

Prepared by/Return to:

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Tax Map Number: 286 A 20

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICIONS

THIS DECLARATION, made on the date hereinafter set forth by **GREEN STREET INVESTMENT PROPERTIES, LLC**, hereinafter referred to as "Declarant."

WHEREAS, Declarant is the owner of certain property in the Town of Blacksburg, Price's Fork Magisterial District of Montgomery County, Virginia, which is more particularly described as follows:

All that certain tract or parcel of land lying and being in the Town of Blacksburg, in Price's Fork Magisterial District of Montgomery County, Virginia, designated and described as follows:

BEGINNING at a point on the north side of Green Street, a corner to land now or formerly of Howard Holms; thence with south side of Greet Street S 72o 30' W 62 feet to a corner of the lot conveyed to C.L. Cruise by Edith Cruise Hale, et al, by deed dated September 24, 1965; thence with a line of said lot in a southerly direction 175 feet, more or less, to a point in a line of the Virginia Polytechnic Institute Farm; thence with a line of the Virginia Polytechnic Institute Farm N 71o 30' E 62 feet to a line of Helms land in a northerly direction 175 feet, more or less to the BEGINNING.

BEING the same property conveyed by S. J. Knowles to Green Street Investment Properties, LLC, a Virginia Limited Liability Company, by Deed dated September 25, 2006.

NOW, THEREFORE, Declarant hereby declares ~~that~~ all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value

and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to the **Green Street Townhome Association, Inc.**, a Virginia Non-Stock, Non-Profit Corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot (also referred to as town home) which is part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is shown as "open space" on the plat referenced herein.

Section 5. "Townhome" shall mean and refer to any improved property shown upon any recorded subdivision map of the Property with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Green Street Investment Properties, LLC, a Virginia limited liability company, its successors and assigns, if such successors or assigns should acquire more than one townhome from the Declarant

ARTICLE II

Section 1. Owners Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Townhome, subject to the following provisions:

- A. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common area;
- B. The right of the Association to suspend the voting rights and right to use the recreational facilities by an Owner for any period during which any assessment against his Townhome remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- C. The right of the Association to dedicate or transfer all or any part of the Common Area to the Association, any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.
- D. The right of individual Owners to the exclusive use of parking spaces as provided in this article.
- E. Other rights specified herein.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Parking Rights. Ownership of each townhome shall entitle the Owner or Owners thereof to the use of not more than _____ automobile parking space, in addition to any garage provided, which shall be as near and convenient to said townhome as reasonably possible, together with the right of ingress and egress in and upon said parking area. The Association is granted the authority to permanently assign the vehicle parking space for each dwelling.

Section 4. Liability Insurance. The Association shall obtain liability insurance to protect the Association members against liability in the Common Area (see "insurance" provision below).

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a townhome which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Townhome which is subject to assessment.

Section 2. The Association shall have two classes of voting membership.

Class A. Class A members shall be all record Owners, with the exception of the Declarant. Class A members shall be entitled to cast one (1) vote for each townhome owned, with each vote valued equally. Notwithstanding the number of members owning any one Townhome, only one (1) vote may be cast per townhome.

Class B. The Class B member(s) shall be the Declarant, and shall be entitled to cast one (1) vote for every vote cast by Class A members plus three (3) so that the Declarant will have a majority of the total votes of all members of the Association. The Class B membership shall cease to exist and shall be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) on the completion and sale of all townhomes in the Association, or
- (b) on July 1, 2009, whichever comes first.

ARTICLE IV

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each townhome owned within the Property, hereby covenants, and each Owner of any townhome by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made; however, any such lien for delinquent assessments is subordinate to a first mortgage or deed of trust. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such townhome at the time when the assessment fell due.

The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the properties and for the improvement and maintenance of the Common Area, and of the homes situated upon the property.

The Association shall provide the following services: (a) exterior repair and maintenance of each Townhouse, including, but not limited to, painting, repair, replacement and care of roofs, shingles, roofing felt, sheathing and flashing, exterior siding, fascia, building paper and exterior building surfaces, but excluding repair or replacement of window panes and other glass surfaces; (b) maintenance of landscaping on the Common Area – except any enclosed private entry courtyard that is integral and exclusive to an individual Townhouse – including pruning, mowing, cultivating, fertilizing, mulching and replacement of lawns and plants, and such removal of leaves, plants and clippings, and maintenance of fences, hedges and walks as deemed necessary by the Association to maintain a well-kept appearance; (c) lighting and maintenance of parking areas, roadways, sidewalks and walking paths throughout the property, which shall include snow removal; (d) maintenance of the water connections from the Townhouses to the water meters and the sewer connections from the Townhouses to the sewer mains, including maintenance of storm water management system/facilities; (e) the services necessary or desirable in the judgment of the Association to carry out the Association's obligations and business under the terms of this Declaration; (f) all actions

necessary to enforce all covenants and restrictions affecting the Association and to perform any of the functions and services imposed on or delegated to the Association.

