

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:  
Jennifer E. Breusch  
Jacobs Chase Frick Kleinkopf & Kelley LLC  
1050 - 17th Street, Suite 1500  
Denver, Colorado 80265

**RIGHT OF FIRST REFUSAL AGREEMENT**

This Right of First Refusal Agreement (this "Agreement"), dated and effective as of June 27, 2001, is by and between Copper Mountain, Inc., a Delaware corporation ("Copper") and Mountain Plaza Condominium Association, a Colorado nonprofit corporation (the "Association").

**RECITALS**

A. Copper owns those units in Mountain Plaza Condominium more particularly described on Exhibit A attached hereto and made a part hereof, together with all rights, privileges, easements and appurtenances thereto (each, an "Employee Unit"; collectively, the "Employee Units").

B. Copper desires to grant to the Association a right of first refusal to purchase the Employee Units.

**AGREEMENT**

In consideration of the foregoing, the parties hereby agree as follows:

1. Right of First Refusal.

(a) Copper hereby grants to the Association a right of first refusal to purchase each of the Employee Units, in accordance with the terms and conditions set forth herein.

(b) The right of first refusal granted in paragraph 1(a) may be exercised by the Association at any time that:

(i) Copper shall determine to offer to sell, transfer or otherwise convey ("Transfer") such an Employee Unit to any person or entity (a "Transferee"), other than to a transferee permitted by paragraph 6(b) (a "Permitted Transferee"); or

(ii) Copper shall receive a bona fide offer (an "Offer") from a Transferee to acquire by Transfer such an Employee Unit and Copper desires to accept such Offer.

2. Offer Notice. Upon the occurrence of an event described in paragraph 1(b) shall immediately deliver written notice (an "Offer Notice") to the Association. Such Offer Notice shall include the name of the proposed Transferee, if any (the "Proposed Acquirer"), the Employee Unit(s) subject to such transfer (the "Subject Property"), the purchase price, the anticipated closing date, and, in the case of an Offer, a photocopy of such Offer.

3. Response Notice. Within thirty (30) days after receipt by the Association of any Offer Notice, the Association shall deliver written notice (a "Response Notice") to Copper wherein the Association shall elect either to acquire or not acquire all of the Subject Property upon the terms set forth in the Offer Notice (as such terms may be modified pursuant to paragraph 5(a)). If within such 30-day period, the Association fails to deliver a Response Notice in respect of an Offer Notice, then the Association shall be deemed to have delivered a Response Notice electing not to acquire the Subject Property upon the terms set forth in such Offer Notice.

4. Election Not to Acquire. If in response to any Offer Notice, the Association timely delivers (or is deemed to have delivered) to Copper a Response Notice electing not to acquire all of the Subject Property, then Copper shall be permitted to Transfer all of the Subject Property to the Proposed Acquirer, on the condition that such Transfer closes on or before one hundred twenty (120) days after the closing date set forth in the Offer Notice, on the same terms and conditions set forth in the Offer. If such Transfer fails to close on or before one hundred twenty (120) days after the closing date set forth in the Offer Notice, Copper shall not be permitted to Transfer the Subject Property to the Proposed Acquirer or to any other Transferee unless such Proposed Acquirer or Transferee delivers another Offer to Copper and Copper again complies with the terms of this Agreement.

5. Election to Acquire. If in response to any Offer Notice, the Association timely delivers to Copper a Response Notice electing to acquire all of the Subject Property, then:

(a) the Association shall have the exclusive right to acquire the Subject Property and Copper shall Transfer the Subject Property to the Association subject to, and in accordance with, the terms of such Offer Notice; provided, however, that at the Association's election, the closing of such Transfer to the Association may be postponed to a date not later than the later to occur of: (i) thirty (30) days after the expiration of the 10-day period set forth in Section 3; or (ii) thirty (30) days after the closing date set forth in the Offer Notice;

(b) if the closing of such Transfer to the Association fails to occur on or before the closing date set forth in the Offer Notice, as such date may be postponed pursuant to the terms of paragraph 5(a) or by agreement of the Association and Copper, as appropriate (the "Deadline Date"), and such failure is due to a default by the Association of the terms of the Offer Notice or any other agreement between Copper and the Association with respect to such Transfer, Copper shall have a right to an action against the Association for specific performance, damages or both, and Copper shall be permitted to Transfer the Subject Property to the Proposed Acquirer, on the condition that such Transfer closes on or before the date that is one hundred twenty (120) days after the Deadline Date.

