner may be entitled. In the event of any action or proceeding brought by Benefitted Parcel Owner to enforce this Covenant, the prevailing party shall be awarded all of its costs and expenses incurred in connection with such action or proceeding, including reasonable attorneys' fees.

4. Covenant Running with the Land. The Use Restriction is intended to and does run with and (a) burden the Restricted Property; and (b) benefit the Benefitted Parcel, and the Restricted Property shall be owned, sold and conveyed subject thereto. The terms and covenants set forth in this Covenant shall be enforceable against Owner and all future owners of any interest in the Restricted Property and any other parties having any fee, leasehold, mortgage or other right, title or interest in the Restricted Property or any part thereof, and their respective successors and assigns.

5. Governing Law. This Covenant shall be governed by, construed and enforced in accordance with the laws of the State of Colorado.

6. No Modification. No modification, waiver, amendment, discharge or change of the Use Restriction shall be valid unless the same is in writing and signed by the then current owner of the Benefitted Parcel. Any modification, waiver, amendment, discharge or change which is not entered into in accordance with this Section 6 shall be null and void and of no effect.

[signature page follows]

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

OWNER:

DIATC, LLC, a Colorado limited liability company

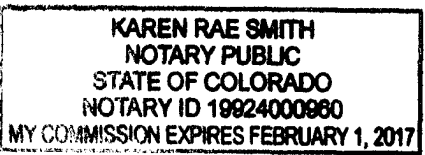
By: C.H. Thompson Company, LLC,
a Colorado limited liability company
Its: Manager

By: *Christopher H. Thompson*
Christopher H. Thompson, Manager

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 30th day of May, 2013, by Christopher H. Thompson as the Manager of C.H. Thompson Company, LLC, a Colorado limited liability company, Manager of DIATC, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.
My commission expires: _____



Karen Rae Smith
Notary Public

Exhibit A

Legal Description of the Project

A PARCEL OF LAND LOCATED IN SECTION 28, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE 6th PRINCIPAL MERIDIAN, CITY OF COMMERCE CITY, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 28 AND CONSIDERING THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 28 TO BEAR NORTH 00 DEGREES 28 MINUTES 09 SECONDS WEST WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE NORTH 00 DEGREES 28 MINUTES 09 SECONDS WEST, ALONG SAID EAST LINE, A DISTANCE OF 812.37 FEET;

THENCE SOUTH 89 DEGREES 31 MINUTES 51 SECONDS WEST, A DISTANCE OF 65.00 FEET TO A POINT ON THE NORTHERLY LINE OF DENVER INTERNATIONAL AIR PARK SUBDIVISION FILING NO. 1, RECORDED UNDER RECEPTION NO. C0291825 OF THE RECORDS OF THE ADAMS COUNTY CLERK AND RECORDER SAID POINT ALSO THE POINT OF BEGINNING;

THENCE ALONG THE NORTHERLY AND WESTERLY LINES OF SAID SUBDIVISION THE FOLLOWING SEVEN (7) COURSES:

1. SOUTH 89 DEGREES 42 MINUTES 53 SECONDS WEST, A DISTANCE OF 705.56 FEET TO A POINT OF CURVATURE;
2. ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 12 DEGREES 08 MINUTES 35 SECONDS, A RADIUS OF 2340.00 FEET AND AN ARC LENGTH OF 495.93 FEET;
3. NORTH 78 DEGREES 08 MINUTES 32 SECONDS WEST, A DISTANCE OF 517.26 FEET TO A POINT OF CURVATURE;
4. ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 12 DEGREES 08 MINUTES 05 SECONDS, A RADIUS OF 1950.00 FEET AND AN ARC LENGTH OF 412.99 FEET;
5. SOUTH 89 DEGREES 42 MINUTES 46 SECONDS WEST, A DISTANCE OF 1680.60 FEET TO A POINT ON A CURVE;
6. ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 07 DEGREES 29 MINUTES 52 SECONDS, A RADIUS OF 1750.00 FEET, AN ARC LENGTH OF 229.00 FEET, THE CHORD OF WHICH BEARS SOUTH 85 DEGREES 57 MINUTES 37 SECONDS WEST;
7. SOUTH 00 DEGREES 17 MINUTES 33 SECONDS EAST, A DISTANCE OF 1002.05 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 28;

THENCE SOUTH 89 DEGREES 42 MINUTES 33 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 1180.21 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF BUCKLEY ROAD;

THENCE NORTH 00 DEGREES 31 MINUTES 25 SECONDS WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 1325.12 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 28;

THENCE NORTH 89 DEGREES 37 MINUTES 07 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 2620.32 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 28;

THENCE NORTH 00 DEGREES 30 MINUTES 31 SECONDS WEST, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 28, A DISTANCE OF 1329.45 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 28;

THENCE NORTH 00 DEGREES 30 MINUTES 30 SECONDS WEST, ALONG THE WEST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 1710.91 FEET TO A SOUTHERLY LINE OF SECOND CREEK FARM FILING NO. 1 RECORDED AT INSTRUMENT NO. 20050930001070140 OF THE ADAMS COUNTY CLERK AND RECORDER;

THENCE ALONG SAID SOUTHERLY LINE THE FOLLOWING FIVE (5) COURSES:

1. SOUTH 55 DEGREES 25 MINUTES 26 SECONDS EAST, A DISTANCE OF 813.02 FEET;
2. SOUTH 77 DEGREES 25 MINUTES 26 SECONDS EAST, A DISTANCE OF 725.00 FEET;
3. SOUTH 34 DEGREES 25 MINUTES 26 SECONDS EAST, A DISTANCE OF 850.00 FEET;
4. SOUTH 14 DEGREES 25 MINUTES 26 SECONDS EAST, A DISTANCE OF 600.00 FEET;
5. SOUTH 84 DEGREES 25 MINUTES 26 SECONDS EAST, A DISTANCE OF 635.20 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF TOWER ROAD;

THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE THE FOLLOWING THREE (3) COURSES:

1. SOUTH 00 DEGREES 28 MINUTES 09 SECONDS EAST, A DISTANCE OF 602.47 FEET;
2. SOUTH 89 DEGREES 22 MINUTES 47 SECONDS WEST, A DISTANCE OF 35.00 FEET;
3. SOUTH 00 DEGREES 28 MINUTES 09 SECONDS EAST, A DISTANCE OF 978.45 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION PREPARED BY:
WILLIAM F. HESSELBACH JR., P.L.S. 25369
FOR AND ON BEHALF OF:
CARROLL & LANGE-MANHARD
7442 SOUTH TUCSON WAY #190-A
CENTENNIAL, CO 80112
303-708-0500

Exhibit B

Legal Description of the Benefitted Parcel

LOT 1, DIA TECH CENTER FILING NO. 2,
COUNTY OF ADAMS, STATE OF COLORADO.

UNOFFICIAL COPY