

For Registration Sharon A. Davis
Register of Deeds
Durham County, NC

**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

Duke Realty Corporation
3715 Davinci Court, Suite 300
Peachtree Corners, Georgia 30092
Attn: Tammi D. Parker, Esq.

Electronically Recorded
2016 Jul 11 03:21 PM NC Rev Stamp: \$ 0.00
Book: 7972 Page: 863 Fee: \$ 25.00
Instrument Number: 2016022846
DECL

**THIRD AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR CENTERPOINT DISTRIBUTION CENTER**

This Third Amendment to Declaration of Covenants, Conditions and Restrictions for Centerpoint Distribution Center (this "Third Amendment") is made as of the 14th day of June, 2016 ("Reference Date"), by Duke Realty Limited Partnership, an Indiana limited partnership doing business in North Carolina as Duke Realty of Indiana Limited Partnership ("Duke Owner").

WHEREAS, Westgate Durham, LLC, a Delaware limited liability company is the "Declarant" under that certain Declaration of Covenants, Conditions and Restrictions for Centerpoint Distribution Center dated July 24, 2002, and recorded September 11, 2002, in Book 3570, Page 136-188, Instrument No. 2002042725 in the Registry of Durham County, North Carolina ("Original Declaration"), as amended by that certain Release and Amendment of Covenants dated April 14, 2004, and recorded April 15, 2004, in Book 4350, Page 866-869, Instrument No. 2004019132 ("First Amendment"), and that certain Second Amendment to Declaration of Covenants, Conditions and Restrictions for Centerpoint dated April 15, 2004, and recorded April 15, 2004, in Book 4350, Page 870-875, Instrument No. 2004019133 ("Second Amendment"). As used herein, "Amended Declaration" means the Original Declaration as amended by the First Amendment and Second Amendment, and "Declaration" means the Amended Declaration as amended by this Third Amendment;

WHEREAS, the Architectural Control Committee (as defined in the Original Declaration) was dissolved under the Second Amendment;

WHEREAS, the Declarant no longer owns any real property within the Property (as defined in the Amended Declaration);

WHEREAS, Duke Owner owns that portion of the Property legally described on Exhibit A attached hereto and made a part hereof ("Duke Property"), and holds approximately seventy-eight percent (78%) of the votes of the Association; and

WHEREAS, Duke Owner desires to amend the Amended Declaration, all in accordance with the terms and conditions set forth below.

NOW, THEREFORE, Duke Owner hereby amends the Amended Declaration as follows:

1. Defined Terms: Recitals.

(a) All capitalized terms used herein but not specifically defined in this Third Amendment shall have the meanings ascribed to such terms in the Amended Declaration.

(b) The Recitals are hereby incorporated herein by this reference.

Submitted electronically by "First American Title Insurance Company - NCS"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Durham County Register of Deeds.

2. Covenants, Conditions and Restrictions.

(a) Permitted Uses; Prohibition of Certain Uses.

(i) Notwithstanding anything to the contrary contained within the Declaration, the Premises may be used for the purpose of light manufacturing; receiving, storing, shipping, distributing and selling (but limited in the case of retail sales to sales where the customer is not present at the Premises), food and grocery items (including canned and frozen foods, dairy products, fresh fruits and vegetables, and fresh (raw) and prepared meats, fish and poultry), products (including finished goods and raw materials), materials and merchandise for food preparation, for the storage and use of trucks (including in and through any building on the Premises, as applicable), for processing customer returns, for light assembly and repairs, for general warehouse use, for general office and data center use, for printing, and other ancillary and related uses (all of the above, subject to applicable federal, state, county and municipal statutes, ordinances, codes, rules, regulations and requirements (collectively, "Legal Requirements") (the foregoing uses referred to herein as "Permitted Uses").

