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DECLARATION OF COVENANTS CONDITIONS

AND RESTRICTIONS

OF FOSSIL HILLS TOWNHOMES

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DECLARATION OF CONVENANTS CONDITIONS AND RESTRICTIONS OF FOSSIL HILLS TOWNHOMES OWNERS ASSOCIATION

THIS IS A DECLARATION of Covenants, Conditions and Restrictions which establishes a planned unit development known as FOSSIL HILLS Townhomes.

PURPOSE AND INTENT

Declarant owns certain real property (the "Properties") in ST. GEORGE CITY, WASHINTON COUNTY, Utah, which is more particularly described below. Declarant desires and intends to protect the value and desirability of the Properties as a harmonious and attractive residential community. Therefore, Declarant will convey the Properties subject to the following covenants, conditions, and restrictions, which, along with Articles and Bylaws, provides for a governance structure and a system of standards and procedures for development, maintenance, and preservation of the properties as a residential community.

This Declaration contemplates that there may be subdivisions of Lots, all of which shall be governed by this Declaration and also by covenants specific to each subdivision.

The future subdivision of Lots may include condominium or planned unit development subdivisions, subject to any applicable laws, ordinances, rules, and regulations. Subdivision of Lots requires the consent of the owner(s) of those Lots. The Lots so subdivided remain subject to this Declaration. In the event of a conflict between this Declaration and covenants prepared for subsequent subdivision, the provisions in this Declaration shall control.

DECLARATJON

Declarant hereby declares that all of the Properties described below shall be held, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, assessments, charges and liens, and to the Plat recorded concurrently with this Declaration. This Declaration and the Plat shall be construed as covenants of equitable servitude; shall run with the Properties and be binding on all parties having any right, title or interest in the Properties or any part thereof, their heirs, successors and assigns; and shall inure to the benefit of each Owner thereof.

The Properties are located in ST. GEORGE CITY, WASHINTON COUNTY, Utah, and are described as:

See Exhibit A that is attached hereto and incorporated herein by this reference.

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ARTICLE 1
DEFINITION AND CONCEPTS

The following definitions shall control in this Declaration:

1.1. "Articles" means and refers to the Articles of Incorporation of FOSSIL HILLS Townhomes Owners Association.

1.2. "Association" means FOSSIL HILLS Townhomes Owners Association and its successors and assigns.

1.3. "Bylaws" means and refers to the Bylaws of FOSSIL HILLS Townhomes Owners Association.

1.4. "Common Area" means all real property (including the improvements thereto and facilities thereon) owned or hereafter acquired by the Association for the common use and enjoyment of the Members and includes that portion of Property owned by the Association, shown on the Plat as Common Area. Common Area is dedicated to the common use and enjoyment of the Owners, and is not dedicated for the use of the general public, except as specifically determined by the Directors. Specifically exempted from Common Area are Lots and dedicated public streets, if any, that are identified on the Plat. Common Area shall also include all land in which the Association has an easement right.

1.5. "Declarant" means Salisbury Development, Inc., a Utah corporation, and its heirs, successors, and assigns.

1.6. "Declaration" means this instrument and any amendments restatements, supplements, or annexations thereto, which are recorded in the office of the WASHINTON COUNTY Recorder.

1.7. "Directors", "Board of Directors", or "Board" means the governing body of the Association.

1.8. "Entire Membership" means all Members, regardless of class of membership. When a vote of the Entire Membership is referenced it means all potential votes for both Class A and Class B members.

1.9. "Limited Common Area" means that portion of Property owned by the Association, shown on the Plat as Limited Common Area. The Owner of the Lot to which such Limited Common Area is adjacent and/or appurtenant has the use and enjoyment of that Limited Common Area to the exclusion of other Owners. Limited Common Area is subject to the rights and obligations of the Association set forth in this Declaration.

1.10. "Lot" means a separately numbered and individually described plot of land shown on the Plat designated as a Lot for private ownership, but specifically excludes the Common Area and Limited Common Area.

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1.11. "Lot Owner" means and is synonymous with the term "Owner".

1.12. "Member" means every person or entity with membership in the Association.

1.13. "Mortgage" includes "deed of trust" and mortgagee includes "trust deed beneficiary."

1.14. "Owner" means the entity, person, or group of persons owning fee simple title to any Lot which is within the Properties. Regardless of the number of parties participating in ownership of each Lot, the group of those parties shall be treated as one "Owner." The term "Owner" includes contract purchasers but does not include person who hold an interest merely as security for the performance of an obligation unless and until title is acquired by foreclosure or similar proceedings. Membership is appurtenant to and may not be separated from Lot ownership.

1.15. "Plat" or "Map" means the subdivision Plat record herewith, or any replacements thereof, or additions thereto.

1.16. "Properties", "Property", or "Project" means that certain real property described on Exhibit A, and such annexations and additions thereto as may hereafter be subject to this Declaration.

1.17. "Rules" or "Regulations" means and refers to any rules or regulations created by the Board of Directors, pursuant to its authority under the Articles and Bylaws, to govern the Association.

1.18. "Unit" means a single family dwelling, with or without walls or roofs in common with other single family dwellings. When the term "Unit" is used it includes fee title to the real property lying directly beneath the single family dwelling, within Lot boundary lines. This however, is not all the Lot in some instances as there may be Lot Boundary outside the Unit walls.

ARTICLE 2
PROPERTY RIGHTS

2.1. Title to the Common Area. The Declarant will convey fee simple title to the Common Area and Limited Common Area to the Association, free and clear of all encumbrances and liens, but subject to this Declaration, and easements and rights-of-way of record. In accepting the deed to the Common Area and Limited Common Area, if any, the Association will covenant to fulfill all the terms of this Declaration, to maintain the Common Area and Limited Common Area in good repair and condition at all times and to operate the Common Area and Limited Common Area at its own expense in accordance with high standards and as further set forth herein.

2.2. Limited Common Area. A Lot Owner is entitled to use of the Limited Common Area adjacent and appurtenant to that Owner's Lot, if any, all to the exclusion of other Owners. The Association, through its Directors, may adopt rules and regulations concerning use of the Limited Common Area. Limited Common Area is subject to the rights and obligations of the Association set forth in this Declaration.

