



the 30th day after receipt of notice of such prospective denial or revocation, an amount equal to the excess of the cost of construction of the roadway to such Building Site over and above 200% of the average of the cost to construct roadways to other Building Sites in the same Filing of the Subdivision. In the event of any retroactive revocation pursuant to (ii) above, the Board shall immediately cause all assessments previously paid to the Association to be immediately refunded, together with interest thereon at twelve percent (12%) per annum, and shall cause the President and Secretary to execute and record in the Recorder's Office of Summit County an instrument which permanently revokes the designation of such Building Site as subject to this Declaration.

## ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments: Each Declarant, for each Building Site owned by such Declarant within the Properties, hereby covenants, and each Owner of any Building Site by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on each Building Site and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Building Site at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 5.2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and roadways in the Subdivision, and of the homes situated upon the Properties.

Section 5.3. Maximum Annual Assessment: Until January 1 of the year immediately following the first recording of this Declaration, the maximum annual assessment (not including any initial or other special assessment for capital improvements) shall be three hundred dollars (\$300.00) per Building Site.

(a) From and after January 1 of the year immediately following the recording of this Declaration, the maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the recording of this Declaration, the maximum annual assessment may be increased above 10% by a vote of two-thirds (2/3) of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 5.4. Special Assessments for Capital Improvements: In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area or Subdivision roadways, including fixtures and personal property related thereto; provided that any

such assessment, except the Initial Special Assessment set forth below, shall have the assent of two-thirds (2/3) of the votes of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5.5. Initial Special Assessment: Without further action by the Members, the Association hereby levies and each Owner hereby agrees to pay upon receipt of an invoice therefor an Initial Special Assessment in the amount of \$1,867 for those roadway and capital improvement costs set forth on the attached Exhibit A, which is by this reference incorporated herein. The amount of the Initial Special Assessment shall be determined based upon the date the Association receives the Signature Page and shall be paid as follows in cash unless the Board, in its sole discretion, offers payment plans from time to time:

(a) For those Members who have signed and returned to the Association a signature page in any form on or before January 31, 1991, the Initial Special Assessment shall be in the amount of \$1,867;

(b) For those Members who sign and return to the Association a Signature Page after January 31, 1991 but on or before February 15, 1992, the Initial Special Assessment shall be in the amount of \$2,062 (which is approximately \$1,867 plus interest at 10% per annum from January 31, 1991 until February 15, 1992); or

(c) For those Members who sign and return to the Association a Signature Page after February 15, 1992, the Initial Special Assessment shall be in the amount of \$2,062 plus interest at 18% per year from February 15, 1992 until paid.

Notwithstanding the foregoing, the Association shall not send invoices to any one Owner of Building Sites for the Initial Special Assessment cumulatively in excess of \$50,000 until such funds in excess of \$50,000 are actually needed to be paid out for capital improvements by the Association, and then only to the extent actually needed.

Section 5.6. Notice for Any Action Authorized Under Sections 5.3 and 5.4: Written notice of any meeting called for the purpose of taking any action authorized under Section 5.3 or 5.4 shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days in advance of the meeting.

Section 5.7. Uniform Rate of Assessment: Both annual and special assessments must be fixed at a uniform rate for all Building Sites and may be collected on a monthly basis if deemed in the best interest of the Association by the Board of Directors.

Section 5.8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Building Sites on the first day of January following the recording of this Declaration and shall be payable on January 1 each year until such time as the Association determines to bill annual assessments on a monthly basis or until the Board establishes another date for payment. The Board of Directors shall fix the amount of the annual assessment against each Building Site at least thirty (30) days in advance of the due date. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on the specified Building Site have been paid.

Section 5.9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 18 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Building Site. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Building Site.

Section 5.10. Subordination of the Lien to Mortgages: The lien of the assessments provided for herein shall be subordinate to the lien of any first deed of trust or mortgage. Sale or transfer of any Building Site shall not affect the assessment lien. However, the sale or transfer of any Building Site pursuant to foreclosure of a deed of trust, mortgage or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Building Site from liability for any assessments thereafter becoming due or from the lien thereof.

## ARTICLE VI ARCHITECTURAL CONTROL

No building, fence, wall, sign or other structure shall be commenced, erected or maintained upon any of the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee composed of three (3) or more representatives appointed by the Board. Until such time as the Board has appointed the Architectural Control Committee, the Board shall serve as such Committee. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

## ARTICLE VII GENERAL PROVISIONS

Section 7.1. Enforcement: The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 7.2. Severability: Invalidation of any one of these covenants or restrictions by judgement or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 7.3. Amendment: The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is first recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Building Site Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Building Site Owners. Any amendment must be recorded.

Section 7.4. Annexation: Notwithstanding anything to the contrary contained in this Declaration or the By-Laws (except Section 4.4 (i) of this Declaration, to which this Section 7.4 shall be subject) any owner of any lot in Quandary Village Subdivision, Filing No. 2 may at any time subject such lot to this Declaration by executing and delivering to the President of the Association for recording by the Association a signature page (in the form attached hereto) which declares such lot(s) to be a Building Site; provided, that such owner shall, prior to the enjoyment of any rights and privileges of membership in the Association and prior to any usage of any of the Common Area, pay

Exhibit A to Declaration.  
QUANDARY VILLAGE SUBDIVISION FILING #2

Road Improvements and Purchases

1. Consultant, legal and escrow fees	\$15,000
2. Purchase Lots for Connector Roads	\$42,000
3. Construction of connector Roads and completion of new roads	\$90,000
4. Upgrading of road base	\$60,000
5. Access Gate	\$3,000
6. Revegetation	\$5,000
7. Payment for entrance road upgrade (Highway 9 to Lot 52 - Block 3)	\$52,000
8. Contingency	<u>\$5,000</u>

TOTAL

\$272,000