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BY: ZJK, DEPUTY - WI 10 P.

**FIRST AMENDMENT TO DECLARATION
OF CONDOMINIUM OF ZION SUMMIT,
A CONDOMINIUM PROJECT**

THIS FIRST AMENDMENT to Declaration of Condominium of Zion Summit, a Condominium Project (the "**First Amendment**") is made as of 02 JULY, 2003, by ZION SUMMIT OWNERS ASSOCIATION, a Utah non-profit corporation ("**Association**").

RECITALS

A. Pursuant to that certain Declaration of Condominium of Zion Summit, a Condominium Project, dated January 11, 1977, which was recorded on January 13, 1977, as Entry Number 2887848, in Book 4437, beginning at page 1209, official records of the Recorder of Salt Lake County, Utah, (the "**Original Declaration**"), Zion Summit, a Utah general partnership (the "**Declarant**"), subjected that certain real property described on **Exhibit A** to this First Amendment (the "**Parcel**"), to the provisions of the Original Declaration. Any capitalized terms not defined herein shall have the meanings assigned to them by the Original Declaration. The Original Declaration, as amended by the First Amendment, shall be referred hereto as the "**Declaration**."

B. The Management Committee of the Association and the Association have found that some of the provisions in the Original Declaration are inadequate for the operation of the existing Condominium Project, are no longer applicable to the Condominium Project, or are not in compliance with current federal and state laws.

C. The Management Committee and the Association have found, among other things, that:

(1) during the last several years insurance companies have denied coverage under homeowners' policies by considering the Association's insurance coverage as the primary coverage for claims for damages that emanate from within the Units, were due to Owner's or Occupant's (defined later) negligence or misconduct, or were caused by items that were the Owner's or Occupant's responsibility to maintain, repair or replace;

(2) the insurance coverage provided by the Association, however, was never intended to cover the foregoing claims;

(3) to eliminate the hardship on the Association, to maintain the insurability of the Project and to shift some of the responsibility for the foregoing losses from the entire Association to individual Owners, the Association and the Board believe that it is a fair and reasonable policy to require Owners to maintain a primary homeowner's policy that will cover at least the first \$10,000 of any such losses;

(4) the Association will continue to maintain its insurance coverage but such insurance will be secondary for losses that emanate from within the Units, were due to Owner's or Occupant's (defined later) negligence or misconduct, or were caused by items that were the Owner's or Occupant's responsibility to maintain, repair or replace;

(5) amending insurance provisions of the Original Declaration as provided herein will enhance, not diminish, the insurance protection required to be afforded to the parties under the Original Declaration;

(6) the Declarant does not own any Units in the Condominium Project and accordingly, several Sections of the Original Declaration are no longer applicable;

(7) based on the Committee's dealings with independent contractors and the Association's employees, it is the Association's and the Committee's opinion that employees perform their duties more responsibly and efficiently than the independent contractors, and the Committee should be able to appoint the Association's employees to be responsible for the day-to-day management and operation of the Condominium; and

(8) the Committee should be able to adopt certain rules and regulations relating to the screening of prospective purchasers and tenants of Units because certain individuals with criminal backgrounds may pose a threat to the health, safety and welfare of the Owners and all residents of the Condominium Project.

D. The Association, by and through Owners, desire to amend the Original Declaration as set forth herein.

E. The Association is empowered to make this First Amendment pursuant to the terms and provisions of the Original Declaration and pursuant to Utah law. This Amendment has been approved by the requisite number of Owners in accordance with Article 27 of the Original Declaration.

F. The Association finds that this First Amendment does not require the consent of any Mortgagees because the Declaration does not amend any provisions of the Original Declaration requiring the consent of Mortgagees and no provisions of this First Amendment have the effect of diminishing the rights of Mortgagees.

NOW, THEREFORE, the Association does hereby amend and modify the Original Declaration as follows:

1. **Certain Definitions.** As used herein, unless the context otherwise requires:

- (a) Occupant. "Occupant" shall mean a Person (defined below) or Persons, other than an Owner, in possession of, or using a Unit, including, without limitation, family members, tenants, guests, or invitees.
- (b) Person. "Person" shall mean a natural individual, corporation, estate, partnership, limited liability company, trustee, association, joint venture, government, governmental subdivision or agency or other legal entity capable of holding title to real property.

2. **Board of Directors**. All references to the "Management Committee" or "Committee" in the Declaration are changed to the "Board of Directors" or the "Board."

3. **Insurance Obtained by Owners**.

