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**DECLARATION OF CONDITIONS, RESTRICTIONS, AND EASEMENTS FOR
SCOTTSDALE VILLAS SUBDIVISION**

(AND AMENDMENT TO THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR SCOTTSDALE SUBDIVISION RECORDED IN THE ADA COUNTY
RECORDER'S OFFICE ON OR ABOUT DECEMBER 27, 2001 AS INSTRUMENT NUMBER
101137789)

THIS DECLARATION OF CONDITIONS, RESTRICTIONS, AND
EASEMENTS FOR SCOTTSDALE VILLAS SUBDIVISION ("Declaration") is made
effective as of the 25th day of July, 2003 by WOLFE COMMERCIAL ENTERPRISES,
LLC, an Idaho limited liability company ("Grantor").

RECITALS

A. Grantor is the owner of certain land in Ada County, Idaho, more
particularly described on **Exhibit A** (the "Subdivision").

B. The Grantor desires to subject the Subdivision to the covenants,
conditions, restrictions, easements, reservations, limitations, and equitable servitudes
set forth in this Declaration to: (i) ensure the enhancement and preservation of property
values; (ii) provide for the proper design, development, improvement, and use of the
Subdivision by the Grantor and all other persons or entities who may subsequently
acquire an interest in the Subdivision; and (iii) create a residential development of high
quality.

C. The terms and conditions of this Declaration are intended to replace the
terms and conditions of that certain Declaration of Covenants, Conditions and
Restrictions for Scottsdale Subdivision, recorded in the real property records of the Ada
County, Idaho, recorder's office on December 27, 2001 as instrument number
101137789 (the "Commercial DEC"), and any amendments or supplements thereto, as
to the Subdivision, while leaving the Commercial DEC in place as to the remainder of
the Community which is described in **Exhibit B** (the "Commercial Property"). By
executing the consent attached to this Declaration, the owners of the Commercial
Property agree to amend the Commercial DEC hereby, and agree to exclude the
Subdivision from all terms and conditions of the Commercial DEC and to terminate any



and all control over the Subdivision which the Scottsdale Subdivision Owners Corporation may have, pursuant to the Commercial DEC or otherwise.

D. In no event are the provisions of this Declaration intended to impact the Commercial Property. And, although the Commercial DEC previously imposed covenants, conditions, restrictions, easements reservations, limitations, and/or equitable servitudes upon the Subdivision, by executing this Declaration, the Grantors acknowledge and agree that, as to the Subdivision, the Commercial DEC is terminated, and therefore amended, but as to the Commercial Property it remains in full force and effect.

E. In order to achieve the objectives and desires of the Grantor, Grantor will control the management and government of the Subdivision and a non-profit association of Owners to be created until such time as the Owners take over the management functions of the Association at the time provided in this Declaration.

AGREEMENT

1. DEFINITIONS AND INTERPRETATION. As used in this Declaration, unless the context otherwise specifies or requires, the following words and phrases shall be defined as follows:

1.1 ACC. "ACC" shall mean Architectural Control Committee for the Subdivision.

1.2 Association. "Association" shall mean Scottsdale Villas Homeowners Association, Inc., an Idaho non-profit corporation.

1.3 Assessment. "Assessment" shall have the meaning set forth in Section 16.5.

1.4 Board. "Board" shall mean the duly elected and qualified Board of Directors of the Association.

1.5 Building. "Building" shall mean a structure constructed on a Lot as a residential dwelling and shall include all other appurtenances and improvements thereto or used in connection therewith.

1.6 Bylaws. "Bylaws" shall mean the Bylaws of the Association, including any amendments thereto duly adopted.

1.7 Commercial DEC. "Commercial DEC" shall have the meaning set forth in Recital C.

1.8 Commercial Property. "Commercial Property" shall have the meaning set forth in Recital B.

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1.9 Common Area. "Common Area" shall mean all real property within or outside of the Subdivision in which the Association owns an interest or controls and which is owned or controlled for the betterment of the Subdivision, as shown on the Plat.

1.10 Complainant. "Complainant" has the meaning set forth in Section 13.9.

1.11 Declaration. "Declaration" shall mean this instrument as it may be amended from time to time.

1.12 Development. "Development" shall mean the project to be undertaken by the Grantor resulting in the improvement of Scottsdale Villas Subdivision, including landscaping, amenities, construction of roadways, utility services and other improvements.

1.13 Scottsdale Villas Homeowners Association, Inc. "Scottsdale Villas Homeowners Association, Inc." shall mean the Idaho non-profit corporation organized by the Grantor and comprised of Members and existing for the purpose of providing self-government for Scottsdale Villas Subdivision.

1.14 Grantor. "Grantor" shall have the meaning set forth in the introductory paragraph.

1.15 Improvements. "Improvements" shall mean all structures and appurtenances thereto of all kinds and types located on a lot, including but not limited to, Buildings, driveways, asphalt, sidewalks, walls, fences, screens, landscaping and lighting. Improvements shall not include improvements which are located wholly in the interior of a Building.

1.16 Lot. "Lot" shall mean a portion of the Subdivision which is a legally described Lot within the Subdivision as shown on the Plat.

1.17 Member. "Member" shall mean any person who is an Owner of a Lot within the Subdivision.

1.18 Occupant. "Occupant" shall mean any person or other legal entity who or which is legally entitled to occupy and use any Building on a Lot.

1.19 Owner. "Owner" shall mean a person or other legal entity, including the Grantor, holding fee simple title to a Lot in the Subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, but including any Mortgagee (of any priority) or other security holder in actual possession of a Lot as a result of foreclosure or otherwise, and any person taking title through such Mortgagee or other security holder by purchase at foreclosure sale or otherwise.

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1.20 Plat. "Plat" shall mean the final subdivision plat covering the Subdivision, or portion thereof, as recorded in the office of the Ada County Recorder, as the same may be amended by duly recorded amendments thereto.

1.21 Subdivision. "Subdivision" shall have the meaning set forth in Recital A.

1.22 Generally, unless particular terms of this Declaration state otherwise, or unless the context indicates otherwise, words and phrases used in this Declaration will be interpreted and construed as follows:

(a) Words in the present tense include the future and vice-versa. Words and phrases used as nouns include the singular and plural forms.

(b) Words and phrases that are defined in this Declaration and references to particular sections and subsections of this Declaration will be capitalized.

(c) "Shall," "will," and "must" signify mandatory obligations. "May" signifies a discretionary or permissive act.

(d) The phrase "without limitation" will be deemed to follow the words "include," "includes," and "including" when referring to a list, class, or group of persons, entities, things, conditions, acts, omissions, events, rights, remedies, or liabilities.

(e) The captions and headings of the articles, sections and subsections of this Declaration are for convenience and reference only, and shall not be deemed to define or limit the provisions thereof.

(f) Exhibits attached to this Declaration, amendments to this Declaration, and documents incorporated by reference, are integral parts of this Declaration and references to this Declaration will be deemed to include such documents.

2. DECLARATION. The Grantor hereby declares that the Subdivision, and each subdivided lot within the Subdivision (hereafter called "Lot"), is and shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved subject to the following covenants, conditions, restrictions, and limitations (hereafter collectively called "covenants and restrictions"), all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, improvement, and sale of the Subdivision and each Lot therein, and to enhance the value, desirability, and attractiveness thereof. The covenants and conditions set forth herein shall run with the land and each estate therein and shall be binding upon all persons having or acquiring any right, title, or interest in the Subdivision or any Lot therein, shall inure to the benefit of every Lot in the Subdivision and any interest therein, shall inure to the benefit of and be binding upon each Owner, and may be enforced by the Grantor, the Association, and by any Owner, as hereafter provided, or by the ACC. Notwithstanding the foregoing, no provision of this Declaration shall be construed or enforced to prevent or limit the Grantor's right to complete development of the Subdivision in accordance

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with the plan therefor, as the same exists or may be modified from time to time by the Grantor, nor prevent normal construction activities during the construction of Improvements upon any Lot in the Subdivision. No development or construction activities shall be deemed to constitute a nuisance or violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, erection of temporary structures, posting of signs or similar activities, provided that the same are actively, efficiently, and expeditiously pursued to completion. In the event any dispute concerning the foregoing shall arise, a temporary waiver of the applicable provisions of this Declaration may be granted by the ACC, provided that such waiver shall be for a reasonable period of time and shall not be violative of the applicable ordinances of the governmental entities having jurisdiction of the Subdivision. Any such waiver need not be recorded and shall not constitute an amendment of this Declaration. In the event of a conflict between the provisions of this Declaration and the governmental entities having jurisdiction over the Subdivision, the more restrictive shall control.

3. PURPOSE. Scottsdale Villas Subdivision, and each Lot therein, are hereby made subject to the covenants and restrictions contained in this Declaration, all of which shall run with the land, and shall apply to each and every Owner and Occupant thereof and their respective successors in interest, for the purpose of ensuring Owners and Occupants of quality of design, development, improvement, use, and maintenance of the Lots and Improvements thereon and shall protect and enhance the investment and use of all Lots within the Subdivision.

4. PERMITTED USES.

4.1 Use. The Lots within the Subdivision shall be used exclusively for single-family residential purposes (which shall not be construed as a prohibition against duplexes, as authorized in Section 4.2), and such uses as are customarily incidental thereto.

