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Cher Brunvand-Summit County Recorder 6/15/2000 12:21 DF: Exempt

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



**AMENDED AND RESTATED DECLARATION  
OF PARKING GARAGE CROSS-EASEMENTS**

This AMENDED AND RESTATED DECLARATION OF PARKING GARAGE  
CROSS-EASEMENTS (this "Declaration of Easements"), dated to be effective as of the 12th day  
of June, 2000, is created by COPPER MOUNTAIN, INC., a Delaware corporation ("Copper").

RECITALS

A. Copper owns the parcel of real property described on Exhibit A, attached hereto  
(the "Property").

B. Copper is developing four condominium projects on the Property to be known as  
Camp One Condominium, Mill Club Condominium, Taylor's Crossing Condominium, and  
Tucker Mountain Lodge Condominium (collectively, the "Condominiums" or individually, a  
"Condominium").

C. In connection with Copper's development of such condominium projects, Copper  
is constructing an underground parking garage (the "Parking Garage") on the Property. Copper  
subjected the Property to that certain Declaration of Parking Garage Cross-Easements, dated to  
be effective as of September 22, 1999 and recorded on September 29, 1999 as Instrument No.  
606510 in the Summit County, Colorado real property records (the "Original Declaration"), in  
order to provide for the joint use, operation, maintenance and repair of such Parking Garage.

D. Copper now desires to amend and restate the Original Declaration as set forth  
herein.

EASEMENTS

In consideration of the foregoing, Copper hereby amends and restates the Original  
Declaration as follows and declares that the Property shall be held, sold and conveyed subject to  
the following easements and conditions:

1. Ownership of the Parking Garage.

(a) The owner of any portion of the Property upon which a declaration creating a Condominium (a "Declaration") has not been recorded shall own that portion of the Parking Garage located on or under such portion of the Property.

(b) After the recording of a Declaration creating a Condominium on any portion of the Property, that portion of the Parking Garage within such Condominium shall be one or more common elements and one or more condominium units within such Condominium, as set forth in and subject to the terms of such Declaration.

2. Pre-Condominium Easements. Prior to the recording of a Declaration creating a Condominium on any portion of the Property, the owner of such portion of the Property shall have a nonexclusive easement: (a) for purposes of pedestrian and vehicular ingress and egress to and from such portion of the Property to and from Copper Road, over, across and through those portions of the Parking Garage that are designed for such uses (and that are not part of any condominium unit), except any parking space included within a Condominium that has been designated as a delivery space by the homeowners association for such Condominium; (b) for purposes of vehicular parking over, across and through those portions of the Parking Garage that are designed for such use (and that are not part of any condominium unit); and (c) over, across and through the Parking Garage for purposes of operating, maintaining and repairing such portions of the Parking Garage, in each case in accordance with Section 5 below. Upon the recording of a Declaration creating a Condominium on any portion of the Property, the easement granted under this Section 2 for the benefit of such portion of the Property shall automatically terminate and be replaced by the easement described in Section 3 below.

3. Post-Condominium Easements. Following the recording of a Declaration creating a Condominium on any portion of the Property:

(a) each owner of a residential unit within such Condominium, and such owner's family members, employees, agents, independent contractors, lessees, customers or invitees (the "Guests"), shall have a nonexclusive easement: (i) for purposes of pedestrian and vehicular ingress and egress to and from such Condominium to and from Copper Road, over, across and through those portions of the Parking Garage that are designed for such uses (and that are not part of any condominium unit); (ii) for purposes of vehicular parking over, across and through those portions of the Parking Garage that are designed for such use (and that are not part of any condominium unit), except any parking space included within a Condominium that has been designated as a delivery space by the homeowners association for such Condominium; and (iii) over, across and through those portions of the Parking Garage that are not part of any condominium unit for purposes of exercising any right such owner or Guest has under the Declaration creating such owner's residential unit, in accordance with and subject to the terms and conditions of such Declaration;

(b) the condominium association for such Condominium and the declarant under such Declaration shall each have a nonexclusive easement over, across and through those



portions of the Parking Garage that are not part of any condominium unit for purposes of exercising any right it has under such Declaration, in accordance with and subject to the terms and conditions of such Declaration.

4. Restrictions. Notwithstanding anything to the contrary in this Declaration of Easements, the easements set forth in Section 2 above shall be subject to the restrictions set forth in paragraphs 4(a) and (b) below. Notwithstanding anything to the contrary in this Declaration of Easements, the easements set forth in Section 3 above shall be subject to the restrictions set forth in paragraphs 4(a), (b), and (c) below.