(a) Owner's Responsibility to Insure. Each Owner must, at his or her own expense, maintain a homeowner's policy as provided under this Section 3. Such homeowner's policy must be in addition to any insurance coverage provided by the Association. Each Owner is responsible for losses to his or her Unit, which losses (i) emanate from within such Owner's Unit, or (ii) arise out of any accident or other occurrence by reason of Owner's or Occupant's use or occupancy of the Unit, or (iii) are due to the Owner's or Occupant's negligence or willful misconduct, or (iv) are due to the neglect or use of the Unit by the Owner or Occupant, or (v) are caused by items that are the Owner's or the Occupant's responsibility to maintain, repair or replace (collectively, the "Losses"). Owners and Occupants shall be primarily responsible to maintain, repair, and replace items that are appurtenant to their Unit, including, without limitation, improvements, betterments, all fixtures, appliances and items of personal property.

(b) Primary Coverage. Notwithstanding anything to the contrary in the Original Declaration, the insurance coverage of an Owner or Occupant shall be primary and the insurance of the Association shall be secondary for the Losses. All Owners shall have a minimum COVERAGE A BUILDING for \$10,000 added to their individual homeowner's policies. If an Owner fails to maintain such insurance, Owner will still be responsible for the first \$10,000 on any claim arising from the Losses.

(c) Personal Property. Personal property coverage and personal liability coverage are the sole responsibility of the Owner or Occupant.

(d) Deductible. If a claim is filed on the Association's policy involving a Unit, it is the Owner's responsibility to pay the Association's deductible. Coverage for the Association's deductible could be covered under the homeowner's policy.

(e) Indemnity. No Owner or Occupant shall take any action that might negatively impact the coverage of any and all insurance purchased by the Association pursuant to Section 18 of the Original Declaration. To the extent that the Association or any other Owners are damaged by any action of an Owner which negatively impacts the coverage of said insurance, the Owner shall fully indemnify the Association or any other Owner, when applicable, for any and all losses and damages suffered as result of such action and the negative impact on the coverage of said insurance.

4. **Screening Requirements.** The Association acknowledges that certain individuals with criminal backgrounds may pose a direct threat to the health, safety and welfare of the Owners and all residents of the Condominium Project. For the purpose of promoting the health, safety and welfare of the Owners and Occupants of the Condominium Project, the Board may make and adopt rules and regulations relating to the screening of prospective purchasers of Units and tenants of Units and consider any reasonable criteria in screening prospective purchasers and tenants, including criminal convictions, subject only to constitutional and statutory limits.

5. **Amendment of Section 7(b)(8).** Section 7(b)(8) is deleted in its entirety and replaced with the following:

“Section 7(b)(8). Except as otherwise provided in the Declaration, no admission fees, charges for use, leases or other income-generating arrangement of any type will be employed or entered into with respect to any portion of the Common Areas and Facilities.”

6. **Amendment of Section 8.** Section 8 of the Declaration is deleted in its entirety and replaced with the following:

“8. **Agent for Service of Process.** The Board must appoint and maintain a registered agent with the Utah Department of Commerce, Division of Corporations and Commercial Code to receive service of process for the Condominium.”

7. **Amendment of Section 12(f).** Section 12(f) of the Declaration is deleted in its entirety and replaced with the following:

“(f) **Manager.** The Board may appoint a manager who must, subject to the direction of the Board, be responsible for the day-to-day management and operation of the Condominium and may delegate such of its powers and duties to the manager as the Board deems appropriate; provided, however, that only the Board has the right to approve Association budgets, to impose a special Assessment and to authorize the foreclosure of an assessment lien. Any such manager appointed by the Board can be an independent contractor or any employee or agent of the Association. The Board will determine the compensation to be paid to the manager. In the event the Board enters into a management agreement with the manager, such agreement must not exceed the term of three (3) years and must provide that the Board may terminate for cause upon not in excess of ninety (90) days written notice.”

8. **Amendment of Section 15.** The following is added at the end of Section 15 of the Declaration:

“For purposes of this section, the term “improvement” means a betterment of the Common Areas and Facilities of a long lasting nature which adds to the capital value of the Project. The term “improvement” may include, without limitation, major structural improvements to the Common Areas and Facilities, structural foundation work, structural

alterations of the Common Areas and Facilities, rewiring, new light fixtures, new screens, roof replacement, and gutter replacement. Painting and carpeting of the Common Areas and Facilities performed solely for ordinary maintenance or cosmetic reasons are not "improvements" for purposes of this Section 15."

9. **Amendment of Section 32.** Section 32 of the Declaration is deleted in its entirety.