6. Permitted Transferees.

(a) Notwithstanding any other provision contained herein to the contrary, Copper shall be permitted to Transfer any or all of the Employee Units to any of the Permitted

Transferees set forth in paragraph 6(b) without the necessity of complying with the terms set forth in this Agreement, unless such Transfer is structured in an attempt to avoid the provisions of this Agreement.

(b) The following shall be "Permitted Transferees" for purposes of this Agreement:

(i) any Affiliate of Copper; or

(ii) any successor or assign that may result from the merger, consolidation or reorganization of Copper or its Affiliates.

(c) For purposes of paragraph 6(b): (i) the term "Affiliate" shall mean, with respect to any person, any other person (A) in which such first person, directly or indirectly, owns at least a 10% interest (whether economic or voting), (B) which directly or indirectly owns at least a 10% interest (whether economic or voting) in such person or (C) which, directly or indirectly, is in Control of, is Controlled by, or is under common Control with, such person; and (ii) the terms "Control" or "Controlled" with respect to a person means the power, directly or indirectly, either to direct or cause the direction of the management and policies of such person, whether through the ownership of voting securities or equity interests, by contract or otherwise.

7. Assignment. Neither Copper nor the Association shall assign its rights, interests and obligations under this Agreement without the prior written consent of the other party, except to a Permitted Transferee.

8. Effect of Transfer. Upon the recording in the real property records of Summit County, Colorado of a certificate wherein Copper or any subsequent owner of any Employee Unit certifies it has Transferred such Employee Unit to any person or entity other than a Permitted Transferee, this Agreement shall be of no further effect with respect to such Employee Unit. The Association agrees to execute and deliver to Copper and any subsequent owner of any Employee Unit such additional documents and instruments necessary or desirable to further evidence the release described in the previous sentence.

9. Remedies Cumulative. Any and all remedies provided by this Agreement, operation of law, or otherwise, shall be deemed to be cumulative, and the choice or implementation of any particular remedy shall not be deemed to be an election to the mutual exclusion of any other remedy provided for herein, by operation of law, or otherwise.

10. Costs of Legal Proceedings. If either party institutes legal proceedings with respect to this Agreement, the prevailing party shall be entitled to court costs and reasonable attorneys' fees incurred by such party in connection with such legal proceedings. The "prevailing party" shall be determined, at the conclusion of any appeals, if any, by the entity before whom the dispute was brought, based upon an assessment of which party's major argument or positions taken in the arbitration, suit or proceeding could fairly be said to have prevailed over the other party's major arguments or positions on major disputed issues, in the final decision of the court or any appellate court.

11. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Colorado.

12. Notices. Any notice to be given to any party pursuant to any provision of this Agreement shall be in writing, shall be (a) hand delivered to such party, (b) sent by telecopy to the telecopy number for such party listed below, (c) sent by Federal Express or other nationally-recognized overnight courier service to the address of such party set forth below and, if hand delivered, shall be deemed received when delivered, if telecopied, shall be deemed received upon confirmation of receipt either telephonically or by facsimile, and if sent by Federal Express or other nationally-recognized overnight courier service, shall be deemed received one business day after having been deposited with Federal Express or other nationally-recognized overnight courier service if designated for next day delivery addressed as follows:

If to Copper:

Copper Mountain, Inc.  
325 Lake Dillon Drive, Suite 205  
Dillon, Colorado 80435  
Attention: Vice President, Real Estate Development Group  
Telecopy No.: (970) 868-2318  
Confirmation No.: (970) 968-2308

with copies to:

Jacobs Chase Frick Kleinkopf & Kelley LLC  
1050 17th Street, Suite 1500  
Denver, Colorado 80265  
Attention: Robert P. Detrick, Esq.  
Telecopy No.: (303) 685-4869  
Confirmation No.: (303) 685-4800

If to the Association:

Mountain Plaza Condominium Association  
209 Ten Mile Circle  
P.O. Box 3001  
Copper Mountain, Colorado 80443  
Attention: Lynn Paul, President  
Telecopy No.: 303-290-8211  
Confirmation No.: 303-843-6400

and: Ms. Lynn W. Paul  
125 Howard Avenue  
Staten Island, New York 10301

with copies to:

Howard J. Beck  
Beck and Cassinis  
Suite 200. The Marketplace  
3025 South Parker Road  
Aurora, Colorado 80014  
Telecopy No.: (303) 750-7530  
Confirmation No.: (303) 750-1567

Any party, by notice given as provided above, may change the address or telecopy number to which future notices shall be sent.