There is hereby created an easement upon, across, over, through, and under the townhomes for ingress, egress, installation, replacement, repair, and maintenance of all utility and service lines and systems, including, but not limited to, water, sanitary sewers, storm water drainage, gas, telephones, electricity, television, cable, or communication lines and systems. By virtue of this easement, it shall be expressly permissible for the Association or the providing utility or service company with the consent of the Association to install and maintain facilities and equipment on the property, to excavate for such purposes, and to affix and maintain wires, circuits, and conduits on, in, and under the roofs and exterior walls of townhomes, provided such company restores as nearly as is practicable all disturbed areas to the condition in which they were found.

Notwithstanding any provision of this Declaration or of any Supplementary Declaration, so long as the Developer or Builders are engaged in developing or improving any portion of the Properties, the Developer and Builders and their employees, agents, and assigns shall have an easement of ingress, egress, and use over any portion of the Properties for (1) movement and storage of building materials and equipment, (2) erection and maintenance of directional and promotional signs, and (3) conduct of sales activities, including maintenance of model Living Units. Such easement shall be subject to such rules as may be established by the Developer to maintain reasonable standards of safety, cleanliness, and general appearance of the Properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Townhome to an Owner, the

maximum annual assessment shall be \$ _____ per townhome, payable at least thirty (30) days in advance of due date.

- A. From and after January 1 of the year immediately following the conveyance of the first townhome to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.
- B. From and after January 1 of the year immediately following the conveyance of the first townhome to an Owner, the maximum annual assessment may be increased above 5% by a vote of three fourths (3/4) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- C. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of three fourths (3/4) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and

4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be two-thirds (2/3) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all townhomes and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all townhomes on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified townhome has

been paid. A properly executed certificate of the Association as to the status of assessments on a townhome is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, and enforce a lien against the property. No owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Common Area or abandonment of his or her townhome.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Townhome shall not affect the assessment lien. However, the sale or transfer of any townhome shall be subordinate to the lien of any first mortgage. Sale or transfer of any townhome shall not affect the assessment lien. However, the sale or transfer of any townhome pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such townhome from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made on any townhome structure until the plans and specifications showing

the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Association.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver or the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than fifty one percent (51%) of the Townhome Owners. Any amendment must be recorded.

Section 4. Noxious or Offensive Activity. No noxious or offensive activity shall be carried on or upon any Townhome or any part of the Properties, nor shall anything be done thereon which may be or may become an annoyance or nuisance, public

or private, to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners of his or her respective dwelling unit, or which shall in any way increase the rate of insurance.

Section 5. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any townhome, except that an Owner's dogs, cats or other household pets may be kept in the townhomes, provided that they are not kept, bred or maintained for any commercial purpose, or in unreasonable numbers. No pet shall exceed thirty (30) pounds in weight, without written permission of the Association. Pets shall not be permitted to stray on Common Areas. Each Owner is responsible for removing his pet's droppings on a continual basis. Notwithstanding the foregoing, no animals or fowl may be kept on the Properties which result in an annoyance or are obnoxious to other townhome owners or residents in the vicinity, and in any event, any townhome Owner shall be absolutely liable to each and all remaining Owners, their families, guests and invitees, and to the Association, for any and all damage to person or property caused by any pets brought upon or kept upon the property or the Common areas by any townhome Owner or by members of his family, guests, or invitees.

Section 6. Fire Insurance. The Association shall be required to obtain and maintain, in single or concurrent policies, the following:

(a) Special form property coverage covering "All Risks" or physical loss with a deductible not to exceed Two Hundred Fifty Dollars (\$250.00) for the full replacement value of all improvements to the Common Area, or such other fire and casualty insurance as the board may determine gives substantially equal or greater protection to the Owners.

(b) Public liability insurance covering the Association, the Board, the developer, and each Owner against any liability to the public or to the Owners (and their invitees, agents, and employees) arising out of or incident to, the ownership and use of the Common Area or any townhome, and including the personal liability exposure of the

Owners, with limits of liability of not less than One Million Dollars (\$1,000,000.00) with respect to any one person injured for any one accident, and not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) with respect to any claim for property damage. The Board shall review the hereinbefore described limits once each year and may increase such limits from time to time as it may deem desirable. Such insurance shall be issued on a Comprehensive Liability basis with special General Liability endorsement and shall contain a "severability of interest" endorsement which shall provide that the policy or policies shall not be prejudiced as a result of any action by the Developer, the Board, the Association or any Owner against another named insured.

(c) Such other insurance as the Board may deem desirable or as may be requested from time to time by a majority of the Owners.