4.2 Buildings. No Lot shall be improved except with one (1) single-family dwelling unit or one (1) duplex (which shall be two (2) single-family dwelling units with a common wall) and each dwelling unit shall contain such minimum floor area as may be specified in this Declaration. On any Lot there may be located an out-building, barn, or shelter as may be required for the purpose of properly caring and housing of any animals as may be permitted on said Lot, or for the storage or screening of a vehicle or equipment, provided that the location, design, and exterior finish of all such out-building, barn, and shed shall be first approved by the ACC.

4.3 Approval of Use and Plans. No Improvements within the Subdivision shall be built, constructed, erected, placed, or materially altered unless and until the plans, specifications, and site plan therefor have been reviewed in advance and approved by the ACC.

4.4 Prohibited Buildings. No trailer or other vehicle, tent, shack, garage, accessory building, or out building shall be used as a temporary or permanent residence. No noxious or offensive activities shall be conducted on any Lot nor shall anything be

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done thereon which may be or become an unreasonable annoyance or nuisance to the Occupants of the other Lots within the Subdivision by reason of unsightliness or the excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste, smoke, or noise. No building shall be moved onto a Lot.

4.5 Easements. There is hereby reserved for the use and benefit of the Grantor and granted for the use and benefit of each Lot, and for the use and benefit of each Owner and Occupant, and for the use and benefit of the Association, and their successors and assigns for the purposes to such use, development, and maintenance of the Subdivision, the following easements:

(a) Public Utilities. For the installation and maintenance of public utility facilities of all kinds, including power, gas, sewer, radio, television, and transmission cables, the easements so dedicated on the Plat.

(b) Water. For water drainage, irrigation, retention, recreation, or amenity purposes.

(c) Access to Common Areas. For the purpose of permitting the Grantor or the Association, their contractors and agents, to enter onto those portions of Lots contiguous to any Common Area to maintain, repair, replace, and restore landscaping and other Improvements within the Common Area, including, but not limited to, a sprinkler irrigation system which may be installed to irrigate any landscaping located on a Common Area easement for landscaping as shown on the recorded Plat.

(d) Encroachment. Reciprocal appurtenant easements of encroachment as between each Lot and such portion or portions of the Common Area adjacent thereto, or between adjacent lots, due to the unintentional placement or settling or shifting of the Improvements constructed thereon, which easements of encroachment shall be valid so long as they exist and the rights and obligations of Owners shall not be altered in any way by said encroachments, settling or shifting. Provided, however, that in no event shall a valid easement for encroachment occur due to the willful act or acts of an Owner.

(e) Plat. Any additional easements shown or designated on the Plat.

The easement areas (excluding any equipment or appurtenances owned by the Grantor, the Association, or a utility company located thereon) herein reserved shall be maintained by the Owner of the Lot upon which they are situated, and the Owners of the Lot upon which a Common Area landscaping easement is located shall be required to provide the water for the sprinkler irrigation of the plantings thereon. Provided, that if the Board determines, in its sole discretion, that such would impose an unreasonable cost upon such Owners, the Board shall have the right to include the cost of reimbursement of such Owners for such cost in the regular assessments to be levied and assessed against the Lots under of this Declaration. No improvements shall be placed or permitted to remain on such easement areas located within and Lot which shall

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interfere with the intended use or purpose of such easements, and no other activity shall be undertaken on any Lot which may interfere with the use and access intended to be provided by such easements or the installation or maintenance of the utilities or other facilities, if any, located thereon or therein.

5. **SETBACKS.** Any Building constructed on a Lot shall comply with the setbacks required by the applicable ordinances of municipal entity having jurisdiction of the Subdivision. Notwithstanding the foregoing, the ACC shall have the right to stagger the front setbacks of the Lots in order to create a more pleasing appearance and to minimize the negative visual appearance of a uniform building line.

6. **GRADING AND DRAINAGE.** A site plan indicating the proposed grading and drainage of a Lot must be approved by the ACC before any construction is initiated. Lot grading shall be kept to a minimum and Buildings are to be located for preservation of the existing grade and soy grade, berms, or swales should be an integral part of the grading design. Subject to the requirements of any governmental entity having jurisdiction thereof, water may drain or flow into adjacent streets but shall not be allowed to drain or flow upon, across or under adjoining Lots, unless an express written easement for such purpose exists.

7. **COMMERCIAL USE.** No Lot shall be used at any time for commercial or business Purposes, except for such commercial or business purposes allowed by law and as shall be conducted and maintained solely within a residential dwelling unit on a Lot, provided that no signs relating to said commercial or business activity shall be displayed where visible from any road within the Subdivision. And, provided further, that the principal use of each Lot shall be as provided for in Section 4.1, above. Notwithstanding the foregoing, the Grantor, or persons authorized by the Grantor, may use a Lot for development and sales activities relating to Scottsdale Villas Subdivision, model homes, or real estate marketing and sales.

8. **ANIMALS.** No animals, livestock, birds, insects, or poultry of any kind shall be raised, bred, or kept on any Lot, except, on any Lot within the Subdivision, domesticated dogs, cats, or other small household pets which do not unreasonably bother or constitute a nuisance to others may be kept, provided that they are not kept, bred, or maintained for any commercial purpose, and that any outside kennels or pens where such animals are housed are located and constructed so as to protect other Owners and Occupants of the Subdivision from any nuisance or disturbance. Dogs and other similar household pets shall be on a leash when not confined to an Owner's Lot.

9. **MINING AND DRILLING.** No Lot shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing water, steam, oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, or earth. Provided that the Association may, by permit, grant, license, or easement, allow the drilling for and the extraction of water for use on the Lot.

10. **SIGNS.** No commercial billboard or advertising shall be displayed to the public view on or from any Lot. Owners may advertise a dwelling site and Lot for sale by

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displaying a single, neat, and reasonably-sized sign on a Lot. Other temporary signs advertising the name of the builder or the name of the institution providing financing may be displayed on a Lot during the construction of improvements. All lighted, moving, or flashing signs for any purpose are prohibited.

11. SUBDIVIDING. No Lot may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written consent of the ACC. Provided, however, that nothing herein shall be deemed to prevent an Owner from transferring or selling any Lot to more than one (1) person to be held by them as tenants in common, joint tenants, tenants by the entirety, or as community property, or require the approval of the ACC therefor. In addition, the conveyance of an insignificant portions of a Lot to the of the Lot which abuts said conveyed portion for the purpose of correcting common boundary or other similar purpose, shall not be deemed to be a subdividing of a Lot within the prohibition contained herein.

12. FENCES. No fence or wall of any kind shall be constructed on a Lot unless the plans and specifications therefor, including the location, design, material and color thereof, have been approved in writing by the ACC prior to the construction or installation. All fences and walls shall be subject to the following restrictions:

(a) Height. All fences and walls on a Lot shall not exceed six (6) feet in height, unless a lower height is required by the ACC.

(b) Maintenance and Repair. All fences and walls shall be constructed and installed and maintained in good appearance and condition at the expense of the Owner of the Lot on which they are located. And all damaged fencing and walls shall be repaired or replaced to original design, materials, and color within a reasonable time after said damage occurs.

(c) No Interference. No fence or wall shall interfere with the reasonable use and enjoyment by the Owner and/or Occupant of an adjacent Lot, or the use and enjoyment of any easement reserved in this Declaration or shown on the Plat.

(d) Approval by ACC. No fence of any kind shall be constructed on a Lot unless the plans and specifications therefor, including the location, design, material, and color thereof, have been approved in writing by the ACC prior to construction or installation.

(e) Chain Link Fences. No chain link fences are allowed. In the event an Owner wishes to erect a chain link dog run, the Owner must obtain the approval of the ACC prior to construction as to the location, design, material, and color of the dog run. Notwithstanding the foregoing, in no event shall a chain link dog run be visible to the Owners or Occupants of other Lots.

12.2 Maintenance. The following provisions shall govern the maintenance of Lots and all improvements thereon:

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- (a) Maintenance of Improvements. Each Owner of a Lot shall maintain all Improvements located thereon in good and sufficient repair and shall keep the Improvements thereon painted or stained, lawns cut, shrubbery trimmed, windows glazed, rubbish and debris removed, weeds cut, and otherwise maintain the same in a neat and aesthetically-pleasing condition.
- (b) Repair of Damage. All damage to any Improvements shall be repaired as promptly as is reasonably possible.
- (c) Vacant Building. A Building which is vacant for any reason shall be kept locked and the windows glazed in order to prevent entrance by vandals.
- (d) Required Enclosure—Screening. All structures, facilities, equipment, objects and conditions determined by the ACC in its sole discretion, to be offensive, shall be enclosed within an approved structure or appropriately screened from public view.
- (e) Trash and Debris. All trash, debris, garbage, and refuse shall be kept at all times in a covered container and all such containers shall be kept on a Lot within an enclosed structure or screened from public view. Trash and debris shall be removed from the Lot at regular intervals and shall not be allowed to accumulate.
- (f) No Storage in Set-Back. No articles, goods, machinery, materials, or similar items shall be stored, kept, or maintained on a Lot in the required set-back area along a public or private right-of-way or otherwise kept in the open or exposed to public view.
- (g) Other Prohibited Conditions. Any event or condition on a Lot which, in the sole discretion of the ACC, creates an unsightly or blighting influence shall be corrected, removed, or obstructed from public view, as the case may be, by the Owner or Occupant of the Lot, notwithstanding the fact that such event or condition may not be specifically described and/or prohibited in this Declaration.
- (h) Failure to Maintain—Remedy. In the event that any Owner shall permit any Improvement, including any landscaping, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, or unattractive condition, the Board, upon fifteen (15) days prior written notice to the Owner of such Lot, shall have the right to correct such condition, and to enter upon said Lot and into any building or structure thereon, if necessary, for the purpose of correcting or repairing same, and such Owner shall promptly reimburse the Association for the costs thereof. The Owner of the offending Lot shall be personally liable, and such Owner's Lot may be subject to a mechanic's lien for all costs and expenses incurred by the Association in taking such corrective action, plus all costs incurred in collecting the amounts due. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor, or the amounts may, at the option of the Board, be levied as a limited assessment against said Lot and shall be enforceable in the same manner as other assessments.