2.3. Delegation of Use. An Owner, or one having a right of use of facilities, is deemed to delegate any right of enjoyment to the Common Area and facilities to family members, tenants, or

contract purchasers who reside on the Property. Damage caused to the Common Area and facilities, including personal property owned by the Association, by a Member, or by a person who has been delegated the right to use and enjoy such Common Area and facilities by the Member, shall create a debt to the Association. Debts owed to the Association as a result of damage to the Common Area and facilities shall be an assessment charged to the Lot Owner.

2.4. Lots. Each Lot is owned in fee simple by the Owner. However, area within the surveyed Lot boundaries but outside the Unit walls even though part of the Lot and owned in fee simple by the Owner shall be treated as Limited Common Area for use purposes, and as exterior area for maintenance purposes. The purpose of laying out a Lot larger than the Unit is to allow flexibility in the original Unit construction. After the initial construction on a Lot, subsequent construction, if any, may occupy any portion of the surveyed Lot, subject to all other provisions of this Declaration. An Owner may construct appurtenant structures and personal landscaping outside the boundaries of the Unit and within the rear area of the surveyed boundaries of the Lot, subject to approval of the Architectural Control Committee, as outlined in Article 7 herein.

Article 3
MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every Owner is a Member of the Association. Membership in the Association automatically transfers upon transfer of title by the record Owner to another person or entity.

3.2 Voting Rights. The Association has two classes of voting membership, Class "A" and Class "B".

(a) CLASS A. Class A Membership are all Members with the exception of the Declarant, until Declarant's membership converts to Class A Membership as provided for herein. Class A Members are entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, the group of such persons shall be a Member. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. A vote cast at any Association meeting by any of such co-Owners, whether in person or by proxy, is made prior to that meeting, or verbal objection is made at that meeting, by another co-Owner of the same Lot. In the event an objection is made, the vote involved shall not be counted for any purpose except to determine whether a quorum exists.

(b) CLASS B. The Class B Member is the Declarant. The Class B Member is entitled to five (5) votes for each Lot owned. Class B Membership will cease and be converted to Class A Membership on the happening of one of the following events, whichever occurs earlier:

1. the expiration of seven (7) years from the first lot conveyance to a purchaser; or
2. the surrender of Class B membership status by the express written action of the Declarant.

3.3. Declarant's Voting Rights in Expansion Area. In the case of expansion (as provided under this Declaration), the class of voting membership appurtenant to Lots owned by Declarant in the expansion area shall be Class B.

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ARTICLE 4
FINANCES AND OPERATIONS

4.1. Authority to Assess Owners. The Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in the Articles and Bylaws.

4.2. Creation of Lien and Personal Obligation of Assessments. Excepting Declarant, each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay to the Association all assessments authorized in the Declaration, Articles, Bylaws, Rules and other similar documents, including but not limited to: (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided; (3) additional assessments; (4) emergency assessments; (5) any other amount or assessment levied or charged by the Association or Board of Directors pursuant to this Declaration; and (6) interest, cost of collection and reasonable attorney fees, as hereinafter provided.

All such amounts shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment or amount is charged. Such assessments and other amounts shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of the Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action, or make any repairs or improvements, or from any other action it takes.

4.3. Purpose of Assessments. The assessments levied by the Association shall be used (a) for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Properties; and (b) for the improvement and maintenance of any property, services, and facilities devoted to this purpose. The assessments must provide for, but are not limited to, the payment of taxes on Association property and insurance maintained by the Association; the payment of the cost of repairing, replacing, maintaining and constructing or acquiring additions to the Common Area and/or Limited Common Area; the payment of the cost of repairing, replacing, and maintaining the exteriors of each Lot or Unit; the payment of administrative expenses of the Association; the payment of insurance deductible amounts; the establishment of a reserve account for repair, maintenance and replacement of Common Area and/or Limited Common Area which must be replaced on a periodic basis; the payment of any professional services deemed necessary and desirable by the Board; and other amounts required by this Declaration or that the Directors shall determine to be necessary to meet the primary purposes of the Association. The assessments may provide, at the discretion of the Directors, for the payment of other charges including (without limitation) maintenance, management, utility, cable, television, trash collection, sewer and water charges.

4.4. Reserve Analysis. The Board shall: (i) cause a reserve analysis to be conducted no less

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frequently than every six (6) years; and (ii) review and if necessary, update a previously conducted reserve analysis no less frequently that every three (3) years. For purposes of this Section 4.4, a reserve analysis shall include: (i) a list of the components identified in the reserve analysis that will reasonably require reserve funds; (ii) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis; (iii) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, re0place, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and (iv) a reserve funding plan that recommends how the Association may fund the annual contribution described in such reserve analysis. However, notwithstanding anything to the contrary herein, this Section 4.4 shall not apply during the period that the Declarant has Class B Membership.

4.5. Maximum Annual Assessment. Until the first day of the calendar year following the year in which this Declaration is recorded, the maximum annual assessment shall be $160.00 per Lot. This amount shall be the basis of calculation for future maximum annual assessments.

(a) From and after the date referred to above, the maximum annual assessment may be increased each year by no more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.

(b) The Association may change the basis and maximum of the assessments fixed by this Section prospectively for any annual period provided that such change may be made only by a super-majority of sixty-seven percent (67%) of the votes of the Entire Membership authorized to vote, voting in person or by proxy, at a meeting duly called for this purpose.

The actual annual assessment need not increase annually. The Board shall set the Actual annual assessment on an annual basis. Notice shall be given to each Owner as provided in Section 4.8. The Board must set the annual assessment to be an amount at or less than the Maximum Annual Assessment.

4.6. Special Assessment for Capital Improvements. In addition to the annual assessments, the Board may levy in any assessment year a special assessment, applicable to that year only. Special assessments may only be levied to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of Common or Limited Common Area structures, fixtures and personal property related thereto. Special assessments must have the assent of sixty-seven percent (67%) of the votes of the Entire Membership authorized to vote, in person or by proxy, at a meeting duly called for this purpose.