(ii) Subject to applicable Legal Requirements, a tenant of the Premises ("Duke Tenant") shall be permitted to park trucks and trailers used in its business operations at the truck docks and in the designated parking areas as depicted on the site plan attached hereto as Exhibit C ("Premises Parking Areas"), provided such trucks and trailers are at all times in operable condition. Storage of Duke Tenant's personal property is permitted in the Premises Parking Areas and exterior portions of the Premises, subject to applicable Legal Requirements. Subject to applicable Legal Requirements, Duke Tenant may install and operate modular data center equipment in or adjacent to any building on the Premises within the exterior portions of the Premises depicted on the site plan attached hereto as Exhibit C ("Equipment Area") or in the Premises Parking Areas. Duke Tenant may use the Premises, the Equipment Area and the Premises Parking Areas twenty-four (24) hours a day, seven (7) days a week, fifty-two (52) weeks a year.

(b) Right of Inspection.

(i) Notwithstanding anything to the contrary contained in the Declaration, the rights of the Association to enter upon the Premises pursuant to the Declaration shall be subject to subsection (ii) below and shall not extend to the interior of any buildings on the Premises. Any such access shall not interfere with Duke Tenant's operations and no more than two (2) inspections may be performed within any ninety (90) day period, provided that an entry that is a follow-up to a prior entry for purposes of confirming compliance shall not count towards the 90-day time period limitation. Notwithstanding anything to the contrary, including without limitation Article IX, Section 1 of the Original Declaration, in no event shall any Owners (other than Duke Owner) have the right to enter upon the Premises.

(ii) In connection with any entry by the Association, the Association shall enter the Premises only when accompanied by a representative of Duke Tenant and only in compliance with Duke Tenant's then-current security programs (which security procedures may include without limitation, execution of a non-disclosure agreement and a prohibition on photography) and confidentiality requirements and such other rules and regulations as Duke Tenant may impose in relation to the Permitted Uses or in relation to any permits or licenses obtained by Duke Tenant in connection with its business operations on the Premises (such as, without limitation, the requirement that sanitary suits be worn in select areas).

3. Intentionally Omitted.

4. Architectural Control Committee. Consistent with the dissolution of the Architectural Control Committee under the Second Amendment, the Original Declaration is modified as follows:

(a) The second paragraph of Article V, Section 2 of the Original Declaration is deleted in its entirety and of no further force or effect.

(b) The first sentence of Article VIII, Section 2(g) of the Original Declaration is deleted in its entirety and of no further force or effect.

5. Design Criteria. Notwithstanding anything to the contrary, including without limitation Article VIII, Section 2(f) of the Original Declaration, there are no design criteria or rules and regulations governing design at the Property under the Declaration other than the Design Criteria for Centerpoint, Durham County, North Carolina attached as Exhibit A to the Second Amendment.

6. Nuisances. Article VIII, Section 2(k) of the Original Declaration is deleted in its entirety and replaced with the following: "No Lot shall be used in a manner that is defined as a nuisance under applicable law."

7. Notice/Opportunity to Cure. Notwithstanding anything to the contrary contained in the Declaration, in the event that the Association is provided with written notice of the mailing address for Duke Tenant, the Association shall promptly provide to Duke Tenant at such address a copy of any notice delivered to Duke Owner, including without limitation, any notice that relates to amounts due under the Declaration, or to work to be performed on or the condition of, the Premises. In addition, the Association shall promptly notify Duke Tenant in writing of any act or omission of Duke Owner that would give the Association the right, immediately or after the lapse of a reasonable period of time, to file a lawsuit or real property lien or otherwise exercise any rights available to it which are prejudicial to Duke Tenant's rights under the Lease of the Premises. The Association shall not exercise any such rights unless Duke Tenant has failed to cure or remedy any act or omission of Duke Owner within thirty (30) days after receiving written notice thereof (or within such additional period as is reasonably required to correct such default, provided that Duke Tenant uses reasonable diligence to cure same).

Any notice given pursuant to this Section shall be deemed received when made in writing, and either: (a) personally delivered, (b) actually received, if deposited with the United States Postal Service, postage prepaid, by registered or certified mail, return receipt requested, or (c) delivered by a nationally recognized overnight delivery service providing proof of delivery, properly addressed to the addresses set forth below (as the same may be changed by giving written notice). If any notice mailed is properly addressed with appropriate postage but returned for any reason, such notice shall be deemed to be effective notice and to be given on the day following the date of mailing. Any notice required or permitted to be given or served by the Association may be given by either an agent, law firm or attorney acting on behalf of the Association.