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12.3 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Lot within the Subdivision and no odor shall be permitted to arise therefrom so as to render any Lot unsanitary, unsightly, offensive, or detrimental to any other Lot within the Subdivision or in the vicinity thereof or to its Occupants.

12.4 Boats, Campers, and Other Vehicles. Any trailer, mobile home, truck larger than a standard pickup, motor home, boat, tractor, motorcycle, vehicle (other than an automobile), camper, and garden or maintenance equipment, when not in actual use, shall be kept at all times in an enclosed structure approved by the ACC or screened from public view in a manner approved by the ACC and at no time shall any of said vehicles or equipment be parked or stored on a public right-of-way within the Subdivision. Any non-operative automobile shall not be permitted to be parked on a Lot or in a public right-of-way within the Subdivision unless within an enclosed garage. A minimum of two (2) off-street parking spaces for automobiles shall be provided on each Lot.

12.5 Exterior Energy Devices/Antennae. No energy production device including generators of any kind and solar energy devices, shall be constructed or maintained on any Lot without the prior written approval of the ACC, which shall not be unreasonably withheld, except for heat pumps and similar appliances shown on the plans approved by the ACC.

12.6 Garage Doors. Garage doors shall be closed except when open for a temporary purpose.

12.7 Exterior Materials and Colors. After completion of the initial construction of a Building and in the event of the reconstruction, remodeling, repainting, or refinishing of the same within the Subdivision, in whole or in part, exterior materials and colors shall be approved by the ACC prior to any work. For the purposes of this Section, the initial construction of the Existing Dwellings shall be deemed to be completed at the date this Declaration is recorded in the official records of Ada County, Idaho.

12.8 Landscaping. The following provisions shall govern the landscaping of Lots within the Subdivision:

(a) The Owner shall prepare a landscape plan and shall submit the same to the ACC as provided below. The ACC shall approve said landscape plan prior to the installation and/or construction of landscaping on a Lot. Landscaping of a Lot shall be in accordance with the approved plan.

(b) All landscaping approved by the ACC must be installed within thirty (30) days after the date of occupancy of the building on said Lot, with a reasonable extension permitted for delays occasioned by weather.

12.9 Septic Tanks/Cesspools. No septic sewer disposal systems are allowed within the Subdivision.

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12.10 Minimum Area/Cost. No Building intended for use as a single family residence shall be erected, altered, placed or permitted to remain on any Lot, which Building contains less than one thousand one hundred (1,100) square feet of living area without a variance from the ACC. The square feet of living area shall be based on the interior living space at or above the grade of the Lot, exclusive of basement, porches, patios, and garage. No split level homes shall be permitted.

12.11 Obligation to Commence/Complete Construction. The Owner of Lot shall be obligated to commence construction of a residential dwelling thereon, in accordance with the plans and specifications therefor approved by the ACC within twelve (12) months after the date of the closing of the purchase of the Lot from the Grantor. Following the date of commencement of construction, the Owner shall be obligated to proceed therewith to completion within twelve (12) months, except for incidental items which cannot be completed because of adverse weather, provided that such items shall be completed promptly when weather permits.

12.12 Construction Standards. The following standards and requirements shall be applicable to the construction and/or installation of any Improvements on a Lot within the Subdivision:

(a) Excavation. Any excavation shall be performed in a workmanlike manner and the Lot kept free from debris. Each Owner shall be responsible for the repairing of any damage occurring during the construction period to any road, mailbox, utility facility, or other on-site or off-site Improvement caused by the Owner or contractors employed by the Owner. Unless an Owner otherwise notifies the ACC in writing prior to the Owner's commencement of construction of the Lot, all on-site Improvements shall be conclusively deemed to be in good working order and condition and any damages occurring thereto during the construction shall be the responsibility of the Owner. All such repairs required hereunder shall be made immediately following the occurrence of the damage.

(b) Utilities. The connection of all utility facilities shall be underground and shall be inspected and approved by the appropriate governmental entity having jurisdiction thereof and the company providing the utility service, if required. Utility meters shall be placed in an unobtrusive location and concealed behind fences or landscaping where possible.

(c) Maintenance During Construction. The following requirements shall apply during the construction of Improvements on a Lot: (i) all debris shall be removed from the Lot prior to each weekend; (ii) no materials shall be placed or kept on any adjoining Lot; (iii) vehicles belonging to workmen or used in the construction of the Improvements shall not be parked in front of occupied residential dwellings or interfere with traffic on public streets; and (iv) utilities, including water, shall not be taken from any other Lot without the approval from the Owner thereof.

(d) Grading. Lot grading shall be kept to a minimum. Water shall not be allowed to drain onto adjoining Lots, unless pursuant to an express written easement.

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(e) Roofs. The roof of each Building on a Lot shall be constructed with a pitch not less than 6/12. Gravel roofs shall not be permitted.

(f) Exterior. Bay windows, broken roof lines, gables, and hip roofs shall be encouraged. Exterior colors of earthtones or light grays are encouraged. Bright or bold colors, or very dark colors, shall be prohibited. Exterior colors must be first approved by the ACC.

(g) Garages. Each Building shall include an enclosed garage sufficient to size to fully enclose a minimum of two (2) standard size automobiles.

12.13 Exemption of Grantor. Nothing herein contained shall limit the right of the Grantor to subdivide or re-subdivide any Lot or portion of the Subdivision or to grant licenses, reservations, rights-of-way, or easements to utility companies, public agencies, or others; or to complete excavation, grading, and Development to or on any Lot or other portion of the Subdivision owned or controlled by the Grantor, or to alter the foregoing and its Development, plans and designs, or to construct additional Improvements as Grantor deems advisable in the course of Development of the Subdivision. This Declaration shall not limit the right of Grantor at any time prior to the acquisition of title to a lot by an Owner to establish on that Lot additional licenses, restrictions, reservations, rights-of-way, and easements to itself, to utility companies, or to others, as may from time to time be reasonably necessary. The Grantor need not seek or obtain ACC approval of any improvements constructed or placed within the Subdivision by Grantor in connection with the Development of the Subdivision, but this exemption shall not apply to a Buildings constructed by the Grantor on a Lot owned by the Grantor.

13. ARCHITECTURAL CONTROL COMMITTEE.

13.1 Members of the Committee. The Architectural Control Committee ACC for the Subdivision shall be comprised of at least two (2) persons, all of whom shall be appointed as herein provided. A member of the ACC shall hold office until he or she has resigned or has been removed, but in any event, until said Member's successor has been appointed. Members of the ACC may be removed at any time, with or without cause. The initial members of the ACC shall be Graye H. Wolfe, Sr. and Brenda Wolfe, and they shall remain the members of the ACC until the earlier of (a) their resignation as members of the ACC, and (b) the date on which title to the last Lot owned by Grantor is transferred to a third party (namely, the date on which Grantor no longer owns a Lot within the Subdivision), at which time Graye H. Wolfe, Sr. and Brenda Wolfe shall be deemed to have resigned as the members of the ACC.

13.2 Appointment and Removal. All members of the ACC for the Subdivision shall be appointed and removed by the Grantor so long as the Grantor owns a Lot within the Subdivision. At such time as the Grantor no longer owns a Lot within the Subdivision, all members of the ACC shall be appointed or removed by the Board. Notwithstanding and provision in this Declaration to the contrary, the provisions contained in this Section concerning the appointment of the members of the ACC shall

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not be subject to amendment unless such amendment is approved in writing by the Grantor. The ACC shall have the right, by a resolution in writing unanimously adopted, to designate one (1) of its members to take any action or perform any duties for and on behalf of the ACC. In the absence of such designation, the vote of any two (2) members of the ACC shall constitute an act of the ACC.

13.3 Non-Liability. Neither the ACC, nor any member thereof, or Grantor or any partner, officer, employee, agent, successor, or assign thereof, shall be liable to the Association, any Owner or any other person for any loss, damage, injury, cost, expense, claim, or cause of action arising out of or connected with the performance by the ACC of its duties and responsibilities by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve an application. Every person who submits an application to the ACC for approval of plans and specifications agrees, by submission of such application, and every Owner or Occupant of any Lot agrees, by acquiring title thereto or an interest therein, not to bring any action or suit against the Association, the ACC, or any member thereof, or the Grantor or an officer, partner, employee, agent, successor, or assign thereof to recover such damages.

13.4 Approval Required. No construction, alteration, modification, removal, or destruction of any Improvements of any nature whatsoever which materially alters the exterior appearance of the Improvements on a Lot within the Subdivision, shall be initiated or be permitted to continue or exist within the Subdivision without the prior written approval of the ACC.