4.7. Additional Assessments. In addition to the annual assessments and special assessments for capital improvements authorized herein, the Association shall levy such additional assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to streets or other Common or Limited Common Areas from the activities of ST. GEORGE CITY (the "City") or other utility provider in maintaining, repairing or replacing the utility lines and facilities thereon. It is acknowledged that the ownership of said utility lines, underground or otherwise, are installed and shall be maintained to City or utility provider specifications. The Association may also levy such additional assessments as may be necessary

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from time to time for the payment of any professional services deemed necessary and desirable by the Board.

4.8. Emergency Assessments. Notwithstanding anything contained in this Declaration, the Board, without Membership approval, may levy emergency assessments, increase annual assessments, or levy special assessments in response to an emergency situation. Prior to the imposition or collection of any assessment due to an emergency situation, the Board shall pass a resolution containing the written findings as to the necessity of such expenditure and why the expenditure was not or could not have been reasonably foreseen or accurately predicted in the budgeting process and the resolution shall be distributed to the Members with the notice of the assessment. If such expenditure was created by an unbudgeted utility maintenance or similar expense or increase, the assessment created thereby shall be discounted by the Board by a similar resolution, if such expense is subsequently reduced, or to the extent the next succeeding annual budget incorporates said increase into the annual assessment. An emergency situation is one which the Board finds:

(a) An expenditure, in its discretion, required by an order of a court, or to settle litigation;

(b) An expenditure necessary to repair or maintain the Properties or any part of it for which the Association is responsible where a threat to personal safety on the Property is discovered; or

(c) An expenditure necessary to repair, maintain, or cover actual Association expenses for the Properties or any part of it that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget (for example: increases in utility rates, landscape or maintenance contract services, attorney fees incurred in the defense of litigation, etc.).

4.9. Notice and Quorum for Any Action Authorized under Sections 4.4, 4.5, 4.6 and 4.7. Written notice of any meeting of Members called for the purpose of taking any action authorized under Sections 4.4, 4.5, 4.6, and 4.7 shall be sent to all Members at least thirty (30) days in advance of said meeting. At the first meeting called, the presence at the meeting of Members, or of proxies, entitled to cast sixty percent (60%) of the votes of the Entire Membership shall constitute a quorum. If the quorum requirement is not met at such a meeting, another meeting may be called, on at least thirty (30) days' advance written notice and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

4.10. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots; provided, however, that no assessments shall be made against the Declarant so long as the Declarant has Class B Membership.

4.11. Date of Commencement of Annual Assessment; Payment; Due Dates.

4.11.1 The annual assessment provided for herein shall commence to accrue against a Lot upon conveyance of that Lot to a bona fide purchaser. The first annual assessment shall be prorated according to the number of months remaining in the calendar year.

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4.11.2 At least thirty (30) days prior to the commencement of each new assessment period, the Directors shall send or cause to be sent a written notice of the new annual assessment to each Owner subject thereto. This notice shall not be a pre-requisite to the validity of the assessment. Failure of the Board to fix assessment amounts or rates or to deliver or mail to each Owner an assessment notice shalt not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

4.11.3 The assessment due dates shall be established by the Directors. The Directors may provide for the payment of annual, special, and/or additional assessments in equal installments throughout the assessment year on a monthly or quarterly basis.

4.11.4 The Board may require advance payment of assessments at closing of the transfer of title to a Lot.

4.11.5 The Directors shall prepare a roster of Lot Owners in the Properties and the assessments applicable thereto at the same time that it shall fix the amount of the annual assessment, which roster shall be kept by the Treasurer of the Association, who shall record payments of assessments and shall allow inspection of the roster by any Member at reasonable times.

4.11.6 The Association shall, upon demand; and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid. Such certificates, when properly issued, shall be conclusive of the payment of any assessment or fractional part thereof which is therein shown to have been paid.

4.12 Effect of Non-Payment of Assessment- Remedies of the Association. Any assessment or installment thereof not paid within fifteen (15) days after the due date therefore shall be delinquent and shall bear interest from the due date at the rate of eighteen percent (18%) per annum (or such lesser rate as the Directors shall determine appropriate) until paid: In addition, the Directors may assess a late fee for each delinquent installment which shall not exceed ten percent (10%) of the installment.

4.12.1 The Directors may, in the name of the Association, (a) bring an action at law against the Owner personally obligated to pay any such delinquent assessment without waiving the lien of assessment, or (b) may foreclose the lien against the Lot in accordance with the laws of the State of Utah applicable to the exercise of powers of sale in deeds of trust or to the foreclosure of mortgages, or in any other manner permitted by law, or (c) may restrict, limit, or totally terminate any or all services performed by the Association on behalf of the delinquent Member and/or any and all rights such Member has to the use and enjoyment of the Common Area and facilities.

4.12.2 There shall be added to the amount of any delinquent assessment the costs and

expenses of any action sale or foreclosure, and reasonable attorney fees, together with an account for the reasonable rental for the Lot from time to time of commencement of the foreclosure. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental without regard to the value of the other security.

4.12.3 A power of sale is hereby conferred upon the Association which it may exercise. Under the power of sale the Lot of an Owner may be sold in the manner provided by Utah law pertaining to deeds of trust as if said Association were beneficiary under a deed of trust. The Association may designate any person or entity qualified by law to serve as trustee for purposes of power of sale foreclosure.

4.13. Exempt Property. The following property subject to this Declaration is exempt from the assessments created herein:

(a) All property dedicated to and accepted by any local public authority;
(b) All Common Area and Limited Common Area; and
(c) All Lots owned by Declarant.

4.14. Subordination of Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage held by an institutional lender if the mortgage was recorded prior to the date the assessment became due. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of a first mortgage or any proceeding in lieu thereof, shall extinguish the assessment lien as to payments which became due prior to such sale or transfer. No sale or transfer, however, shall relieve a Lot or Owner from personal liability for assessments coming due after he takes title or from the lien of such later assessments.