All insurance policies to be obtained by the Association pursuant hereto shall designate the Association as the named insured for the use and benefit of all the Owners and their mortgagees collectively, as their respective interests may appear, or in language, form and substance similar thereto, which insurance shall be governed by the following provisions.

(a) All policies of insurance shall be written with a company licensed or authorized to do business in the State of Virginia and holding a rating of "AAA" or better by Best's Insurance Reports and a policy of holders' rating of "A" or better.

(b) All policies of insurance shall provide that the insurer waives its right of subrogation to any claims against the Association, the Board, the Developer, and the Owners (including members of their households).

(c) All policies of insurance shall provide that the policy cannot be cancelled, invalidated, or materially modified on account of the conduct of any Owner, or any officer or employee of either the Association or the Board, without written notice setting forth the defect under the policy and providing a reasonable period for the Association or the Board cure such defect.

(d) All policies of insurance shall provide that they may not be cancelled, reduced, or substantially modified without at least sixty (60) days prior written notice of all of the insureds and each Mortgagee of the townhouses.

Townhouse Owner Responsibility. Each Townhouse Owner shall be responsible for securing insurance policies for fire and extended coverage with vandalism, malicious mischief, windstorm, debris removal and water damage

endorsements, for the structure on each individual lot, in an amount equal to 100% of the then current replacement cost of the property (excluding land, foundations, excavations and other items that are usually excluded from such coverage) without deduction for depreciation (such amount to be redetermined annually by the Association with the assistance of the insurance company affording the coverage). All policies shall be approved by the Association. Copies of all policies and any renewals shall be filed with the Association.

The Association is hereby irrevocably appointed the agent for each Owner of a Lot and for each Mortgagee of a Lot to adjust all claims arising under any insurance policy or policies purchased by the Board, provided, however, that no adjustment shall be deemed binding until concurred in by any Mortgagee affected thereby.

The Board may from time to time designate an Insurance Trustee, a Bank, Trust Company, Savings and Loan Association, Insurance Company, or any financial institution to discharge the duties and responsibilities of the Board and the Association hereunder. The Board shall pay the fees and disbursements of any Insurance Trustee and such fees and disbursements shall constitute a common expense of the owners to be included as part of the annual assessment provided herein.

Section 7. Destruction by Fire. Should the improvements on any parcel or parcels be damaged or destroyed by fire or other casualty, the Owner or Owners thereof shall cause the same to be repaired and restored substantially in accordance with the original plans and specifications therefore, or as approved by the Association. The repairs and restoration work shall be commenced within thirty (30) days after the happening of the destruction or damage and once commenced or carried toward

completion with diligence, the Association may elect to repair or restore the same, or to complete work or repair and restoration on behalf of and at the cost of such Owner or Owners. Any amounts expended by the Association for such repair or restoration and not reimbursed to the Association by the Owner shall be assessed against said parcel or parcels proportionately based on the nature and extent of the same as it affects the parcel of each Owner and such assessments shall constitute a lien on the parcel or parcels affected and the amount thereof shall be paid as provided hereinabove and the payment thereof enforced in the manner set forth hereinabove.

Section 8. No private trucks or trailers and no unlicensed motor vehicles of any type shall be permitted to remain overnight on the property for more than 72 hours in any 6-month period.

Section 9. No boats of any type shall be permitted on the property for more than 72 hours in any 6-month period unless screened in a manner acceptable to the Association by its Board of Directors.

Section 10. The Owner of each Townhome is held responsible for mowing the enclosed rear portion of his property and maintaining the lawn on the same schedule as the Common Area. Any changes in the private yard plans must be approved in writing by the Association. To the extent that exterior maintenance is not provided for in a Supplementary Declaration, each Owner shall keep each townhome owned by him or her, and all improvements therein or thereon, in good order and repair, free of debris, all in a manner and with such frequency as is consistent with good property management.

Section 11. A professional property management agency shall be procured by the Association to handle problems or questions concerning maintenance, exterior of


buildings, landscaping, parking, street, Common Area, homeowners' fees or dues or building and liability insurance.

Section 12. No outside radio or television antennas shall be erected on the property unless and until permission for the same has first been granted by the Board of Directors.

Section 13. The provisions of Sections 55-508 Et Seq. of the Code of Virginia (known as the Property Owners' Association Act) shall apply to the extent not inconsistent with the provisions of this Declaration.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 14th day of December, 2006.

Green Street Investment Properties, LLC

BY: 
James E. Sarver, Managing Member

COMMONWEALTH OF VIRGINIA,
COUNTY OF MONTGOMERY, to-wit:

The foregoing instrument was acknowledge before me this 14th day of December, 2006, by James E. Sarver, managing member of Green Street Investment Properties, LLC, a Virginia Limited Liability Company, acting on its behalf.

My commission expires on 8-31-10.


Notary Public