13.5 Basic of Approval. All approvals or disapprovals shall be made in the sole discretion of the ACC based upon any reason, including, the adequacy of the Lot dimensions, conformity and use of external design with neighboring Improvements, the effect of location and use of Improvements on neighboring Lots, the relationship of the Improvements to topography, grade, finished ground elevation, and landscaping of the Lot to that of neighboring Lots, and the proper facing of the main elevation with respect to nearby streets.

13.6 Variances. The ACC may authorize variances from compliance with the requirements of any conditions and restrictions contained in this Declaration, or any prior approval when, in the sole discretion of the ACC, circumstances such as topography, natural obstructions, aesthetics, environmental considerations, or hardship may so require. Such a variance must be evidenced by a writing signed by at least one (1) member of the ACC. If a variance is granted as provided herein, no violation of this Declaration or prior approval shall be deemed to have occurred with respect to the matter for which the variance was granted.

13.7 Application. To request ACC approval for the construction, alteration, modification, removal, or demolition of any Improvements within the Subdivision, the Owner shall submit all information hereafter provided. All applications must contain, or have submitted therewith, two (2) complete copies of the following material

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(collectively called "plans and specifications") prepared in accordance with acceptable architectural standards:

(a) Site Plan. A site plan showing the location of the Buildings and all other structures and Improvements including fences and walls on the Lot, Lot drainage, and all set backs and other pertinent information.

(b) Building Plan. A building plan which shall consist of preliminary or final blueprints, elevation drawings of north, south, east, and west sides, and detailed exterior specifications which shall include, by sample if required by the ACC, all exterior colors, materials, and finishes, including roof, to be used.

(c) Landscape Plan. A landscape plan for portions of the Lot to be landscaped which shall show the location, type, and size of trees, plants, ground cover, shrubs, berming and mounding, grading, drainage, sprinkler system, fences, freestanding exterior lights, driveways, parking areas, and walkways.

(d) Other. Such other plans or material as shall be reasonably requested by the ACC.

The ACC may, in its discretion, require the Owner to furnish additional specifications, drawings, material samples, or such other information as the ACC, in its sole discretion reasonably exercised, shall deem necessary or convenient for the purpose of assisting the ACC in reviewing and processing the application.

13.8 Decision. Unless extended by mutual consent of the Owner and the ACC, the ACC shall render its decision with respect to an application within forty-five (45) days after receipt of a properly-submitted application. The decision of the ACC can be in the form of an approval, a conditional approval, or denial. A conditional approval shall set forth with particularity the conditions upon which the application is approved, and a denial shall state with particularity the reasons for such denial. The decision of the ACC shall be in writing, signed by a member of the ACC, dated, and a copy thereof mailed to the Owner at the address shown on the application. Failure of the ACC to issue a decision disapproving or conditionally approving an application as set forth above within such forty-five (45) day period shall be conclusively deemed to be an approval by the ACC. In reviewing the application and the materials submitted therewith and in reaching a decision thereon, the ACC shall use its best efforts and judgment to assure that all Improvements shall produce and contribute to an orderly and aesthetically-complementary design and appearance and be of the quality required to maintain the Subdivision as a first class residential development. In the event of a conditional approval, the Owner shall be required to affix a copy of said conditions to the working drawings or blueprints which are to be kept on the job site during the entire course of the work to which said plans relate.

13.9 Inspection and Complaints. The ACC is empowered to inspect all work in progress on any Lot at any time. Such inspection shall be for the purpose of determining whether the Owner is proceeding in accordance with the approved

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application or is deviating therefrom or is violating this Declaration or the approved plans and specifications. The ACC is empowered to receive from other Owners ("Complainant") complaints in writing involving deviations from approved applications or violations of this Declaration or the approved plans and specifications. In the event the ACC receives such a complaint from a Complainant, it shall first determine the validity of such complaint by inspection or otherwise. Should the ACC determine that there has been a deviation or a violation, it shall promptly issue a notice in writing thereof to the Owner, and to the Complainant, which notice shall specify the particulars of the deviation or violation and shall demand that the Owner conform to either or both of the following directives:

(a) Requirement to Cease. The Owner shall immediately cease the activity which constitutes a deviation or violation.

(b) Correction. The Owner shall adhere to the corrective measures set forth in the written notice.

Should the ACC determine there has been no deviation or violation, it shall promptly issue a notice of such determination to the Owner and the Complainant.

13.10 Hearing. An Owner submitting an application under the preceding Section, or served with a written notice of deviation or violation, or a Complainant shall have the right to request and be heard at a hearing held by the ACC for the purpose of presenting facts and information to the ACC. Such hearing must be requested by such party within ten (10) days from the date the written notice of the decision of the ACC is mailed to the Owner (and Complainant) as evidenced by the records of the ACC. The hearing shall be held within ten (10) days following receipt by the ACC of the request for a hearing, unless the ACC shall extend said period of time because of the unavailability of ACC members. A hearing may be continued by the ACC for the purpose of further investigation or to receive additional evidence. Upon completion of the hearing, the ACC shall issue a written opinion to the involved parties within (10) business days thereafter, which opinion shall set forth the findings of the ACC with respect to the matters at issue and shall affirm, modify or rescind its previous decision as contained in the original written notice.

13.11 Appeal. Either an Owner or a Complainant shall have the right to appeal to the Board a decision of the ACC on an application with respect to the conditions imposed thereon or a denial thereof, or a decision of the ACC adverse to the Owner or the Complainant reached following a hearing held pursuant to the preceding Section. Provided, however, that neither an Owner nor a Complainant shall be entitled to such an appeal with respect to deviations or violations unless said Owner or Complainant has participated in the ACC hearing.

A notice of appeal shall be in writing and shall be delivered by mail to the Secretary of the Board within ten (10) days from the date of the decision by the ACC. Said notice of appeal shall be dated and shall contain the name of the Owner and the Complainant, if any, and a copy of the written decision or determination of the ACC.

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The failure of an Owner or Complainant to appeal a decision of the ACC in the manner and within the time herein provided shall terminate all rights of said Owner or Complainant to appeal said decision and it shall be binding and enforceable.

The board shall fix a date for the hearing of such an appeal which date shall be no later than ten (10) days from the date of receipt of a notice of appeal unless extended by the Board because of the unavailability of Board members. The Owner and Complainant, if any, shall be advised of the time and place of the hearing by a mailed written notice. Written notice of time and place for hearing shall also be served by mail upon each member of the ACC.

The Board may require the Owner or Complainant to provide additional information to facilitate the Board's decision and the failure of such party to comply promptly with such a request shall entitle the Board to deny the appeal, in which event the decision by the ACC shall be considered final and not subject to further appeal.

At the hearing, the Owner, Complainant, if any, and the ACC, together with their representatives and other witnesses, shall present their position to the Board. The order of presentation and the evidence to be admitted shall be solely within the discretion of the Board. Provided, however, that the Owner, the Complainant, if any, and the ACC shall have the opportunity to question and cross-examine witnesses presented by the other. The Owner, the Complainant, if any, and the ACC will have the opportunity to present final argument consistent with rules adopted by the Board for such hearing process. Any party may be represented by an attorney at any hearing by the ACC or the Board.

Upon receiving all of the evidence, oral and documentary, and following the conclusion of the hearing, the Board shall retire to deliberate and shall reconvene at a time and place determined by the Board, at which time the Board shall cast its official ballot and the decision shall be duly recorded in the minutes of the meeting. The Owner, the Complainant, if any, and the ACC members shall be given written notice of the decision which shall be deemed given when deposited in the United States mail, postage prepaid and properly addressed.

A decision of the Board of an appeal shall be final and shall not be subject to reconsideration or further appeal.

13.12 Enforcement. Either the Board or the ACC, upon approval by the Board, shall be authorized on behalf, and in the name of, the Association to commence such legal or equitable proceedings as are determined by it to be necessary or proper to correct or enjoin any activity or condition existing within the Subdivision, the continuation of which violates the provisions of this Declaration or the approved plans and specifications. Neither the Board or the ACC shall commence such legal or equitable proceedings without sixty (60) days prior written notice of the deviation or violation to the Owner. But thereafter, the Board or the ACC, as the case may be, shall have the sole discretion to commence such proceedings. The authority of the Board and/or the ACC as herein provided shall include the power to retain legal counsel and

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expert witnesses, pay filing fees, deposition costs, witness fees, and all other ordinary and necessary expenses incurred in commencing and carrying out said legal or equitable proceedings, all of which costs shall be paid by the Association.

13.13 Private Rights. The association shall not have the right to mediate or litigate private dispute between Owners where there is a legal or equitable remedy available to resolve said dispute when, in the sole discretion of the Board, the interests of the Association or a substantial number of the Owners would not be benefited thereby.

13.14 Architectural Design Standards are Guidelines. The initial Architectural Design Standards are attached hereto as **Exhibit C**.

14. SCOTTSDALE VILLAS HOMEOWNERS ASSOCIATION, INC.

14.1 Organization of Association. Scottsdale Villas Homeowners Association, Inc. shall be organized by the Grantor as an Idaho non-profit corporation and shall be charged with the duties and vested with the powers prescribed by law and set forth in its Articles of Incorporation, its Bylaws, and this Declaration. Neither the Articles nor the Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

14.2 Members. Each Owner (including the Grantor) of a Lot by virtue of being such an Owner, including the Owners of the Existing Dwellings, and for so long as such ownership is maintained, shall be a Member of the Association. And no Owner shall have more than one (1) membership in the Association, but shall have such voting rights as hereafter set forth. A membership in the Association shall not be assignable, except to the successor-in-interest of the Owner and a membership in the Association shall be appurtenant to and inseparable from the Lot owned by such Owner. A membership the Association shall not be transferred, pledged, or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer of a membership shall be void and shall not be reflected on the books of the Association.