4.15. Books, Records, and Audit. The Association shall maintain current copies of the Declaration, Articles, Bylaws, Rules and other similar documents, as well as its own books, records and financial statements which shall all be available for inspection by Lot Owners and insurers as well as by holders, insurers and guarantors of first mortgages during normal business hours upon reasonable notice. Charges shall be made for copying, researching or extracting from such documents. A Lot Owner or holder, insurer or guarantor of a first mortgage may obtain an audit of Association records at its own expense so long as the results of the audit are provided to the Association.

4.16. Providing Documents to Third Party Purchaser. During the period that the Declarant has Class B Membership, for any Lot that the Declarant, or its successor or assigns, sells to a third party, the Declarant shall provide the following documents to such third party purchaser:

(a) a copy of the Associations governing documents; and

(b) a copy of the Associations must recent financial statement that includes any reserve funds held by the Association.

ARTICLE 5
INSURANCE

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5.1. Casualty Insurance on Insurable Common Area. The Directors shall keep all insurable improvements and fixtures of the Common Area insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the Owner and beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of, and the proceeds thereof shalt be payable to, the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses which shall be included in the regular annual assessments made by the Association.

In addition to casualty insurance on the Common Area, the Directors may elect to obtain and continue in effect, on behalf of all Owners, adequate blanket casualty and fire insurance in such form as the Directors deem appropriate in an amount equal to the full replacement value, without deduction for depreciation or coinsurance, of all of the Units including the structural portions and fixtures thereof. Insurance premiums from any such blanket insurance coverage, and any other insurance premiums paid by the Association shall be a common expense of the Association to be included in the regular annual assessments as levied by the Association. The insurance coverage with respect to the Units shall be written in the name of, and the proceeds thereof shall be payable to the Association as trustee for the Owners.

The Association policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements herein. In the event of an insured loss, the deductible shall be treated as a common expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and opportunity to be heard, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner and the Owner's Lot.

5.2. Replacement or Repair of Property. In the event of damage to or destruction of any part of the Common Area improvements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damage or destroyed, the Association may make a reconstruction assessment against all Lot Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other common assessments made against such Lot Owner.

In the event that the Association is maintaining blanket casualty and fire insurance on the Units, the Association shall repair or replace the same to the extent of the insurance proceeds available.

In the event of damage or destruction by fire or other casualty to any portion of the development covered by insurance written in the name of the Association, the Directors are empowered to and shall represent the Members in any proceedings, negotiations, settlements or agreements. The Association is appointed attorney-in-fact of each Owner for this purpose.

5.3. Liability Insurance. The Directors shall obtain a comprehensive policy of public liability

insurance covering all of the Common and Limited Common property for at least $1,000,000.00 per occurrence for personal or bodily injury and property damage that results from the operation, maintenance or use of the Common Area. Liability insurance policies obtained by the Association shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners.

5.4. Fidelity Insurance. The Directors may elect to obtain fidelity coverage against dishonest acts on the part of managers, Directors, officers, employees, volunteers, management agents or others responsible for handling funds held and collected for the benefit of the Owners or Members. In procuring fidelity insurance, the Directors shall seek a policy which shall (1) name the Association as obligee or beneficiary; (2) be written in an amount not less than the sum of (i) three months operating expenses and (ii) the maximum reserves of the Association which may be on deposit at any time, and (3) contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee."

5.5. Annual Review of Policies. The Directors shall review all insurance policies at least annually in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacements of the property which may be damaged or destroyed.

ARTICLE 6
PARTY WALLS

6.1. General Rules of Law to Apply. Each wall which is built as a part of the original construction upon the Properties which serves and/or separates any two adjoining Units shall constitute a party wall. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

6.2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the party wall.

6.3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, then, to the extend said destruction or damage is not covered by insurance and repaired out of the proceeds of the same, any Owner who has used the wall may restore it. If other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions. However, such contribution will not prejudice the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

6.4. Weatherproofing. Notwithstanding any other provision of the Article, an Owner who by negligent or willful actions causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements to the extent that said protection is not covered by insurance and paid for out of the proceeds of the same.

6.5. Right to Contribution runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's

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successors-in-title.

6.6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each Owner who makes use of the party wall shall choose one arbitrator, and the selected arbitrators shall choose one additional arbitrator within ten (10) days of their selection. Any decision shall be by a majority of all arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request to do so, the Directors of the Association shall select an arbitrator for the refusing party.

ARTICLE 7
ARCHITECTURAL CONTROL COMMITTEE

The Declarant shall not be required to comply with the provisions of this Article in the initial construction of the Properties. The Declarant shall fulfill all functions of the Architectural Control Committee under this Declaration until the Declarant expressly surrenders this right by written instrument, or until each Lot in the Properties (including all expansion area) has a Unit constructed on it.

No structure, building, fence, wall or addition, extension of any of the foregoing shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition or change or alteration to any Lot or Unit be made until the plans and specifications showing the nature, kind, shape, height, materials, colors 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 Directors or, if such a committee is in existence, by an Architectural Control Committee composed of three (3) or more representatives appointed by the Directors. In the event said Directors, or their designated committee fail to approve or disapprove such design and location within thirty (30) days after said plans and plans and specifications have been submitted to it, approval will not be required and compliance with this article will be deemed to have been made.

Without the prior written approval of at least sixty-seven percent (67%) of the Entire Membership, neither the Association nor the Architectural Control Committee shall have the power, by act or omission, to change, waive or abandon any plan, scheme or regulations pertaining to the architectural design or the exterior appearance or maintenance of Units and Lots, and the maintenance of the Common and Limited Common Areas, including walls, fences, driveways, lawns and plantings.

ARTICLE 8
EXTERIOR MAINTENANCE

8.1. Exterior Maintenance. In addition to maintenance upon the Common Area and Limited Common Area, the Association shall provide exterior maintenance upon each Unit and Lot, including, but not limited to the following: paint, repair, replace and care for roofs, gutters downspouts, exterior building surfaces, fences, street signs, lights, mailboxes, trees, shrubs, grass walks, driveways, and other exterior improvements. The cost of regular exterior maintenance shall be a common expense and shall be added to and become part of the regular annual assessment.