10. **Amendment of Section 35.** Section 35 of the Declaration is deleted in its entirety and replaced with the following:

"35. **Lease of Units.** With the exception of a lender in possession of a Unit following a default in a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner is permitted to lease such Owner's Unit for transient or hotel purposes. Subject to the rules and regulations related to the screening of prospective tenants adopted by the Board, if any, an Owner may lease such Owner's Unit for a period of not less than six (6) months. No Unit Owner may lease less than the entire Unit.

Any agreement for the leasing, rental, or occupancy of a Unit (hereinafter in this Section referred to as a "lease") must be in writing and a copy thereof must be delivered to the Association before the term of the Lease commences. Every lease must provide that the terms of such lease are subject in all respects to the provisions of this Declaration, the Bylaws and the rules and regulations adopted by the Association. The lease must further provide that any failure by the Occupant thereunder to comply with the terms of the foregoing documents will be a default under the lease. If any lease does not contain the foregoing provisions, such provisions will nevertheless be deemed to be a part of the lease and binding on the Owner and Occupant by virtue of their inclusion in this Declaration.

Any Owner who leases such Owner's Unit is responsible for assuring compliance by the Occupant with this Declaration, the Bylaws and the rules and regulations of the Association. Failure by an Owner to take legal action, including the institution of a forcible entry and detainer proceeding against the Owner's Occupant who is in violation of this Declaration, the Bylaws or the rules and regulations of the Association within ten (10) days after receipt of a written demand to do so from the Board, will entitle the Association, through the Board, to take any and all action necessary including the institution of proceedings in forcible entry and detainer on behalf of such Owner against the Owner's Occupant. Neither the Association nor any agent retained by the Association to manage the Condominium will be liable to the Owner or Occupant for any eviction under this Section that is made in good faith. Any expenses incurred by the Association, including attorney fees and costs of suit, must be repaid to it by such Owner. Failure by such Owner to make such repayment within ten (10) days after receipt of a written demand therefor will entitle the Board to levy a special assessment against such Owner and the Owner's Unit for all such expenses incurred by the Association. In the event such special Assessment is not paid within thirty (30) days of its due date, the

Board may resort to all remedies of the Association for the collection thereof. Other than as stated in this Section 35, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to a Unit.”

11. **Sections Relating to Declarant.** It is understood that the Declarant no longer has any interest in the Condominium Project. Accordingly, Section 6, 29, 30, 31 and 34 are hereby deleted. Section 27 is deleted in its entirety and replaced with the following:

“27. **Amendment.** Subject to the provisions of Section 20, this Declaration and/or the Map may be amended upon the affirmative vote or approval and consent of not less than two-thirds (2/3) of the undivided interest in the Common Areas and Facilities. Any amendment so authorized will be accomplished by recording an instrument executed by the Management Committee. In said instrument the Committee will certify that the vote or consent required by this Section has occurred.”

Section 12(b) is deleted in its entirety and replaced with the following:

“(b) **Composition of Board of Directors.** The governing body of the Association is the Board of Directors elected pursuant to the Bylaws and the Declaration. The Board is composed of nine (9) members, four members from Tower A, four members from Tower B and the ninth member from either Tower. At the first regular Association meeting three (3) Board members must be elected for three-year terms, three (3) Board members must be elected for two-year terms and three (3) Board members must be elected for a one-year term. At each annual Association meeting thereafter any vacant seat on the Board must be filled with a member elected for a three-year term. Each Board member must be an Owner or spouse of an Owner (or if an Owner is a corporation, director, partnership, or trust, a Board member may be an officer, partner, trustee or beneficiary of such Owner). At the annual meeting the percentage of undivided ownership interest appurtenant to a Unit may be voted in favor of as many candidates for Board membership as there are seats on the Board to be filled. Any Board member who fails on three successive occasions to attend Board meetings (whether regular or special) or who has failed to attend at least 25% of all Board meetings (whether regular or special) held during any twelve-month period will automatically forfeit his seat. In the event a Board seat becomes vacant, the remaining Board members must elect a replacement to sit on the Board until the expiration of the term for which the member being replaced was elected. Unless a Board member forfeits or otherwise loses his or her seat as herein provided, a Board member must serve on the Board until his or her successor is elected and qualifies. Board members must be reimbursed for all expenses reasonably incurred in connection with Board business.

12. **Original Declaration Terms Apply; Amendment Controls.** Except as specifically provided herein, the terms and conditions of the Original Declaration must remain in full force and effect. If any provision of the Original Declaration is in conflict with any provisions of this Amendment, the terms of this Amendment must control.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the day and year first above written.