14.3 Voting. The Association shall have two (2) classes of voting membership:

CLASS A. CLASS A Members shall be all Owners of Lots within the Subdivision, with the exception of the Grantor, and shall be entitled to one (1) vote for each Lot owned.

CLASS B. CLASS B Members shall be the Grantor. Upon the first sale of a Lot to an Owner, the Grantor shall thereupon be entitled to three (3) votes for each Lot owned by the Grantor. The Class B membership shall cease and be converted to Class A membership on the happening of the earlier of the following events: (i) when the total votes outstanding in the Class A membership equal the total votes

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outstanding in the Class B membership; or (ii) December 31, 2006.

14.4 Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers as the Directors may elect or appoint in accordance with the Articles of Incorporation and Bylaws, as the same may be amended from time to time.

14.5 Powers of Association. The Association shall have all powers of a non-profit corporation organized under the laws of the State of Idaho subject only to such limitations as are expressly set forth in the Articles of Incorporation, the Bylaws or this Declaration. It shall have the power to do any and all lawful things which may be authorized, required, or permitted to be done under the Articles of Incorporation, Bylaws, or this Declaration, and to do and perform any and all acts which may be necessary or proper for, or incident to, the proper management and operation of the Common Area and the performance of other responsibilities including the following:

(a) Assessments. The power to levy regular, special, and limited assessments against or upon the Owners and/or Lots and to enforce payment thereof in accordance with the provisions of this Declaration.

(b) Right of Enforcement. The power and authority from time to time in its own name, on its own behalf, or on behalf of any Owner(s) who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Articles of Incorporation, Bylaws, or the Declaration, and to enforce by mandatory injunction or otherwise, all provisions thereof.

(c) Delegation of Powers. The authority to delegate its power and duties to committees, officers, employees, or to any person, firm, or corporation to act as manager.

(d) Liability of Board Members and Officers. Neither any member of the Board nor any officers of the Association shall be personally liable to any Owner, or to any other party, for any damage, loss, or prejudice suffered or claimed on account of any act or omission of the Association, the Board, its officers, a manager, or any other representative or employee of the Association, or the ACC, provided that said Board Member, officer, manager, or other person has, upon the basis of such information as was available, acted in good faith without willful or intentional misconduct.

(e) Association Rules. The power to adopt, amend, and repeal such rules and regulations as the Association deems reasonable. Such rules shall govern the use by Owners and Occupants or any other person of Common Area and other property owned or controlled by the Association. Provided, however, Association rules shall not discriminate among Owners and shall not be inconsistent with the Articles of Incorporation, Bylaws or this Declaration. A copy of Association rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner and Occupant. Upon such mailings said Association rules

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shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of any conflict between an Association rule or any provision of the Articles of Incorporation, Bylaws or this Declaration, the conflicting provisions of the Association rules shall be deemed superseded to the extent of any such inconsistency.

(f) Licenses, Easements and Rights-of-Way. The power to grant and convey to any third party such licenses, easements, rights-of-way or fee title in, on, through, under, or to the Common Area as may be necessary or appropriate for the orderly maintenance, preservation, and enjoyment thereof, and for the preservation of health, safety, convenience, and welfare of the Owners, for the purpose of constructing, erecting, operating, or maintaining:

(i) Underground lines, cables, wires, conduits, and other devices for the transmission of any utility or other service;

(ii) Public sewers, storm drains, water drains and pipes, water systems, sprinkling systems, water, heating, and gas lines or pipes; and/or

(iii) Any similar public or quasi-public improvements or facilities.

(g) Fiscal Year. The Board shall have the right to elect a fiscal year for the Association instead of a calendar year for budget, assessment, and accounting purposes.

14.6 Duties of Association. In addition to the powers delegated to it by the Articles of Incorporation, Bylaws and this Declaration, without limiting the generality thereof, the Association or its authorized agents, if any, shall have the obligation to conduct all business affairs of common interest to all Owners and to perform each of the following duties:

(a) Operation and Maintenance of Common Area. Perform, or provide for the performance of, the operation, maintenance, repair, and management of the Common Area. By signing below, the Owners of the Commercial Property, the Scottsdale Subdivision Owners Corporation, and the Grantor all acknowledge and agree that, notwithstanding any provision in this Declaration or the Commercial DEC to the contrary: (i) certain real property within the Property has been deeded to the Scottsdale Subdivision Owners Corporation (that certain real property identified on **Exhibit D**, which is a paved area covering the sewer system right of way); (ii) unless deeded to the Association, the foregoing property shall remain the property of the Scottsdale Subdivision Owners Corporation, and said corporation shall remain responsible for the operation and maintenance of said property; and (iii) in the event the foregoing property is deeded to the Association, said property will become Common Area for purposes of this Declaration, and the Association shall operate, maintain, repair, and manage said Common Area pursuant to the terms and conditions of this Declaration.

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(b) Taxes and Assessments. Pay all real and personal property taxes and assessments separately levied against the Common Area owned or controlled by the Association or against the Association and/or any property owned by the Association. Such taxes and assessments may be contested or compromised by the Association. Provided, however, that they are paid or a bond insuring payment is posted prior to the sale or the disposition of any property to satisfy the payment of such taxes. In addition, the Association shall pay all other taxes, federal, state or local, including income or corporate taxes, levied against the Association in the event that the Association is denied the status of a tax exempt corporation.

(c) Insurance. Obtain from reputable insurance companies authorized to do business in the state of Idaho and maintain in effect the following policies of insurance:

(i) Comprehensive public liability insurance insuring the Association, the Board, officers, the Grantor and the individual Owners and agents and employees of each of the foregoing against any liability incident to the ownership, control and/or use of the Common Area owned by the Association or easement areas under the control of the Association. The limits of liability of such coverage shall be as determined by the Board of Directors.

(ii) Full coverage directors and officers liability insurance in an amount determined by the Board.

(iii) Such other insurance, including workmen's compensation insurance to the extent necessary to comply with all applicable laws and indemnity, faithful performance, fidelity and other bonds as the Board shall deem necessary or required to carry out the Association's functions or to insure the Association against any loss from malfeasance or dishonesty of any person charged with the management or possession of any Association funds or other property.

(iv) The Association shall be deemed a trustee of the interests of all Owners in any insurance proceeds paid to is under such policies, and shall have full power to receive their interests in such proceeds and to deal therewith.

(v) Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the regular assessments levied by the Association.

(d) Identification Signs. Maintain, repair, and replace all permanent entry and special identification signs for the Subdivision, if any, whether the same be located within or without the boundaries of the Subdivision.

(e) Rule Making. Make, establish, promulgate, amend, and repeal Association rules.

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(f) Architectural Control Committee. Appoint and remove members of the Architectural Control Committee, all subject to the provisions of this Declaration.

(g) Enforcement of Restrictions and Rules. Perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce any of the provisions of this Declaration and the Association rules.

14.7 Budgets and Financial Statements. Financial statements for the Association shall be regularly prepared and copies distributed to each Member as follows:

(a) Budget. A pro forma operating statement (budget) for each fiscal year shall be distributed not less than thirty (30) days after the beginning of each fiscal year.

(b) Balance Sheet—Annual Operating Statement. Within ninety (90) days after the close of each fiscal year, the Association, or its agent, shall cause to be prepared and delivered to each Owner, a balance sheet as of the last day of the Association's fiscal year and an annual operating statement reflecting the income and expenditures of the Association for that fiscal year.

14.8 Effective Date. The provisions of this Article shall become operative upon the conveyance to the Association of a fee simple or easement estate to any Common Area within or outside of the Subdivision, or the vesting in the Association of the right to control such Common Area. Until the creation and organization of the Association and the conveyance of fee simple title to any Common Area to the Association, the Grantor shall have the right to exercise all of the powers of the Association set forth in this Declaration.

15. ASSESSMENTS.

15.1 Covenant to Pay Assessments. Each Owner hereby, and by acceptance of a deed to a Lot, covenants and agrees to pay when due all regular, special and limited assessments or charges made by the Association. All such assessments shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made, and shall be also the personal obligation of the Owner of such Lot at the time when the assessment become due and payable. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them. No Owner may waive or otherwise avoid liability for any assessment by non-use of the Common Area or by abandonment of his or her Lot.

15.2 Regular Assessments. Regular assessments shall be made by the Association at times and intervals deemed appropriate by the Board. The regular assessments shall be based upon advance estimates of cash requirements as determined by the Board for the maintenance and operation of the Common Area and all easement areas, if any, controlled by the Association and for the performance by the Association of its other duties and responsibilities. Such estimates may include, but shall not be limited to, expenses of management, including professional management of the

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Association, taxes and special assessments of local governmental units, premiums for all insurance which the Association is required or permitted to maintain hereunder, landscaping and care of grounds, lighting, water charges, trash collection, sewerage charges, repair and maintenance, legal and accounting fees, and any deficit remaining from previous periods and the creation of a reserve, surplus and/or sinking fund.