8.2. Maintenance by Owner. Each Owner shall be solely responsible for maintenance to glass,

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doors, and screens on the Lot of Unit, and for any maintenance on the Lot or Unit required due to willful or negligent acts. In the event an Owner shall fail to perform this maintenance in a manner satisfactory to the Directors, as determined by a two-thirds (2/3) vote, they shall have the right to have such maintenance performed. The cost of such maintenance shall be added to and become part of the assessment to which such Lot is subject.

8.3. Access at Reasonable Hours. For the sole purpose of performing the maintenance required by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or Limited Common Area at reasonable hours.

8.4. Alteration of Certain Maintenance Duties by Rule. The duty of maintenance for the area of a Lot outside the walls of the Unit, and the Limited Common Areas adjacent and appurtenant to the Units may be altered by Rule of the Association.

ARTICLE 9
USE RESTRICTIONS AND REQUIREMENTS

9.1. Construction, Business, Marketing, and Sales. Notwithstanding any provisions to the contrary herein contained, it shall be expressly permissible for Declarant to maintain such facilities and conduct such activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of Lots during the period of construction and sale of said Lots and upon such portion of the premises as Declarant deems necessary including but not limited to a business office, storage areas, construction yard, signs, model units and sales offices. As part of the overall program of development of the properties into a residential community and to encourage the marketing thereof, the Declarant shall have the right of use of the Common Area and facilities thereon, including any community buildings, without charge during the sales and construction period to aid in its marketing activities.

9.2. General Use Restrictions. All of the Properties which are subject to this Declaration are hereby restricted to residential dwellings and buildings in connection therewith, including but not limited to community buildings on the common Property. All buildings or structures erected in the Properties shall be of new construction and no buildings or structures shall be removed from other locations to the Properties. After the initial construction on a Lot, no subsequent building or structure dissimilar to that initially constructed shall be built on that Lot. No building or structure of a temporary character, trailer, basement, tent, camper, shack, garage, barn or other outbuilding shall be placed or used on any Lot at any time.

9.3. Signs; Commercial Activity. Except for one "For Rent" or "For Sale" sign of not more than two (2) square feet, not advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot or any portion of the Properties. No commercial activities of any kind whatever shall be conducted in any building or on any portion of the Properties. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Declarant or its agents during the construction and sales period or by the Association in furtherance of its powers and purpose set forth hereinafter and in its Articles of Incorporation, Bylaws and Rules and Regulations, as the same may be

amended from time to time.

9.4. Quiet Enjoyment. No noxious or offensive activity shall be carried on upon any part of the Properties nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Lot Owners, or which shall in any way interfere with the quiet enjoyment of each of the Owners or which shall in any way increase the rate of insurance.

9.5. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lots, except dogs, cats, or other household pets, two or less in total number, may be kept provided that they are not kept, bred or maintained for any commercial purpose. Notwithstanding the foregoing, no animals or fowl may be kept on the Property which result in an annoyance or are obnoxious, by noise, smell or otherwise, to Lot Owners. All pets must be kept on the Lots of their owners or on a leash when in the Common Areas. This provision may be made more restrictive by Rule of the Association.

9.6. Hazardous Activities and Substances. No Owner shall engage in or permit any of said Owner's guests, visitors, tenants, or invitees to engage in any activity that will cause an increase in insurance premiums for insurance coverage on the Properties nor shall any Owner or any Owner's guests, visitors, tenants, or invitees engage in any activity that will cause or permit any hazardous substances or material to be stored, used or disposed of on or within the Properties.

9.7. Use of Common Area and Facilities.

9.7.1 Except for the rights of ingress and egress, Owners are prohibited from using any Common Area or facilities other then as permitted in this Declaration or as may be allowed by the Directors. For this purpose, the Directors are authorized to establish rules and regulations to govern the use of the Common Area and facilities. It is expressly acknowledged and agreed that this restriction is for the mutual benefit of all Owners in the Properties and is necessary for the protection of the interests of said Owners in and to the Common Area.

9.7.2 As part of the overall program of development of the Properties into a residential community and to encourage the marketing thereof, the Declarant shall have the right of use of the Common Area and facilities thereon, including any community buildings, without charge during the sales and construction period to aid in its marketing activities.

9.8. Parking.

9.8.1 No motor vehicle which is inoperable shall be allowed within the Properties, and any motor vehicle which remains parked on any street within the Properties for over 72 hours shall be subjected to removal by the Association, at the vehicle owner's expense. Upon demand, the owner of the vehicle shall pay any expense incurred by the Association in connection with the removal of that owner's vehicle. If the vehicle is owned by a Lot Owner, any amounts payable to the Association shall be secured by the Lot and the Association may enforce collection of said amounts in the same manner provided for in this Declaration for the collection of assessments.

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9.8.2 If parking spaces are designated on the Plat with numbers corresponding to Lot numbers, each such space is for the exclusive use of the Lot Owner with the corresponding number. If parking areas are not designated on the Plat with Lot numbers, the Directors may assign vehicle parking space for each Lot, if applicable. Parking spaces within the Properties shall be used for parking of motor vehicles actually used by the Owner or the Owner's immediate family or guests for personal use and not for commercial use, and for guest parking.

9.8.3 Recreational vehicle, boats, travel trailers and similar personal property shall only be parked within the Properties in the designated RV parking area, if any, or as permitted by rule of the Association. The Directors may charge a fee for use of the RV parking area, which fee shall take into account the reasonable costs of maintenance and repair associated with the parking area. The fee charged for such parking shall constitute a lien upon the Lot of the Owner using said parking and may be collected by the Association in the manner provided for collection of any assessment herein. If no RV parking is available no recreational vehicle, boats, travel trailers shall be parked within the Property.

9.9. Planting and Gardening. No planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon any Property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Architectural Control Committee.

9.10. External Apparatus. No Lot Owner shall cause or permit anything (including, without limitation, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the Architectural Control Committee.

9.11. Exterior Television or Other Antennas. No exterior radio, television other antenna shall be placed, allowed or maintained upon any Lot or upon any structure or portion of the improvements situated and located upon the Properties.

9.12. Garbage Removal. All rubbish, trash and garbage shall be regularly removed from the Lots and shall not be allowed to accumulate thereon. Garbage shall be placed in proper containers.