(a) No motor vehicle classed by manufacturer rating as exceeding three-quarter ton and no mobile home, trailer, detached camper or camper shell, boat or other similar equipment or vehicle may be kept or parked in the Parking Garage.

(b) No motor vehicle shall be constructed, repaired or serviced in the Parking Garage.

(c) Each owner of a residential unit within the Condominiums or their Guests may use one parking space in the Parking Garage during any period during which such owner, or one or more of its Guests, are staying in such owner's unit. At no time may an owner of a residential unit or its Guests use more than one parking space in the Parking Garage, and such owner may not park a car in the Parking Garage for more than seven consecutive days when the owner or its Guest is not staying in such owner's unit.

5. Operation, Maintenance and Repair.

(a) Prior to the recording of a Declaration for the Camp One Condominium, Copper shall have the right, pursuant to this Declaration of Easements, to operate, maintain and repair the Parking Garage except those portions of the Parking Garage that are condominium units.

(b) All costs and expenses incurred by Copper in connection with the operation, maintenance and repair of the Parking Garage in accordance with paragraph 5(a) shall be shared among Copper and the Associations as follows: the cost to be paid by each Association shall equal the product obtained by multiplying (i) the total costs incurred by Copper for the operation, maintenance and repair of the Parking Garage in accordance with paragraph 5(a), by (ii) a fraction, the numerator of which shall be the number of residential units within such Association's Condominium, and the denominator of which shall be 229.

(c) Following the recording of a Declaration for the Camp One Condominium, the Camp One Association shall have the right, pursuant to this Declaration of Easements, to operate, maintain and repair the Parking Garage (other than portions of the Parking Garage that are condominium units), and all costs and expenses incurred by the Camp One Association in connection therewith shall be shared among the Associations, as follows: the cost to be paid by each Association shall equal the product obtained by multiplying (i) the total costs

incurred by the Camp One Association for the maintenance and repair of the Parking Garage in accordance with this paragraph 5(c), by (ii) a fraction, the numerator of which shall be the number of residential units (other than residential units restricted for use as employee housing) within such Association's Condominium, and the denominator of which shall be the total number of residential units (other than residential units restricted for use as employee housing) in all Condominiums in existence when such costs were incurred.

(d) Each Association that owes its respective share of costs and expenses to Copper (in accordance with paragraph 5(b)) or to the Camp One Association (in accordance with paragraph 5(c)) shall pay its respective share of costs and expenses to Copper or to the Camp One Association, as the case may be, on demand.

6. Decisions Regarding the Operation, Maintenance and Repair of the Parking Garage.

Following the recording of a Declaration for the Camp One Condominium, the Camp One Association shall have complete decision-making authority with respect to the operation, maintenance and repair of the Parking Garage (except those portions of the Parking Garage that are condominium units); provided, however, the Camp One Association shall act reasonably and fairly in making such decisions so that its decisions and acts do not unfairly discriminate against the owners of the other portions of the Property not within the Camp One Condominium and/or the owners of the units within the other Condominiums, as the case may be.

7. Amendment. This Declaration of Easements may not be amended, modified, revoked, supplemented, waived or otherwise changed except by a written instrument duly executed by the parties indicated below:

(a) if made prior to the recording of any Declaration, a written instrument executed by Copper; or

(b) if made after the recording of any Declaration but prior to the recording of all Declarations, a written instrument duly agreed to and executed by the Association(s) and Copper; or

(c) if made after the recording of all Declarations, a written instrument duly agreed to and executed by the Associations.

8. Enforcement of Obligations. If any Association (or any unit owner in such Association or its Guest) shall fail to comply with this Declaration of Easements, the other Associations shall have full power and authority to enforce compliance in any manner provided for by law or in equity, including, without limitation, (a) an action for damages, or (b) an action to enjoin any violation or specifically enforce the provisions hereof. Notwithstanding the foregoing, no Association shall take any action to enforce compliance with this Declaration of Easements until such party has given the other Associations written notice describing the specific

claimed default and 60 days, or such longer period as is reasonable under the circumstances, to cure the claimed default.

9. Delivery Spaces. An Association may not designate as "delivery spaces" more than two parking spaces located in the portions of the Parking Garage located within its Condominium.