BOARD OF DIRECTORS' CERTIFICATE

WE, The Undersigned, being all the members of the Board Directors of ZION SUMMIT CONDOMINIUM ASSOCIATION, a Utah nonprofit corporation, do hereby certify that the foregoing FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM OF ZION SUMMIT, A CONDOMINIUM PROJECT has been approved by the Owners holding at least two-thirds of the undivided interest in the Common Areas and Facilities.

By: A. Ernest Weeks
Name: A. Ernest Weeks
Date: 7-2-03

By: George H. Wilson
Name: George H. Wilson
Date: 07/02/03

By: Paul M. DeLamano
Name: Paul M. DeLamano
Date: 7/2/03

By: R. G. Schreiner
Name: R. Schreiner
Date: 7.2.03

By: Helen Joe Stoddard
Name: Helen Joe Stoddard
Date: 2 July 2003

By: Jean Bastow
Name: Jean Bastow
Date: 2 July 2003

By: Douglas Heddon
Name: Douglas Heddon
Date: 2 July 03

By: L. DON BERCHTOLD
Name: L. Don Berchtold
Date: 2 JUNE 2003

By: Vernon Rex Waltman
Name: V. Waltman
Date: 6-3-03

EXHIBIT "A"

Legal Description of Parcel

That certain real property located in Salt Lake County, Utah, and more particularly described as follows:

Lots 2, 3 and 4, Block 4, Plat E, Salt Lake City Survey, together with 1/2 vacated street abutting on the north, excepting therefrom that portion of said Block 4 dedicated to Salt Lake City by a dedication plat dated August 24, 1965 and recorded October 20, 1965, in Book DD of plats at page 44, as entry no. 2118718 in the office of the Salt Lake County Recorder, said parcel being further described as follows: Beginning at a point N. $82^{\circ}11'33''$ W. 91.66 feet from the southernmost corner of said Block 4, and running thence N. $82^{\circ}11'33''$ W. 2.57 feet to a point of a 194.82 foot radius curve to the right; thence Northwesterly along the arc of said curve 116.94 feet to a point of tangency; thence N. $47^{\circ}48'20''$ W. 3.99 feet; thence N. $23^{\circ}51'41''$ W. 41.89 feet; thence N. $60^{\circ}03'21''$ W 55.40 feet; thence N. $66^{\circ}07'49''$ E. 102.17 feet; thence S. $23^{\circ}52'11''$ E. 66.00 feet; thence N. $66^{\circ}07'49''$ E. 10.10 feet; thence S. $23^{\circ}52'11''$ E. 112.36 feet to the point of beginning.

Also the following described parcel: At the Northeast corner of Lot 1, Block 5, Plat "E", Salt Lake City Survey, said point being North $82^{\circ}11'33''$ West 38.318 Feet and South $23^{\circ}51'22''$ East 40.435 feet from the monument at the intersection of Center Street and Vine Street and running thence South $82^{\circ}11'33''$ East 11.50 feet; thence South $65^{\circ}15'06''$ East 69.08 feet; thence South $0^{\circ}02'13''$ East 144.51 feet; thence South $89^{\circ}59'06''$ West 245.18 feet to a point of 76.44 foot radius curve to the right; thence Northwesterly along the arc of said curve 25.07 feet to a point of tangency; thence North $71^{\circ}13'00''$ West 136.34 feet; thence South $89^{\circ}59'06''$ West 11.81 feet; thence North $25^{\circ}19'54''$ West 197.01 feet; thence North $59^{\circ}40'34''$ East 143.35 feet; thence South $41^{\circ}33'51''$ East 59.42 feet to a point of curve to the left the center of which is North $42^{\circ}11'40''$ East 247.60 feet; thence southeasterly along the arc of said curve 148.60 feet to a point of tangency; thence South $82^{\circ}11'33''$ East 126.16 feet to the point of beginning. 2.094 acres.

ZION SUMMIT CONDOMINIUM ASSOCIATION,
a Utah non-profit corporation

By: A. Ernest Weeks
Name: A. Ernest Weeks
Its: President

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On this 2ND day of JULY, 2003, personally appeared before me
A ERNEST WEEKS, as President of Zion Summit Condominium Association, a Utah
nonprofit corporation, whose identity is personally known to me or proved to me on the basis of
satisfactory evidence, and said A ERNEST WEEKS acknowledged to me that he executed the
same in the capacities herein mentioned.

Witness my hand and official seal.



Kirk A Granat
NOTARY PUBLIC
07/02/03

08-36-438