9.13. Pest Control. No Lot Owner or Unit occupant shall permit anything or any condition to exist upon the Lot or Unit which would induce, breed, or harbor infectious plant diseases or noxious insects. In addition to such pest control services as may be provided by the Association, each Owner shall perform such pest control activities on his Lot and in his Unit as may be necessary to prevent insects, rodents, and other pests from being present on his Lot and in his Unit

9.14. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in the Properties. No derrick, lift, shaft or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon the Properties.

9.15. Interior Utilities. All utilities, fixtures and equipment installed with a Lot, commencing at a point where the utility lines, pipes, wires, conduits or systems enter boundaries of a Lot, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act nor any work that will impair any easement or hereditament nor do any act nor allow any condition to exist which will adversely affect the other Lots or Owners.

9.16. Violation Constitutes a Nuisance. Any act or omission whereby any restriction, condition or covenant as set forth in this Declaration if violated in whole or in part is declared to be and shall constitute a nuisance, and may be abated by Declarant or effected property Owners and such remedy shall be deemed to be cumulative and not exclusive.

ARTICLE 10
LEASES

10.1. Leasing Restrictions. Any lease or rental agreement shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles, Bylaws and Rules and Regulations of the Association and that any failure by tenant/lessee/renter to comply with the terms of such documents shall be a default under the lease. An Owner who enters into a lease or rental agreement must notify the Board of the same, in writing, within fifteen (15) days after execution of the lease or rental agreement and along with such notification must provide to the Board a copy of the lease or rental agreement. An Owner must comply with the foregoing notice provisions for each tenant with which it enters into a lease or rental agreement and for each renewal of any existing lease or rental agreement. Units may be leased only in their entirety. There shall be no subleasing of Units or assignment of leases without prior written approval of the Board. To further Declarant's intent, as set forth above, Owners may only lease their Units to Single Families. For purpose of this Article 10, the term "Single Family" means an individual living alone, a group of two or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than four persons who maintain a single housekeeping unit within the Unit. Any lease or rental agreement, whether an initial agreement or any renewal thereof, shall provide for a minimum lease term of not less that sixth (6) months; provided however that the Board shall have the power to allow leases for a term of less than six months upon a showing by the Owner that such a lease is required to avoid undue hardship.

10.2. Enforcement against Owner. Notwithstanding any other rights of enforcement under the Declaration, Bylaws, and all Rules and Regulations enacted by the Board of Directors, or by applicable law, the Association may impose a fine, not to exceed fifty percent (50%) of the amount of the maximum annual assessment, on the Owner, which shall constitute a lien upon such Owner's Lot and shall be added to the annual assessment for that Owner's Lot as provided in Article 4, for each violation by Owner's tenant/lessee/renter of the Declaration, the Bylaws or any Rules or Regulations enacted by the Board of Directors. Such fine shall be imposed after a ten (10) day notice is given to the Owner of such violation. The Association may impose an additional fine on the Owner for each day such violation continues after the ten (10) day notice period provided herein, which additional fines shall constitute a lien upon such Owner's Lot and shall be added to the annual assessment as provided in Article 4. The Association need not provide any additional notice prior to fining an Owner for a continuing violation.

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10.3 Enforcement of Lease by Association. Any lease or rental agreement for any Unit within the property shall include the following language, and, if such language is not expressly contained in such lease or rental agreement, the Owner leasing his Unit hereby agrees that such language shall be deemed incorporated into the lease:

> Any violation of the Declaration of Covenants, Conditions, and Restrictions of FOSSIL HILLS Townhomes ("Declaration") and/or any Rules and Regulations adopted pursuant thereto (collectively "Violations"), by the lessee, any occupant, or any guest of lessee; is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Utah Law. The Owner hereby delegates and assigns to the Board of Directors of the FOSSIL HILLS Townhomes Owners Association power and authority of enforcement against the lessee for breaches resulting from any Violations, including the power and authority to evict the lessee as attorney in fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. In the event the Board proceeds to evict the lessee, any costs, including reasonable attorney fees, court costs, and any other expenses incurred by the Association associated with the eviction shall be an assessment and lien against the Unit.

10.4 Crime Free Lease Addendum. In addition to the provisions set forth herein, each lease or rental agreement shall have attached and incorporated the "Crime Free Lease Addendum" which requires the tenant to certify the Unit it is leasing will not be used for any criminal activities as set forth therein. The Crime Free Lease Addendum shall be made available to Owners by the Board or its designee.

10.5 Cumulative Nature or Remedies. The remedies provided in this Article 10 are cumulative and in addition to remedies provided in this Declaration or at law or in equity.

10.6 Administrative Fee. The Board may establish a monthly administrative fee that it may levy against Owners who lease their Units or do not occupy their Units as a primary residence. The administrative fee shall not exceed twenty percent (20%) of the amount of the monthly assessment. The Board shall provide thirty days prior written notice of the amount of such administrative fee prior to levying the same against an Owner. The administrative fee shall constitute a lien upon such Owner's Lot and shall be added to the annual assessment as provided in Article 4.

ARTICLE 11
EASEMENTS

11.1. Encroachments. Each Lot and the Property included in the Common and Limited Common Areas shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the Declarant. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the structure

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containing Lots is partially or totally destroyed, and then rebuilt, the Owners of the Lots so affected agree that minor encroachments of parts of the adjacent Lots or Common or Limited Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

11.2. Utilities. There is hereby created a blanket easement upon, across, over and under all of the Properties for public utility purposes. By virtue of this easement, it shall be expressly permissible for all public utilities serving the Properties to lay, construct, renew, operate and maintain conduits, cables, pipes, mains, ducts, wires and other necessary equipment on the Properties, provided that all such services shall be placed underground, except that said public utilities may affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under roofs and exterior walls. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties in such a way as to unreasonably encroach upon or limit the use of the Common Area or Limited Common Area or any structure thereon. In the initial exercise of easement rights under this Section, a utility shall make reasonable efforts to occupy and use the same physical location or lane as other utilities. After a utility service has initially exercised its easement rights under this Section, the utility shall make reasonable efforts to occupy and use the same physical location as its prior installations. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant or the Association shall have the right to grant such easement on said Property without conflict with the terms hereof. Declarant reserves the right to convey to itself and to other adjoining landowners, easements for roadway and utility use in the Common and Limited Common Areas, and the right to connect to use roadways and utilities owned or controlled by the Association or serving the Properties. The Declarant reserves the right to execute agreements(s) which may confer on itself or adjacent landowners or owner's associations the right to use Common and Limited Common Areas and common facilities, including (without limitation) recreational facilities.