10. No Merger. It is the intention of Copper that the separate estates and rights created hereby shall not merge if all or any part of the Property is owned by the same individual or entity.

11. Time of the Essence. All of the provisions of this Declaration of Easements regarding time for performance are of the essence.

12. Notices. Any notice or communication required or permitted under the terms hereof shall be in writing and shall be hand delivered, sent by overnight courier, or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Copper:

Copper Mountain, Inc.  
P.O. Box 3001 (for U.S. Postal Service)  
209 Ten Mile Circle (for overnight courier)  
Copper Mountain, Colorado 80443  
Attn: David Barry  
Telephone: (970) 968-2318  
Facsimile: (970) 968-2308



If to the Association for the Camp One Condominium:

To the address set forth in the Declaration of Covenants, Conditions and Restrictions for the Camp One Condominium to be recorded with the Clerk and Recorder of Summit County, Colorado

If to the Association for the Mill Club Condominium:

To the address set forth in the Declaration of Covenants, Conditions and Restrictions for the Mill Club Condominium to be recorded with the Clerk and Recorder of Summit County, Colorado

If to the Association for the Taylor's Crossing Condominium:

To the address set forth in the Declaration of Covenants, Conditions and Restrictions for the Taylor's Crossing Condominium to be recorded with the Clerk and Recorder of Summit County, Colorado

If to the Association for the Tucker Mountain Lodge Condominium:

To the address set forth in the Declaration of Covenants, Conditions and Restrictions for the Tucker Mountain Lodge Condominium to be recorded with the Clerk and Recorder of Summit County, Colorado

Any notice shall be deemed effective when hand delivered, or one day after timely delivery (as evidenced by receipt from the overnight courier) to an overnight courier for next day delivery to the recipient party, or three days after the same is deposited in the U.S. Postal Service properly addressed for registered or certified mail, return receipt requested, postage prepaid. Any of the parties listed in this Section may change its address for the giving of notice by notice hereunder.

13. Payment. Should any owner or Association fail to make a timely payment of any amount payable hereunder, the balance due thereafter shall reflect an additional interest charge in the amount of eighteen percent per annum, compounded monthly.

14. Binding Effect. Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of Copper and its successors and assigns.

15. Captions. The captions appearing in this Declaration of Easements have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Declaration of Easements or any of its provisions.

16. Partial Invalidity. If for any reason whatsoever, any term, obligation or condition of this Declaration of Easements, or the application thereof to any person or circumstance, is to any extent held or rendered invalid, unenforceable or illegal, then such term, obligation or condition:

(a) shall be deemed to be independent of the remainder of the Declaration of Easements and to be severable and divisible therefrom, and its invalidity, unenforceability or illegality shall not affect, impair or invalidate the remainder of the Declaration of Easements or any part thereof; and

(b) the remainder of the Declaration of Easements not affected, impaired or invalidated will continue to be applicable and enforceable to the fullest extent permitted by law



against any person and circumstance other than those as to which it has been held or rendered invalid, unenforceable and illegal.

17. Colorado Law. This Declaration of Easements shall be construed in accordance with and governed by the laws of the State of Colorado.

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**Exhibit A**

(Attached to and forming part of the Amended and Restated Declaration of Parking Garage  
Cross-Easements, created by Copper Mountain, Inc.)

Legal Description of the Property

(SEE ATTACHED)

LEGAL DESCRIPTION  
TUCKER MOUNTAIN LODGE CONDOMINIUM

A TRACT OF LAND BEING A PORTION OF LOT 14, ACCORDING TO THE PLAT OF LOTS 14, 15 AND 16, COPPER MOUNTAIN FILING NO. 3, A SUBDIVISION RECORDED AT RECEPTION NO. 593089 IN THE OFFICE OF THE CLERK AND RECORDER, SUMMIT COUNTY, COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCELA

COMMENCING AT THE NORTHWESTERLY CORNER OF SAID LOT 14, ALSO BEING THE SOUTHWESTERLY CORNER OF LOT 6, COPPER MOUNTAIN FILING NO. 3; THENCE S04°30'00"E A DISTANCE OF 110.99 FEET TO THE POINT OF BEGINNING; THENCE ALONG THE FOLLOWING 28 COURSES:

- 1.) S88°00'00"E A DISTANCE OF 161.83 FEET;
- 2.) N59°11'05"E A DISTANCE OF 53.95 FEET;
- 3.) S88°00'00"E A DISTANCE OF 32.88 FEET;
- 4.) N57°56'16"E A DISTANCE OF 51.22 FEET;
- 5.) S32°03'44"E A DISTANCE OF 2.00 FEET;
- 6.) N57°56'16"E A DISTANCE OF 48.18 FEET TO POINT 'A';
- 7.) S32°03'44"E A DISTANCE OF 73.62 FEET;
- 8.) S57°56'16"W A DISTANCE OF 55.60 FEET;
- 9.) N32°03'44"W A DISTANCE OF 1.75 FEET;
- 10.) S57°56'16"W A DISTANCE OF 63.67 FEET;
- 11.) S32°03'44"E A DISTANCE OF 2.00 FEET;
- 12.) S57°56'16"W A DISTANCE OF 10.42 FEET;
- 13.) N32°03'44"W A DISTANCE OF 14.69 FEET;
- 14.) S57°56'16"W A DISTANCE OF 36.04 FEET;
- 15.) S00°15'41"W A DISTANCE OF 17.79 FEET;
- 16.) N89°44'19"W A DISTANCE OF 9.00 FEET;
- 17.) N00°15'41"E A DISTANCE OF 6.50 FEET;
- 18.) N89°44'19"W A DISTANCE OF 17.68 FEET;
- 19.) S00°15'41"W A DISTANCE OF 28.93 FEET;
- 20.) N89°44'19"W A DISTANCE OF 18.11 FEET;
- 21.) S00°15'41"W A DISTANCE OF 13.33 FEET;
- 22.) N89°44'19"W A DISTANCE OF 47.33 FEET;
- 23.) N00°15'41"E A DISTANCE OF 10.18 FEET;
- 24.) S89°58'36"W A DISTANCE OF 55.92 FEET;
- 25.) N45°17'47"W A DISTANCE OF 16.54 FEET;
- 26.) N00°15'41"E A DISTANCE OF 32.18 FEET;
- 27.) N89°44'19"W A DISTANCE OF 48.14 FEET;
- 28.) N00°15'41"E A DISTANCE OF 73.67 FEET TO THE POINT OF BEGINNING, CONTAINING 36,701 SQUARE FEET OR 0.84 ACRE, MORE OR LESS.

TOGETHER WITH PARCEL B, THE ADDITIONAL SUBTERRANEAN PARKING AREA FOR TUCKER MOUNTAIN LODGE CONDOMINIUM DESCRIBED AS FOLLOWS:

COMMENCING AT POINT 'A' (ABOVE); THENCE S32°03'44"E A DISTANCE OF 6.41 FEET TO THE POINT OF BEGINNING; THENCE ALONG THE FOLLOWING 8 COURSES:

- 1.) N57°56'16"E A DISTANCE OF 7.09 FEET;
- 2.) N32°00'00"W A DISTANCE OF 75.41 FEET;
- 3.) S54°20'41"W A DISTANCE OF 81.99 FEET;
- 4.) N35°39'19"W A DISTANCE OF 15.12 FEET;
- 5.) N57°56'16"E A DISTANCE OF 20.10 FEET;
- 6.) S32°03'44"E A DISTANCE OF 1.75 FEET;
- 7.) N57°56'16"E A DISTANCE OF 49.53 FEET;
- 8.) N32°03'44"W A DISTANCE OF 67.22 FEET TO THE POINT OF BEGINNING. (THE "ADDITIONAL PROPERTY"), LESS AND EXCEPT ALL PORTIONS OF THE ADDITIONAL PROPERTY THAT ARE LOCATED ABOVE THE UNDERGROUND PARKING FACILITY BEING DEEMED TO INCLUDE ALL MEMBRANES APPLIED TO THE EXTERIOR SURFACE OF SUCH UNDERGROUND PARKING FACILITY, INCLUDING WITHOUT LIMITATION ALL SURFACE RIGHTS AND AIR SPACE RIGHTS APPURTENANT TO THE ADDITIONAL PROPERTY, CONTAINING 1,809 SQUARE FEET OR 0.04 ACRES, MORE OR LESS.

PREPARED BY:

*Robert R. Johns*  
ROBERT R. JOHNS, P.L.S.  
COLORADO LICENSE NO. 26292



PREPARED FOR: COPPER MOUNTAIN, INC.  
PROJECT NO.: 16389-411

4547/E/S/100

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