



may amend the Declaration by written instruments duly recorded in the office of the County Recorder of Iron County, State of Utah. The Declarant is an Owner and holds more than sixty percent (60%) of the total votes of the Association.

Therefore, the Declarant hereby amends the Declaration and declares as follows:

1. The Declaration is hereby amended by adding thereto Article XVI, which shall provide in its entirety as follows:

"ARTICLE XVI

MORTGAGEE PROTECTION

16.01. Notice to Mortgagee. From and after the time a Mortgagee makes written request to the Association therefor, the Association shall notify such Mortgagee in writing in the event that the Owner of the Condominium encumbered by the Mortgage held by such Mortgagee neglects for a period of thirty (30) days or more to cure any failure on the part of such Owner to perform any of his obligations under this Declaration.

16.02. Subordination of Assessment Lien. The lien or claim against a Condominium for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to a Mortgage affecting such Condominium. A Mortgagee who comes into possession of the Condominium pursuant to his Mortgage or a deed or assignment in lieu of foreclosure shall take the same free of such lien or claim for unpaid assessments or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the Mortgage, exercise of a power of sale available thereunder, or deed or assignment in lieu of foreclosure (except for claims for a pro rata share of such prior assessments or charges resulting from a pro rata reallocation thereof to all Condominiums including the Condominium in which the Mortgagee is interested). No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a Mortgage or as not a burden to a Mortgagee coming into possession pursuant to his Mortgage or a deed or assignment in lieu of foreclosure shall be collected or enforced against a Mortgagee, a successor in title to a Mortgagee, or the Condominium affected or previously affected by the Mortgage concerned (to the extent any such collection or enforcement would prejudice the interests of the Mortgagee or successor in title to the Mortgagee interested in such Condominium).

16.03. Prior Written Approval of Mortgagee. Unless all of the Mortgagees of the individual Condominiums have given their prior written approval, the Association shall not be entitled, by act, omission, or otherwise:

(a) To abandon or terminate the Project or

to abandon or terminate the arrangement which is established by this Declaration and the Map, except for abandonment provided by statute in case of substantial loss to the Units and Common Areas;

(b) To partition or subdivide any Unit;

(c) To abandon, partition, subdivide, encumber, alter the boundaries of, sell, diminish, or transfer all or any of the Common Areas (except for the granting of easements for utilities and similar purposes consistent with the intended use of the Common Areas and except as provided in Section 16.03(a) hereof;

(d) To use hazard insurance proceeds resulting from damage to any part of the Project (whether to Units or to the Common Areas) for purposes other than the repair, replacement, or reconstruction of such improvements;

(e) To change the pro rata interests or obligations of any Unit which apply for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and for (ii) determining the pro rata share of ownership of each Unit in the Common Areas;

(f) To alter the provisions hereof in such a way as to diminish the insurance protection required to be afforded to the parties designed to be protected thereby, or to fail to maintain the insurance coverage described therein;

(g) Subject any Condominium to any unreasonable restraints on alienation which would adversely affect title or marketability of a Condominium, or the ability of the Mortgagee to foreclose its mortgage lien and thereafter to sell or lease the mortgaged Condominium;

(h) To allow any person or entity handling funds of the Association, including without limitation employees of any professional managers, to do so without first obtaining therefor appropriate fidelity bond coverage.

16.04. Examination of Records. Any Mortgagee shall have the right, at its request and expense and upon reasonable notice, to examine the books and records of the Association. From and after the time a Mortgagee makes written request to the Association therefor, the Association shall furnish to such Mortgagee copies of such annual operating reports and other reports or writings summarizing or reflecting the financial position or history of the Project as may be prepared for distribution to or use by the Owners.

16.05. Revenue Fund and Working Capital Fund Required. The Association shall establish an adequate

reserve to cover the cost of reasonably predictable and necessary repairs and replacements of the Common Areas and any component thereof and shall cause such reserve to be funded by regular monthly or other periodic assessments against the Condominiums rather than by Special Assessments.