11.3. Police, Fire and Ambulance Service. An easement is hereby granted to all police, fire protection, ambulance services and all similar persons to enter upon the streets and Common and Limited Common Area in the performance of their duties.

11.4. Maintenance by Association. An easement is hereby granted to the Association, its officers, agents, employees and to any maintenance company selected by the Association to enter in or to cross over the Common and Limited Common Areas and any Lot to perform the duties of maintenance and repair.

11.5. Easement of Declarant. The Declarant shall have a transferable easement over and on the Common Area and facilities and utilities for the purpose of making improvements on the Property or on any additional land under the Declarant, or any development, related or unrelated, on land described herein or adjacent to the Property and for the purpose of doing all things reasonably necessary and proper in connection with the same.

11.6. Owners' Easement of Enjoyment. Every Owner has a right and easement of use and enjoyment in and to the Common Area and Limited Common Area. This easement is appurtenant to and passes with the title to every Lot, subject to:

(a) The right of the Association to charge reasonable admission, use, service and other fees for the use of any service for the Association or provided upon the Common Area. No fees shall be charged for parking specifically designated on the Plat as appurtenant to a Lot.

(b) The right of the Association to limit the number of guests of Members using the Common Area.

(c) The right of the Association to suspend the voting rights and/or common utility service of a Member for any period during which any assessment or portion thereof against the Member's Lot remains unpaid, and for a period of not to exceed sixty (60) days for any infraction of its published rules and regulations.

(d) The right of the Association to enter into agreement of leases, which provide for use of the Common Areas and facilities by a similar Association in consideration for use of the Common Area and facilities of the other Association, or for cash consideration.

(e) The right of the Association, if the Entire Membership consents, to sell, exchange, hypothecate, alienate, mortgage, encumber, dedicate, release or transfer all or part of the Common Area to any private individual, corporate entity, public agency, authority, or utility.

(f) The right of the Association to grant easement for public utilities or other public purpose consistent with the intended use if the Common Area by the Association.

(g) The right of the Association to take such steps as are reasonably necessary or desirable to protect the Common Area against foreclosure.

(h) The terms and conditions of this Declaration.

(i) The right of the Association, through its Directors, to adopt rules and regulations concerning use of the Common Area.

(j) The right of the Declarant to take such actions as it may deem necessary so long as the expansion of the Properties shall not be complete, including granting leases, easements, and modifying the improvements and design of the Common Area.

11.7. Easement of Records. The easements provided for in this Article shall in no way affect any other recorded easement.

ARTICLE 12
EXPANSION

12.1. Expansion Rights. Declarant reserves the right, at its sole election, to expand the Properties include additional property more particularly described below by unilateral action without the consent of the Owners. Declarant's unilateral right to expand as set forth in this paragraph shall expire seven (7) years after the date this Declaration is recorded in the office of the WASHINTON COUNTY Recorder, County of Utah, State of Utah.

12.2. Expansion Property. The property, all or part of which may be included in one or more expansions, is located in WASHINTON COUNTY, Utah, and is more particularly described as follows:

ALL PROPERTY LOCATED IN THE GENERAL VICINITY OF THE PROPERTY

PREVIOUSLY DESCRIBED HEREIN, WHICH IS COUNTINGOUS TO ANY PHASE OF THE DEVELOPMENT.

12.3. Procedure for Expansion. Expansion shall occur by the Declarant filing:

(a) an additional subdivision plat or plats creating additional planned unit developments on the property described above, stating on each plat the intention to have the property described on said plat bound by the terms, covenants and conditions of this declaration upon the filing of a Declaration of Annexation; and

(b) a Declaration of Annexation (after satisfying conditions hereafter stated), which shall state the Declarant's intention to have the area described therein subject to this Declaration. Upon the recording of such a Declaration of Annexation the property described therein shall be subject to this Declaration.

12.4. Use of Expansion Property. Any additional properties annexed hereto by the Declarant shall be exclusively for residential dwellings, architecturally compatible to the existing Units, similar to the Units already constructed, constructed out of similar materials, with similar Lot size. The Declarant shall have the sole discretion as to development of the Common Area in any expansion area and may include any facilities or amenities thereon that Declarant deems necessary and such Common Areas shall be owned by the Association.

12.5. Common Area and Limited Common Area. The Common Area and Limited Common Area in such expansion area shall be deeded by the Declarant to the Association, free and clear of all encumbrances and liens, prior to recordation of the Declaration of Annexation and the Association shall accept the deed. Owners in the original and expansion areas shall have the same rights to the use and enjoyment of Association Property and facilities. Declarant's Class B ownership status shall extend to all Lots in the expansion area. Otherwise, Owners in the original and expansion areas shall all have equal membership status in the Association. The liability for assessments of each Lot and Lot Owner in any expansion area shall be equal to the liability of each Lot and Lot Owner in the original Properties.

ARTICLE 13
AMENDMENT

This Declaration may be amended by an instrument signed by not less than sixty-seven percent (67%) of the Entire Membership. Any amendment must be properly recorded in the records of WASHINTON COUNTY, Utah, to become effective. Notwithstanding the foregoing, so long as Declarant has Class B Membership status, it has the right to unilaterally amend this Declaration. Declarant's right to amend shall be construed liberally and shall include, without limitation, the right to amend and/or restate this Declaration in part or in its entirety.

ARTICLE 14
SAFETY AND SECURITY

Each Owner and occupant of a Unit and appurtenant storage unit, and their respective guests and invitees, shall be responsible for their own personal safety and security of their property

within the Properties. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to enhance the level of safety or security which each person provides for himself or his property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of safety or security within the Properties, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Properties, cannot be compromised or circumvented, nor that any such system or security measures undertaken will in all cases prevent loss or provide detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and other occupants of its Unit and storage areas that the Association, its Board and committees, and Declarant are not insurers or guarantors of security or safety and that each person with in Properties assumes all risks or personal injury and loss or damage to property, including Units and storage areas and their contents resulting from acts of their parties.