8. General Provisions.

(a) Successors and Assigns. This Third Amendment and the covenants and agreements herein contained shall be binding upon and inure to the benefit of the Premises, Duke Owner and Duke Owner's respective heirs, devisees, successors and assigns.

(b) Binding Effect. The obligations, burdens and benefits created by this Third Amendment shall bind and inure to the benefit of all parties having any right, title or interest in the Property, or any portion thereof, and their respective successors, assigns and transferees. This Third Amendment and its terms and conditions shall become a part of the chain of title and shall run with the land until terminated, as more particularly set forth in the Amended Declaration and this Third Amendment.

(c) Headings and Captions. The headings and captions of the paragraphs of this Third Amendment are for convenience of reference only and shall not affect the meaning or interpretation of this Third Amendment or any provision thereof.

(d) Gender and Number. As used in this Third Amendment, the neuter shall include the feminine and masculine, the singular shall include the plural, and the plural shall include the singular, except where expressly provided to the contrary.

(e) Severability. In the event that paragraph, section, sentence, clause or phrase contained in this Third Amendment becomes or is held by any court of competent jurisdiction to be illegal, null or void or against

public policy, the remaining paragraphs, sections, sentences, clauses or phrases contained in this Third Amendment shall not be affected thereby.

(f) Full Force and Effect. Except as expressly amended hereby, the Amended Declaration remains unaltered and in full force and effect.

(g) Governing Law. This Third Amendment and all questions concerning the performance of this Third Amendment will be interpreted, construed and enforced in all respects in accordance with applicable laws of the State of North Carolina, without reference to rules relating to choice of law.

(h) Counterparts. This Third Amendment and any amendment to this Third Amendment may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto were upon the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Duke Owner has executed this Third Amendment as of the dates set forth below.

DUKE OWNER:

DUKE REALTY LIMITED PARTNERSHIP,
an Indiana limited partnership

By: Duke Realty Corporation,
an Indiana corporation, sole general partner

By: [Signature]
Name: J. Samuel O'Briant
Title: Executive Vice President
Date signed: June 14, 2016

STATE OF Georgia)
) ss
COUNTY OF Gwinnett)

The foregoing instrument was acknowledged before me this 14th day of June, 2016 by J. Samuel O'Briant, the Executive Vice President of Duke Realty Corporation, an Indiana corporation, the sole general partner of Duke Realty Limited Partnership, an Indiana limited partnership doing business in North Carolina as Duke Realty of Indiana Limited Partnership, on behalf of the corporation and limited partnership.

[Signature: Deborah Corey]
Notary Public

My Commission Expires: _____



Exhibit A
Legal Description of the Duke Property

Being all of Lot 5A consisting of approximately 14.87 acres as shown on that certain plat entitled "Final Plat of Subdivision for The Keith Corporation Land Development II, LLC" and recorded in Plat Book 177 at Page 172 of the Durham County Public Registry and being more particularly described as follows:

Beginning at a point in the northern rights-of-way line of T.W. Alexander Drive (a 120' public rights-of-way), said point being the southwest corner of TKC LXXII LLC (Durham Registry Plat Book 177 Page 172), thence running along the northern rights-of-way line of T.W. Alexander Drive the following courses and distances: S 88°16'03" W a distance of 20.00 feet, to a point at the southeast corner of D.R. Horton Inc. (Durham County Registry Plat Book 165 Page 160), thence leaving the northern rights-of-way line of T.W. Alexander Drive and running along the eastern line of D.R. Horton Inc., (Durham County Registry Plat Book 165 Page 160) the following courses and distances: N 02°11'00" W a distance of 89.68 feet to a point, thence running N 01°29'00" W a distance of 267.08 feet to a point, thence running N 30°44'00" E a distance of 279.05 feet to a point, thence running N 01°49'00" E a distance of 74.27 feet to a point, thence running N 01°49'00" E a distance of 148.77 feet to a point at the southeast corner of Bradbury Property Owners Association Inc., (Durham Registry Plat Book 161, Page 216), thence leaving the eastern line of D.R. Horton Inc., and running along the eastern line of Bradbury Property Owners Association Inc, LLC. N 01°49'00" E a distance of 98.07 feet to a point, thence running along the western line of Bradbury Property Owners Association Inc., (Durham Registry Plat Book 161, Page 216), N 11°24'00" E a distance of 399.27 feet to a point at the southwest corner of Bradbury Property Owners Association Inc., (Durham Registry Plat Book 161, Page 230), thence running along the southern line of Bradbury Owners Association Inc., S 70°32'31" E a distance of 1,057.61 feet to a point thence running along the western line of Medline Industries, Inc., (Plat Book 156 Page 339), S 19°24'53" W a distance of 629.83 feet to a point at the northeast corner of Lot 5B (Durham County Registry Plat Book 177 Page 172), thence N 70°35'07" W a distance of 906.34 feet to a point at the northeast corner of Lot 5A (Durham Registry Plat Book 177, Page 172), thence S 01°49'00" W a distance of 73.09 feet to a point, thence S 30°44'00" W a distance of 278.40 feet to a point, thence S 01°39'32" E a distance of 350.92 feet to the Point of Beginning, containing an area of 14.87 acres as shown on the survey entitled "ALTA/ACSM Survey for Empire Distributing, Raleigh, NC" dated 04/23/2007 prepared by Triangle Surveyors, Inc., under the supervision of Ronald D. Carpenter, PLS L-2458.

Together with and subject to the rights of others in and to the thirty (30) foot private access easement, the fifteen (15) foot private drainage easement, and the ten (10) foot private water line easement as same are shown on said plat.

Also known as 1757 T. W. Alexander Drive, Durham, North Carolina

TOGETHER WITH THE FOLLOWING:

Beginning at a point located in the northern right-of-way line of Southern Parkway (a 120' public right-of-way) said point also being the southwestern most corner of the property of Alexander Crossing Homeowners Association as referenced by Deed Book 4039, Page 584 of the Durham County Registry, thence running along the northern right-of-way line of Southern Parkway along the arc of a circular curve to the right having a radius of 1,085.92 feet a distance of 49.93 feet, said arc being defined by the chord N48°38'04"W a distance of 49.92 feet, thence continuing along the northern right-of-way line of Southern Parkway the following courses and distances: N47°17'05"W a distance of 67.29 feet to a point, thence N01°54'49"W a distance of 106.60 feet to a point, thence N47°32'07"W a distance of 99.96 feet to a point, thence S86°40'02"W a distance of 105.36 feet to a point, thence N47°20'33"W a distance of 76.13 feet to a point, thence running along the arc of a circular curve to the left having a radius of 1,205.92 feet a distance of 463.85 feet, said arc being defined by the chord N58°22'40"W a distance of 461.00 feet, to a point the southeast corner of TKC LXXII LLC as referenced by Deed Book 4350, Page 876 of the Durham County Registry, thence leaving the northern right-of-way line of Southern Parkway running along an eastern line of TKC LXXII LLC and also running along the eastern line of TKC CXVI LLC as referenced by Deed Book 5607, Page 264 of the Durham County Registry, N19°24'53"E a distance of 1,089.22 feet to a point in the southern line of Bradbury Property Homeowners Association as referenced by Deed Book 5426, Page 453 of the Durham County Registry, thence running along the southern line of Bradbury Property Homeowners Association the following

courses and distances: S70°32'31"E a distance of distance of 646.87 feet to a point, thence S19°27'29"W a distance of 6.00 feet to a point, thence S70°32'31"E a distance of 217.09 feet to a point, said point being located in the centerline of a 30' wide City of Durham sanitary sewer easement as referenced by Deed Book 422, Page 14 and Plat Book 83, Page 55 of the Durham County Registry, said point also being the western line of Alexander Crossing Homeowners Association, thence continuing along the centerline of a 30' wide City of Durham sanitary sewer easement and the western line of Alexander Crossing Homeowners Association the following courses and distances: S13°32'00"W a distance of 60.48 feet to a point, thence S49°28'00"E a distance of 137.74 feet to a point, thence S22°04'00"W a distance of 261.43 feet to a point, thence S44°44'00"W a distance of 241.13 feet to a point, thence S22°10'00"W a distance of 182.97 feet to a point, thence S06°15'00"W a distance of 265.53 feet to a point, thence S34°26'00"W a distance of 234.12 feet to a point, thence S29°54'00"W a distance of 98.36 feet to the point or place of beginning containing 25.091 acres as shown on the that plat entitled "ALTA/ACSM Land Title Survey for Medline Industries" prepared by Triangle Surveyors, Inc. dated June 16, 2008.