16.06. Notification of Loss or Damage. From and after the time a Mortgagee makes written request to the Association therefor, the Association shall notify such Mortgagee in writing in the event that there occurs any damage or loss to, or taking or anticipated condemnation of: (a) The Common Areas involving an amount in excess of, or reasonably estimated to be in excess of, Ten Thousand Dollars (\$10,000.00); or (b) Any Unit involving an amount in excess of, or reasonably estimated to be in excess of, One Thousand Dollars (\$1,000.00). Said notice shall be given within ten (10) days after the Association learns of such damage, loss, taking, or anticipated condemnation.

16.07. Article Supercedes All Others. In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Article XVI, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of authority, as the case may be, applicable to the Association with respect to the subject concerned.

16.08. No Right to Amend this Article. No amendment to this Article XVI which has the effect of diminishing the rights, protection, or security afforded to Mortgagees shall be accomplished or effective unless all of the Mortgagees of the individual Condominiums have given their prior written approval to such amendments. Any amendment to this Article XVI shall be accomplished by an instrument executed by the Association and filed for record in the office of the County Recorder of Iron County, State of Utah. In any such instrument, an officer of the Association shall certify under penalties of perjury that any prior written approval of Mortgagees required by this Article XVI as a condition to amendment has been obtained.

16.09. Notices. Any notice to a Mortgagee under this Article XVI shall be in writing and shall be sufficient for all purposes if personally served or if sent by first class mail, postage prepaid, and addressed to the Mortgagee at the address for notices from time to time specified by the Mortgagee in writing to the Association. Any such notice shall be deemed to have been given and received and shall be effective when personally served or when deposited in the U.S. mail in the form herein specified, whichever first occurs."

2. Unless the context otherwise requires and except as otherwise provided herein, all terms defined in the Declaration shall have such defined meanings when used herein.

3. Except as provided in this First Amendment, the Declaration shall remain in full force and effect in accordance with the provisions thereof.

4. This First Amendment shall become effective when recorded in the office of the County Recorder of Iron County, State of Utah.

IN WITNESS WHEREOF, the Declarant has executed this First Amendment as of the day and year first above written.

DECLARANT:

ATTEST:

Brian Head Environments, Inc.,  
a Utah corporation,

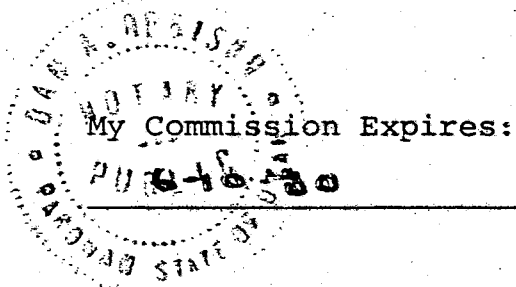
Charles Shepler  
Charles Shepler,  
Secretary

By Douglass H. Perry  
Douglass H. Perry,  
President

STATE OF UTAH )  
 ) : ss.  
COUNTY OF Iron )

On the 11<sup>th</sup> day of April, 1980, personally appeared before me Douglass H. Perry and Charles Shepler, who being by me duly sworn did say that they are the President and the Secretary, respectively, of Brian Head Environments, Incorporated, a Utah corporation, and that the within and foregoing First Amendment to Declaration of Condominium for The Brianwood Condominium Project was signed on behalf of said corporation by authority of its Bylaws or a resolution of its Board of Directors; said Douglass H. Perry and Charles Shepler each duly acknowledged to me that said corporation executed the same.

D. Adol  
NOTARY PUBLIC  
Residing at:



CONSENT

The undersigned, C. Harold Nordal and Theresa Nordal, Owners of Unit 6 in The Brianwood Condominium Project, do hereby consent to the amendment to the Declaration of Condominium for The Brianwood Condominium Project accomplished by the within and foregoing First Amendment.