ARTICLE 15
HI-TECH SERVICES

The Association may contract with one or more third-parties to provide telecommunications services, including internet, video services, local phone service, and other like services to Owners for a monthly fee, which fee shall be established by the Association and levied against Owners as part of the annual assessments. No Owner may opt out of paying for or otherwise refuse to pay for such services by not using the same. In contracting for such services the Association shall use its best efforts to, but shall not be responsible for, contracting for service that filter or otherwise block violence and pornography.

ARTICLE 16
GENERAL PROVISIONS

16.1 Enforcement.

16.1.1 The Association, the Declarant 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, or any rule of the Association, including but not limited to any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure of the Association or of any Owner to enforce any covenants or restriction herein contained or any rule of the Association shall in no event be deemed a waiver of the right of the Association or any Owner to do so thereafter. In the event action, with or without suit, is undertaken to enforce any provision hereof or any rule of the Association, the party against whom enforcement is sought shall pay to the Association or enforcing Owner the reasonable attorney fees incurred with respect to such enforcement. The Board may levy a fine or penalty not to exceed 50% of the amount of the maximum annual assessment against any Owner who fails to refrain from violation of these covenants

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or a rule of the Association, provided the Board has given said Owner three (3) days written notice and an opportunity for a hearing. An Owner who cures his violation within the three (3) days of receiving notice may not be levied against.

16.1.2 The Association, the Declarant 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 the Declaration, or any Rule of the Association, including but not limited to any proceeding at law or in equity against any person or persons violating or attempting to violate any such covenant, condition, restriction, or rule or regulation, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure of the Association, the Declarant, or of any Owner to enforce any covenant or restriction herein contained or any Rule of the Association shall in no event be deemed a waiver of the right of the Association or any Owner to do so thereafter. In the event action, with or without suit, is undertaken to enforce any provision hereof or any Rule of the Association, the party against whom enforcement is sought shall pay to the Association, the Declarant, or enforcing Owner reasonable attorney fees.

16.1.3 For purposes of this section any violation that continues after the three- day cure period constitutes a separate violation for each day the violation continues. The Board may establish a longer cure period on a case-by-case basis. No further notice is required to levy fines against an Owner for a continuing violation. No further notice is required to levy fines against an Owner for his violation of any provision of the Declaration or any Rule or Regulation which the Owner has previously violated and been fined. Any fines or penalty levied by the Board shall be recoverable by the Association as an assessment under and in accordance with Article 4. Notwithstanding the foregoing, the Board shall have the discretion to establish a schedule of minor violations for which no notice or cure period is needed; provided however that the fine for such violations shall not exceed for each violation, five percent (5%) of the amount of the maximum annual assessment.

16.2 Severability. All of said conditions, covenants, and restrictions contained in this Declaration shall be construed together, but if any one of said conditions, covenants, or restrictions, or any part thereof, shall at any time be held invalid, or for any reason become unenforceable, no other condition, covenant, or restriction, or any part thereof, shall be thereby affected or impaired; and the Declarant, Association and Owners, their successors, heirs and assigns shall be bounded by each article, section, subsection, paragraph, sentence, clause and phrase of this Declaration, irrespective of the invalidity or unenforceability of any other article, section, subsection, paragraph, sentence, clause or phrase.

16.3 Duration. The covenants, conditions, and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

16.4 Interpretive Conflicts. In the event of any conflict between the provisions of this Declaration, the Article, and/or the Bylaws, the provisions of this Declaration shall control.

16.5 Notices. Any notice required to be sent under the provisions of this Declaration shall be deemed to have been properly sent when deposited in the U.S. Mail, postpaid, to the last known address of the person who is entitled to receive it.

16.6 Gender and Grammar. The singular, wherever used herein, shall be constructed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

16.7 Waivers. No provision contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

16.8 Topical Headings. The topical headings contained in this Declaration are for convenience only and do not define, limit, or construe the contents of this Declaration.

ARTICLE 17
ASSIGNMENT OF RIGHTS

All of the rights and powers of Declarant herein contained may be delegated, transferred, or assigned, in whole or in part. To be valid, said delegation, transfer, or assignment must be via a written instrument recorded in the office of the WASHINTON COUNTY Recorder.

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IN WITNESS WHEREOF, the undersigned, as the Declarant herein, has hereunto set its hand in this 28 day of ~~March,~~ April 2017.

DECLARANT:

FOSSIL HILLS TOWNHOMES, LLC

By: _____
Rick M. Salisbury, Manager

State of Utah)
SS:
County of Washington)

On the 28 day of April, 2017 personally appeared before me Rick M. Salisbury who being by me duly sworn did say he is the Manager of Fossil Hills Townhomes, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said company.

_____
Notary Public

JUSTIN GEE
NOTARY PUBLIC • STATE OF UTAH
COMMISSION# 683686
COMM. EXP. 06-15-2019

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EXHIBIT A

FOSSIL HILLS TOWN HOMES BOUNDARY DESCRIPTION

BEGINNING AT A POINT NORTH 88°48'57" WEST, ALONG THE SOUTH LINE OF SECTION 8, A DISTANCE OF 985.882 FEET, FROM THE SOUTHEAST CORNER OF SECTION 8, TOWNSHIP 43 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 88°48'57" WEST ALONG SAID SECTION LINE, A DISTANCE OF 335.000 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 8; THENCE NORTH 52°26'27" WEST 298.200 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF RIVER ROAD; THENCE NORTH 37°33'33" EAST, ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 1520.278 FEET; THENCE SOUTH 52°26'27" EAST 458.183 FEET; THENCE SOUTH 37°33'33" WEST 1172.613 FEET; THENCE SOUTH 01°11'03" WEST 185.043 FEET TO THE POINT OF BEGINNING.

CONTAINS: 699,750 sq. ft., (16.064 ACRES)