Also known as 1805 T. W. Alexander Drive, Durham, North Carolina

Exhibit B
Legal Description of the Premises

Beginning at a point located in the northern right-of-way line of T.W. Alexander Drive (t/k/a Southern Parkway) (a 120' public right-of-way) said point also being the southwestern most corner of the property of Alexander Crossing Homeowners Association as referenced by Deed Book 4039, Page 584 of the Durham County Registry, thence running along the northern right-of-way line of T.W. Alexander Drive along the arc of a circular curve to the right having a radius of 1,085.92 feet a distance of 49.93 feet, said arc being defined by the chord N48°38'04"W a distance of 49.92 feet, thence continuing along the northern right-of-way line of T.W. Alexander Drive the following courses and distances: N47°17'05"W a distance of 67.29 feet to a point, thence N01°54'49"W a distance of 106.60 feet to a point, thence N47°32'07"W a distance of 99.96 feet to a point, thence S86°40'02"W a distance of 105.36 feet to a point, thence N47°20'33"W a distance of 76.13 feet to a point, thence running along the arc of a circular curve to the left having a radius of 1,205.92 feet a distance of 463.85 feet, said arc being defined by the chord N58°22'40"W a distance of 461.00 feet, to a point the southeast corner of TKC LXXII LLC as referenced by Deed Book 4350, Page 876 of the Durham County Registry, thence leaving the northern right-of-way line of T.W. Alexander Drive running along an eastern line of TKC LXXII LLC and also running along the eastern line of TKC CXVI LLC as referenced by Deed Book 5607, Page 264 of the Durham County Registry, N19°24'53"E a distance of 1,089.22 feet to a point in the southern line of Bradbury Property Homeowners Association as referenced by Deed Book 5426, Page 453 of the Durham County Registry, thence running along the southern line of Bradbury Property Homeowners Association the following courses and distances: S70°32'31"E a distance of 646.87 feet to a point, thence S19°27'29"W a distance of 6.00 feet to a point, thence S70°32'31"E a distance of 217.09 feet to a point, said point being located in the centerline of a 30' wide City of Durham sanitary sewer easement as referenced by Deed Book 422, Page 14 and Plat Book 83, Page 55 of the Durham County Registry, said point also being the western line of Alexander Crossing Homeowners Association, thence continuing along the centerline of a 30' wide City of Durham sanitary sewer easement and the western line of Alexander Crossing Homeowners Association the following courses and distances: S13°32'00"W a distance of 60.48 feet to a point, thence S49°28'00"E a distance of 137.74 feet to a point, thence S22°04'00"W a distance of 261.43 feet to a point, thence S44°44'00"W a distance of 241.13 feet to a point, thence S22°10'00"W a distance of 182.97 feet to a point, thence S06°15'00"W a distance of 265.53 feet to a point, thence S34°26'00"W a distance of 234.12 feet to a point, thence S29°54'00"W a distance of 98.36 feet to the point or place of beginning containing 25.091 acres as shown on the that plat entitled "ALTA/ACSM Land Title Survey for Medline Industries" prepared by Triangle Surveyors, Inc. dated June 16, 2008.

THIS INSTRUMENT FILED FOR RECORD BY FIRST AMERICAN
TITLE INSURANCE CO. AS AN ACCOMMODATION ONLY.
IT HAS NOT BEEN EXAMINED AS TO ITS EXECUTION
OR AS TO ITS EFFECT UPON TITLE.

Exhibit C
Site Plan

EMPLOYEE
ENTRANCE