15.3 Special Assessments. In addition to regular assessments, the Association may levy at any time a special assessment payable over such period as the Board may deem appropriate for the following purposes:

(a) Current Expenses. To defray, in whole or in part, the cost of any construction or reconstruction of improvements on a Common Area, unexpected repair or replacement of a Common Area or any facility located thereon or an easement area controlled by the Association, the furnishing of a special service or services (other than those appropriate for a limited assessment), or for any other expenses incurred or to be incurred as provided in this Declaration.

(b) Deficit. To cure a deficit in the common and ordinary expenses of the Association for which regular assessments for a given calendar or fiscal year are or will be inadequate to pay, as determined by the Board.

15.4 Limited Assessments. In addition to regular and special assessments, Owner shall pay limited assessments as follows:

(a) Maintenance and Repair. The Association shall have the power to incur expenses for maintenance and repair of any Lot or any Improvements on a Lot, if such maintenance and repair is necessary, in the opinion of the Board, to protect the Common Area or any other portion of the Subdivision, and if the Owner or Occupant of said Lot has failed or refused to perform said maintenance or repair within sixty (60) days after written notice of the necessity thereof has been delivered by the Board to said Owner. The Board shall levy a limited assessment against the Owner and the Lot owned by said Owner to pay for the cost of such maintenance and repair.

(b) Correction of Violations. In addition to maintenance and repair, the Board, upon certification from the ACC of the failure or refusal of an Owner or Occupant to correct a violation of this Declaration or the approved plans and specifications within sixty (60) days after written notice by the ACC to such Owner or Occupant, shall have the power to correct any such violation on a Lot or any Improvement on a Lot, and incur costs necessary in connection therewith. The cost of such corrective action shall be assessed and collected as set forth in Article 17 of this Declaration.

15.5 Commencement of Regular Assessments. The regular assessments of the Association against each Lot shall commence the earlier of the following: (i) six (6) months following the closing of the first sale of a Lot to an Owner; or (ii) the occupancy of the first Building constructed on a Lot. Provided, however, that any Lot owned by the Grantor shall be assessed a regular assessment not exceeding ten percent

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(10%) of the amount assessed against Lots owned by other Owners. If the Grantor pays all or any portion of the expenses of the Association in excess of the amount assessed to Lots owned by the Grantor, such excess amounts so paid shall constitute a prepayment of assessments (regular and special) to become due and payable on the Lots owned by the Grantor within the Subdivision ("Assessment Credit"). Provided that unless such excess amounts so paid by the Grantor are paid pursuant to a written agreement with the Association to the contrary, the Grantor shall not be entitled to reimbursement in cash of any such Assessment Credit nor shall such Assessment Credit inure to an Owner purchasing a Lot from the Grantor, unless such person is the successor to substantially all of the interest of the Grantor in the Subdivision. Nothing herein contained shall obligate the Grantor to pay any assessment with respect to a Lot so long as the Grantor owns fifty percent (50%) or more of the Lots within the Subdivision.

15.6 Uniform Rate of Assessment. Except as expressly provided to the contrary in this Declaration, regular and special assessments of the Association shall be fixed at a uniform rate for all Lots.

15.7 Interest and Penalties. Any regular, special or limited assessment levied by the Association on Lots, if not paid when due, shall bear interest at an annual rate as shall be set by the Board from time to time, or if none is so set, at an annual rate of twelve percent (12%). Such interest shall commence on the date the assessment becomes due and payable. The right of the Board to charge interest shall be in addition to, and not in lieu of, any other right of enforcement or sanction available to the Board in the event of non-payment of an assessment.

16. ENFORCEMENT OF ASSESSMENTS.

16.1 Right to Enforce. The right to collect and enforce payment of the assessments made by the Association is vested in the Association. Each Owner of a Lot hereby agrees to the enforcement of the payment of all assessments in the manner herein provided.

16.2 Creation of Assessment Liens. There is hereby created a continuing claim of lien on each and every Lot to secure payment of any and all assessments levied against any and all Lots in the Subdivision pursuant to this Declaration, together with interest thereon. Said lien shall be prior and superior to all other liens or claims created subsequent to the recordation of this Declaration except only for: (i) valid tax and special assessment liens on Lots in favor of any governmental unit assessing authority; (ii) a lien for all sums unpaid and secured by a mortgage or deed of trust, duly recorded in Ada County, Idaho, including all unpaid obligatory advances to be made pursuant thereto; and (iii) labor or materialman's lens, if the same are prior by reason or applicable law. All other lien holders acquiring liens on any Lot after recordation of this Declaration shall be deemed to consent that such liens shall be inferior liens to the lien for assessments levied by the Association, whether or not such consent by specifically set forth in the instruments creating such other liens.

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16.3 Notice of Assessment. If an Owner fails to pay an assessment within thirty (30) days of its due date, the Association may prepare a written notice of assessment setting forth the type of assessment, the amount of the assessment, the due date thereof, including, the amount and due date of installments, if the same are permitted, the amount remaining unpaid at the time of filing, the name of the record Owner of the Lot, and a legal description of the Lot. Such notice shall be signed by the President and Secretary of the Association, acknowledged by a Notary Public and recorded in the office of the Ada County Recorder. At such time as a delinquent assessment which is described in the notice is paid, the Association shall prepare and record a notice of satisfaction with respect thereto.

16.4 Enforcement. Upon the failure of an Owner to pay an assessment in accordance with its terms, the lien for assessment herein created may be enforced by sale of the Owner's Lot by the Association, such sale to be conducted in any manner provided by law to the state of Idaho.

16.5 Notice Required. Notwithstanding anything to the contrary contained in this Declaration, no action may be brought to foreclose the lien for any assessment until the expiration of thirty (30) days after written Notice of Default has been deposited in the United States mail, certified or registered mail, postage prepaid, return receipt requested, addressed to the Owner of the Lot described in such Notice at the last known address of the Owner as shown on the books and records of the Association. Said Notice shall specify the amount and due date of the unpaid assessments and the legal description of the Lot.

16.6 Term of Assessment. Unless sooner satisfied and released, or the enforcement thereof initiated as provided in this Article, the lien for any assessment levied under this Declaration shall expire and be of no further force or effect after a period of five (5) years from the date of: (i) the date of said assessment; or (ii) the date the last installment is due and payable. Provided that the expiration of the lien as provided herein shall not release an Owner from the personal obligation to pay any assessment.

16.7 Non-Exclusive Remedy. The remedies set forth in this Article or elsewhere in this Declaration shall not be deemed to be an exclusive remedy and the Association may pursue all other remedies available at law or in equity.

17. MISCELLANEOUS.

17.1 Term. This Declaration and all covenants, conditions, restrictions and easements contained herein shall run until December 31, 2023, unless amended or hereafter provided. After December 31, 2023, said covenants, conditions, restrictions and easements shall automatically extend for successive periods of ten (10) years each, unless extinguished by a written instrument executed by the Owners of at least fifty-one percent (51%) of the Lots in the Subdivision and such written instrument is recorded with the Ada County Recorder.

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17.2 Amendment. This Declaration may be amended as follows:

(a) By Grantor. Until title to a Lot within the Subdivision is conveyed by the Grantor to an Owner, this Declaration may be amended or terminated with respect to the Subdivision by the Grantor by recordation of a written instrument signed by the Grantor and acknowledged setting forth such amendment or termination.

(b) By Owners. Except where a greater percentage is required herein, the provisions of this Declaration, other than this Section, with respect to the Subdivision may be amended by an instrument in writing, signed and acknowledged by the Owners, including the Grantor, owning at least three-fourths (3/4ths) of the Lots within the Subdivision, provided, that so long as the Grantor owns a Lot within the Subdivision, such amendment is approved in writing by the Grantor. Any amendment, approved as herein provided, shall be effective upon its recordation with the Ada County Recorder. Any amendment to this Section shall require the vote or written consent of all Owners.

17.3 Non-Waiver. The failure of the Grantor or any Owner in any one (1) or more instances to insist upon the strict performance of any of the covenants, conditions, restrictions, easements, or other provisions of this declaration or to exercise any right or option contained herein, or to serve any notice or to institute any action, shall not be construed as a waiver or relinquishment for the future of such covenant, condition, restriction, easement, or other provision, but the same shall remain in full force and effect.

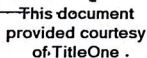
17.4 Books and Records. All books, records and minutes of the Board and all other books and records maintained by the Association shall be made available for inspection and copying by any Owner or by his duly authorized at any reasonable time and for a purpose reasonably related to his interest as a member in the Association, or at such other place and time as the Board shall prescribe.

17.5 Enforcement—Costs. Except as otherwise provided in this Declaration, this Declaration may be enforced by the ACC, or by any Owner, including the Grantor, of a Lot within the Subdivision. If suit or other action is filed to interpret or enforce this Declaration, or any provision hereof, the prevailing party shall be awarded reasonable attorney's fees, in addition to the costs and disbursements allowed by law, including the same with respect to appeal.

17.6 Acceptance. Each Owner of a Lot, each purchaser of a Lot under a contract or agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract of sale or agreement or option, accepts the same subject to all of the covenants, conditions, restrictions, easements, and other provisions set forth in this Declaration and agrees to be bound by the same.