13. Amendment. This Agreement may not be amended, modified, revoked, supplemented, waived or otherwise changed except by a written instrument duly executed and delivered by each of the parties hereto.

14. No Third Party Beneficiaries. This Agreement is intended solely for the benefit of Copper and the Association. Nothing contained herein shall be deemed to give any third party any claim or right of action against Copper or the Association which does not otherwise exist without regard to this Agreement.

15. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same instrument.

Executed to be effective as of the date first set forth above.

**COPPER MOUNTAIN, INC.,** a  
Delaware corporation

By: Paul Stashuk  
Name: Paul Stashuk  
Title: Vice President

**MOUNTAIN PLAZA CONDOMINIUM**  
**ASSOCIATION,** a Colorado nonprofit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Executed to be effective as of the date first set forth above.

**COPPER MOUNTAIN, INC.,** a  
Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**MOUNTAIN PLAZA CONDOMINIUM  
ASSOCIATION,** a Colorado nonprofit corporation

By: Thomas M. Wallis  
Name: Thomas M. Wallis  
Title: Vice President

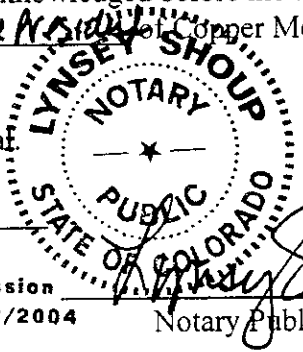
STATE OF COLORADO )  
 ) ss.  
COUNTY OF Summit )

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of June, 2001, by Paul Stashick as Vice President of Copper Mountain, Inc., a Delaware corporation, on its behalf.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

My Commission  
Expires 03/22/2004

  
Notary Public

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Summit )

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of June, 2001, by Jane M. Hallen as President of Mountain Plaza Condominium Association, a Colorado nonprofit corporation, on its behalf.

Witness my hand and official seal.

My commission expires: 10/27/03

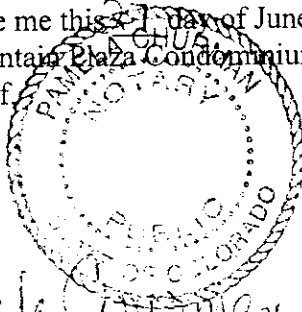
  
Notary Public

EXHIBIT A

(Attached to and forming a part of the Right of  
First Refusal Agreement dated June \_\_, 2001)

LEGAL DESCRIPTION OF THE EMPLOYEE UNITS

1. Condominium Unit 202, "MOUNTAIN PLAZA CONDOMINIUMS" according to and subject to the Declaration therefor recorded November 14, 1996 under Reception No. 528226 and any and all amendments thereto, and the Condominium Map recorded November 6, 1980 under Reception No. 214623, and any and all amendments or supplements thereto, County of Summit, State of Colorado.
2. Condominium Unit 204, "MOUNTAIN PLAZA CONDOMINIUMS" according to and subject to the Declaration therefor recorded November 14, 1996 under Reception No. 528226 and any and all amendments thereto, and the Condominium Map recorded November 6, 1980 under Reception No. 214623, and any and all amendments or supplements thereto, County of Summit, State of Colorado.
3. Condominium Unit 206, "MOUNTAIN PLAZA CONDOMINIUMS" according to and subject to the Declaration therefor recorded November 14, 1996 under Reception No. 528226 and any and all amendments thereto, and the Condominium Map recorded November 6, 1980 under Reception No. 214623, and any and all amendments or supplements thereto, County of Summit, State of Colorado.
4. Condominium Unit 208, "MOUNTAIN PLAZA CONDOMINIUMS" according to and subject to the Declaration therefor recorded November 14, 1996 under Reception No. 528226 and any and all amendments thereto, and the Condominium Map recorded November 6, 1980 under Reception No. 214623, and any and all amendments or supplements thereto, County of Summit, State of Colorado.