17.7 Severability. Each of the provisions hereof shall be deemed independent and severable, and the invalidity or unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

CONDITIONS RESTRICTIONS
AND EASEMENTS FOR SCOTTSDALE VILLAS SUBDIVISION- 25




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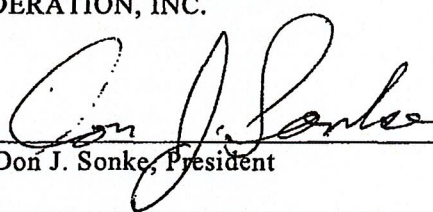
**CONSENT OF OWNERS OF THE COMMERCIAL PROPERTY
AND THE SCOTTSDALE SUBDIVISION OWNERS CORPORATION**

The undersigned, representing all the owners of the Commercial Property and the Scottsdale Subdivision Owners Corporation, being the only persons or entities with an interest in the Commercial DEC, do hereby agree to amend the Commercial DEC in the manner set forth above to the degree necessary to release the Subdivision from any duties and obligations under the Commercial DEC, and exclude the Subdivision from the Commercial DEC and the Scottsdale Subdivision Owners Corporation. The undersigned acknowledge and agree that the future use, development, and maintenance of the Subdivision will be conducted pursuant to the provisions of this Declaration, and that the undersigned will have no control thereover. But rather, oversight and control over of the use development, and maintenance of the Subdivision will be vested in Grantor, the Association, the ACC, and other persons and entities as set forth in this Declaration.

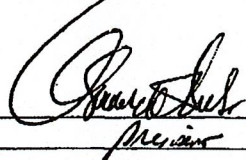
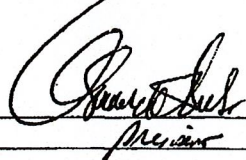
WOLFE COMMERCIAL ENTERPRISES, LLC

By: 
Graye H. Wolfe, Sr., Member

ADA COUNTY FARM BUREAU
FEDERATION, INC.

By: 
Don J. Sonke, President

SCOTTSDALE SUBDIVISION OWNERS
CORPORATION

By: 
Its: 

(Notary acknowledgements follow)

CONDITIONS RESTRICTIONS
AND EASEMENTS FOR SCOTTSDALE VILLAS SUBDIVISION- 27



STATE OF IDAHO)
)ss.
County of Ada)

On this 29th day of July, 2003, before me, a Notary Public, personally appeared GRAYE H. WOLFE, SR., known or proved to me to be a MEMBER of WOLFE COMMERCIAL ENTERPRISES, LLC, an Idaho limited liability company, the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

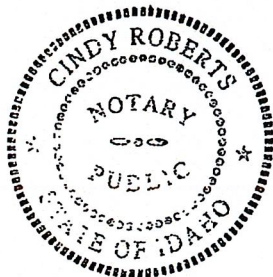


Sue A. Bowman
Notary Public for Idaho
Residing at Boise, Idaho
Comm. Expires 04/03/07

STATE OF IDAHO)
)ss.
County of Ada)

On this 29th day of July, 2003, before me, a Notary Public, personally appeared DON J. SONKE, known or proved to me to be the PRESIDENT of ADA COUNTY FARM BUREAU FEDERATION, INC., an Idaho corporation, the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Cindy Roberts
Notary Public for Idaho
Residing at Meridian, Idaho
Comm. Expires 3-15-09

CONDITIONS RESTRICTIONS
AND EASEMENTS FOR SCOTTSDALE VILLAS SUBDIVISION- 28



This document
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EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Lots 2, 3 and 4, Block 1 and Lots 1, 2, 3, 4 and 5 of Block 2, Scottsdale Subdivision,
Ada County, Idaho according to the official plat thereof, recorded in Book 82 of Plats at
pages 8916 through 8917, official records of Ada County, Idaho.



This document
provided courtesy
of TitleOne

EXHIBIT B

LEGAL DESCRIPTION OF THE COMMERCIAL PROPERTY

Lot 1 Block 1, Scottsdale Subdivision, Ada County, Idaho according to the official plat thereof, recorded in Book 82 at pages 8916 through 8917, official records of Ada County, Idaho.



EXHIBIT C

ARCHITECTURAL DESIGN STANDARDS AND CONSTRUCTION GUIDELINES

The Architectural Design Standards and Construction Guidelines, as contained herein, are to use as guidelines for the owner and builders in preparing plans and specifications for any proposed construction or improvement in Scottsdale Villas subdivision and for maintaining an orderly construction environment. These guidelines are used by the Architectural Control Committee ("ACC") in conjunction with the Declaration of Conditions, Restrictions, and Easements for Scottsdale Villas Subdivision (the "Declaration"). In the event an inconsistency exists between the terms of these Architectural Design Standards and Construction Guidelines, as the same may be amended from time to time, and the Declaration, the terms and provisions of the Declaration shall control.

I. SUBMITTALS REQUIRED FOR ACC APPROVAL.

1. Colors purposed for all exterior finishes, including paint colors, brick, stone, and stucco finishes. Exterior colors shall be selected from the ACC approved list.
2. All fences to be cedar with the construction to be of the designs set forth on the examples attached hereto.
3. All elevations of each home will be submitted prior to start of construction to said ACC committee.
4. Said elevations to describe the building materials and finishes for exteriors.

All submittals and inquiries will be made to:

Graye H. Wolfe, Sr. and Brenda Wolfe
1409 N. Main
Meridian, ID 83642

II. DESIGN STANDARD.

1. All homes will have a minimum of 1,100 square feet of finished space exclusive of garage space.
2. Some masonry is required on the front exterior of each home, unless adequate wood treatments are approved by the ACC.
3. A front tree is required for each home. Minimum of 1 ½ caliper.



4. Each home is required to have full landscaping to include automatic sprinklers with nozzle size larger than ditch screen size.
5. All roofs to be 30-year architectural shingles.

III. DETACHED STORAGE FACILITIES.

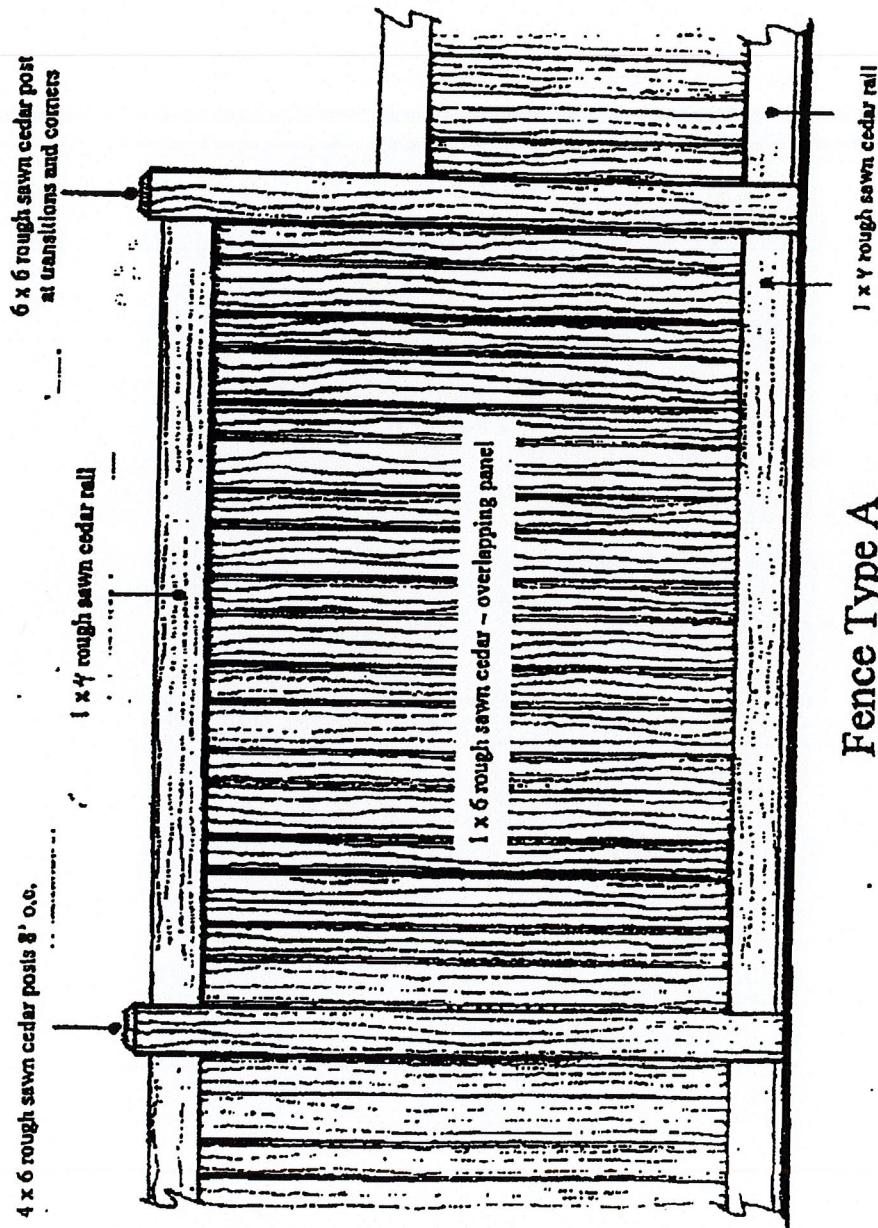
1. All vehicles, trailers, tools, and equipment shall be stored out of view in enclosed structures. Detached storage facilities, such as storage sheds, shall be of the same construction, finish, and color as proposed and approved for the house. Any such structure shall be placed on a concrete pad in a location approved by the ACC and shall not be allowed to encroach on the setback area. Metal storage sheds or other dissimilar structures are prohibited. The ACC encourages the storage of boats, RV's, camp trailers and other similar vehicles or trailers in offsite storage facilities.

IV. FENCING.

1. All wood fencing shall be constructed according to the details for Fence Type A or Fence Type B (see attached for fence details). Fences shall be constructed of overlapped 1 x 6 #1 common or better rough sawn cedar panels on 2 x 6 #1 common no-hole (or better) rough sawn cedar rails. Horizontal trim pieces shall be 1 x 4 common no hole or better. Posts shall be 4 x 4 or better.
2. No vinyl fencing will be allowed. Notwithstanding the foregoing, vinyl may be used for porches, patios, or privacy walls with the prior approval of the ACC.
3. Front setbacks shall be a minimum of two feet behind the front of each house.

V. BASKETBALL EQUIPMENT.

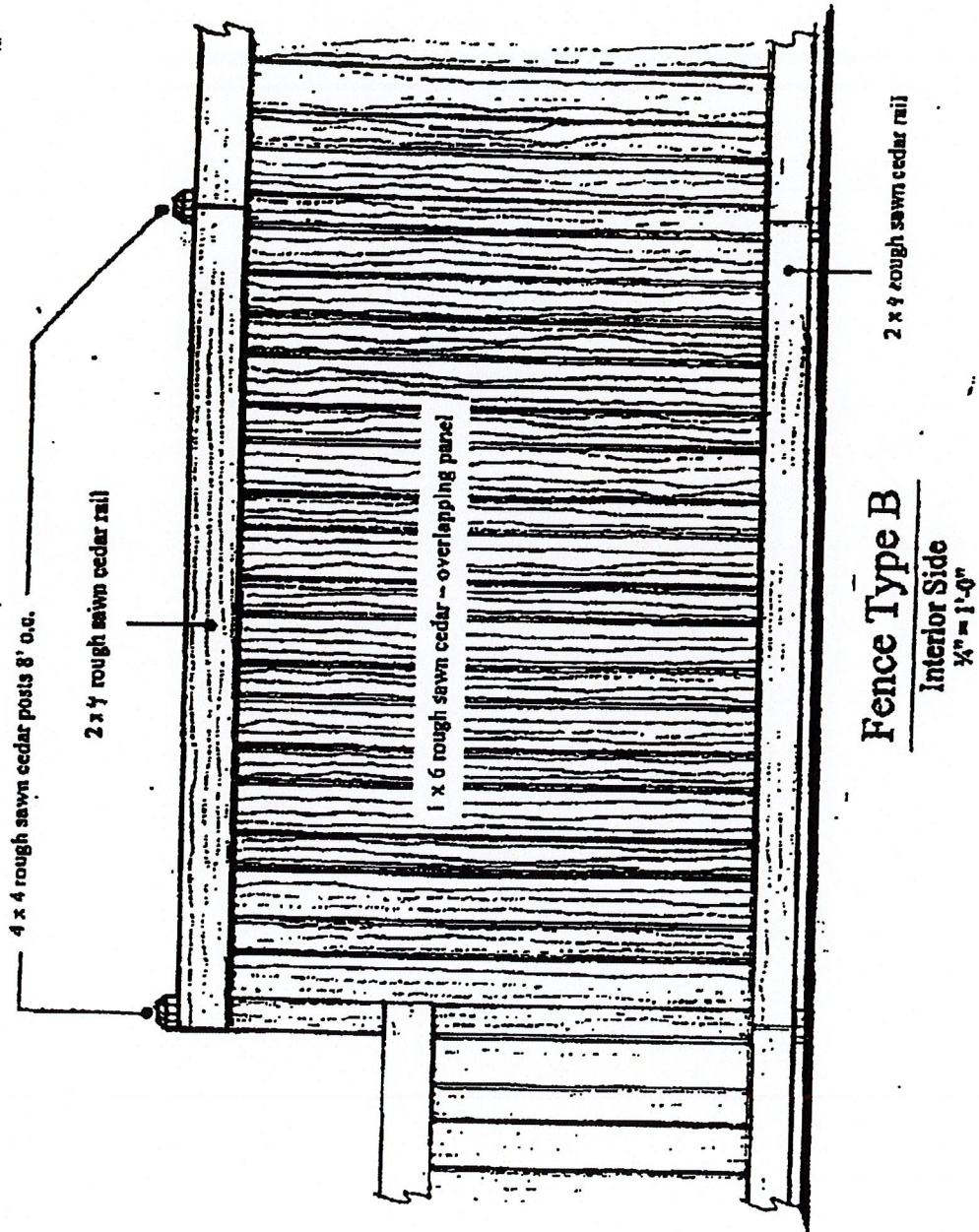
1. Basketball backboards shall not be permitted on the roof or walls of the dwelling. Basketball standards with glass or plexiglass backboards may be installed on fixed poles adjacent to a driveway but are encouraged to be installed in less prominent areas such as rear yards. Movable basketball standards are not permitted.



Fence Type A

Exterior Side

$\frac{1}{4}" - 1'-0"$





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EXHIBIT D

LEGAL DESCRIPTION OF THE COMMON AREA OWNED BY SCOTTSDALE SUBDIVISION OWNERS CORPORATION

Lot 3 of Block 2, Scottsdale Subdivision, Ada County, Idaho according to the official plat thereof, recorded in Book 82 of Plats at pages 8916 through 8917, official records of Ada County, Idaho.



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ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 05/06/04 12:27 PM
DEPUTY Joanne Hooper
RECORDED-REQUEST OF
HOLLAND & HART14
AMOUNT 12.00



104055542

AFTER RECORDING MAIL 1

Bradley J. Wiskirchen
Holland & Hart LLP
P.O. Box 2527
Boise, Idaho 83702

This Space Reserve for Recording Purposes

**AMENDMENT TO DECLARATION OF CONDITIONS, RESTRICTIONS,
AND EASEMENTS FOR SCOTTSDALE VILLAS SUBDIVISION**

THIS AMENDMENT TO DECLARATION OF CONDITIONS, RESTRICTIONS, AND EASEMENTS FOR SCOTTSDALE VILLAS SUBDIVISION (the "Amendment") is made and entered into as of the 6th day of May, 2004 by WOLFE COMMERCIAL ENTERPRISES, LLC, an Idaho limited liability company ("Grantor").

RECITALS

This Amendment is made with reference to the following facts and objectives:

A. On or about July 25, 2003, Grantor entered into that certain Declaration of Conditions, Restrictions, and Easements for Scottsdale Villas Subdivision, recorded March 11, 2004 in the Official Records of Ada County, Idaho, as Instrument No. 104027645 (the "Declaration").

B. The Declaration concerns that certain real property located in Ada County, Idaho and more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Subdivision").

C. Pursuant to Section 17.2 of the Declaration, until the Grantor has conveyed title to a Lot within the Subdivision, the Declaration may be amended by written instrument executed solely by Grantor. Grantor has not yet conveyed title to any Lots and desires to amend the Declaration as hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the easements, conditions, and restrictions hereinafter set forth, the Grantor hereby makes this Amendment:



1. **Definitions.** Except as otherwise provided herein, all capitalized terms used in this Amendment shall be given the same definition as they are ascribed in the Declaration.

2. **Amendment to Section 12(a).** Section 12(a) of the Declaration is hereby deleted in its entirety and replaced with the following:

(a) **Height.** All fences and walls on a Lot shall not exceed six (6) feet in height, unless a lower height is required by the ACC or Plat.

3. **Amendment to Exhibit C. Paragraph IV, Section 1.** Exhibit C, Paragraph IV, Section 1 of the Declaration is hereby deleted in its entirety, including the attached fence detail diagrams that are intentionally omitted, and replaced with the following:

1. All fencing shall be constructed of dog-eared cedar panels.

3. **Restatement of Declaration.** The Declaration, as modified by this Amendment, shall remain in full force and effect according to its terms.

IN WITNESS WHEREOF, the Grantor has caused this Amendment to be executed effective as of the day and year first above written.

GRANTOR:

WOLFE COMMERCIAL ENTERPRISES, LLC,
an Idaho limited liability company

By: Graye H. Wolfe, Sr.

Its: Member

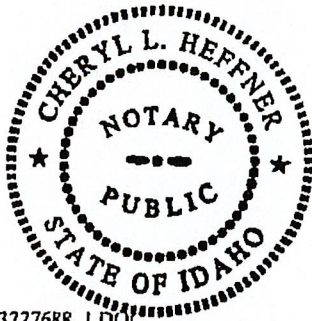
(Notary acknowledgment follows)



STATE OF IDAHO)
)ss.
County of Ada)

On this 6th day of May, 2004, before me, a Notary Public, personally appeared Graye H. Wolfe, Sr., known to me to be a Member of WOLFE COMMERCIAL ENTERPRISES, LLC, an Idaho limited liability company, the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



3227688_1.DOC

Cheryl L. Heffner
Notary Public
Residing at Boise, Idaho
My Commission expires: 12/28/04



EXHIBIT A

DESCRIPTION OF PROPERTY

Lots 2, 3 and 4, Block 1 and Lots 1, 2, 3, 4 and 5 of Block 2, Scottsdale Subdivision, Ada County, Idaho according to the official plat thereof, recorded in Book 82 of Plats at pages 8916 through 8917, official records of Ada County, Idaho.