

RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION

WHEREAS, Ron Malfara, General Manager for the Sunrise Ski Resort Complex Enterprise has requested approval of a three-year contract between he and the White Mountain Apache Tribe to commence May 1, 1984 and to terminate May 1, 1987, and

WHEREAS, the General Management Contract in the form and content attached to this resolution has been approved by the Board of Directors for the Sunrise Ski Resort Complex, and

WHEREAS, the Tribal Council has reviewed the General Manager Contract and concludes that it should grant approval for the contract and to authorize the Tribal Chairman to sign the same.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the General Manager Contract between the White Mountain Apache Tribe and Mr. Ron Malfara in the form and content attached hereto.


BE IT FURTHER RESOLVED by the Tribal Council that it hereby authorizes the Tribal Chairman and any other tribal official necessary to execute the General Manager Contract in the form and content attached hereto.

The foregoing resolution was on April 18, 1984 duly adopted by a vote of 8 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (i) of the Amended Constitution and By-Laws of the Tribe, ratified by the Tribe June 27, 1958 and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

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FORT AND MCDONALD
WHITE MOUNTAIN APACHE TRIBE
WILKINS, ARIZ.



Chairman of the Tribal Council



Secretary of the Tribal Council

GENERAL MANAGER CONTRACT
BETWEEN THE
WHITE MOUNTAIN APACHE TRIBE
AND
RON MALFARA

THIS AGREEMENT made and entered into as of the 1st day of May, 1984, by and between the White Mountain Apache Tribe d/b/a Sunrise Resort Complex Enterprise, acting through the Tribal Chairman undersigned, hereinafter referred to as "Employer", and Ron Malfara, hereinafter referred to as "Employee", WITNESSETH:

WHEREAS, Employer has a motel unit, restaurant, bar, coffee shop, ski lodge and ski operations, located at the Sunrise Park, Arizona on the Fort Apache Indian Reservation; and

WHEREAS, Employer, through the Enterprise Board of Directors, is responsible for the management, direction, and operation of said Enterprise; and

WHEREAS, Employee has been engaged and has had satisfactory experience in the motel/ski management field; and

WHEREAS, Employee is willing to be employed by Employer, and Employer is willing to hire the Employee, upon the terms and conditions hereinafter set forth.

NOW THEREFORE, and in consideration of the mutual promises and agreements hereinafter set forth, and

other good and valuable consideration, receipt whereof is hereby acknowledged, it is agreed as follows:

1. Employer does hereby employ RON MALFARA, as General Manager and as Ski Area Manager (hereinafter referred to as "General Manager" for convenience) of the Sunrise Resort Complex Enterprise (hereinafter "the Enterprise"), and said Employee does hereby accept and agree to such employment, and shall perform such duties as are hereinafter described.

2. Employee agrees that he will, at all times, faithfully, industriously, and to the best of his ability, experience and talents, perform all of the duties that may be required of him pursuant to the express and implicit terms hereof, to the satisfaction of Employer.

3. Employee, as General Manager, is in charge of and responsible for the management and operation of the motel, restaurant, coffee shop, bar and ski lodge, and facilities located at the Sunrise Park Complex Enterprise, involving the financial management, procurement, property accountability and management, budget preparation and personnel management, as follows:

a) The General Manager shall be responsible to the Board of Directors of the Enterprise and will operate all the facilities located at the motel and ski area in an economic and efficient manner within the limitations of approved current budgets, and in accordance with applicable laws and the provisions of the approved Plan of Operations of the Enterprise.

b) The General Manager shall have complete responsibility for the operation of the motel unit, restaurant, coffee shop, and all facilities at the Ski Lodge and Ski Area, as well as supervising work on the grounds of the Enterprise.

c) The General Manager shall manage and operate the Bar Series 6 Liquor License for the Fort Apache Development Corporation in accordance with current applicable liquor laws on the Reservation, under the supervision of the Liquor Agent for the White Mountain Apache Liquor Control Agency; adequate accounting records shall be kept on all bar sales.

d) The General Manager shall participate in the preparation of all budgets for Enterprise operations for presentation to the Board of Directors and Tribal Council for approval.

e) The General Manager shall establish an accounting system for both Motel and Ski Lodge operations which will provide adequate accounting records for the cash coming from room rentals at the lodge, restaurant sales, bar sales, ski lodge, and ski rental operations for each day, depositing them in an approved depository each day or as receipts warrant and keeping all such records intact.

f) The General Manager shall prepare and furnish each employee serving in a supervisory capacity with a job description outlining the authorities, responsibilities, and duties for the position. The General Manager shall be responsible for and have complete authority for employing,

directing, training and discharging all employees including department or division managers in compliance with the Tribal Personnel Manual and all other applicable tribal laws or rules.

4. Employer shall pay Employee, and Employee agrees to accept from the Employer in full payment for Employee's services hereunder, compensation at the rate of \$ 43,200.00 per annum, payable biweekly. In the event that at the end of the first year of the term of this contract, the Enterprise has a cash flow gain, then the Employee's base salary hereunder shall be raised by such percentage cost-of-living increase as is established by the Employer generally for other employees of the Employer. In addition, The Employee shall receive a bonus of 5% of the net profit of the Enterprise, before depreciation, as determined at the end of any fiscal year of the Enterprise and established by the Enterprise's annual audit report from the Tribal Auditors. Payment of the bonus shall be due and owing upon completion and receipt of the audit report, however, Employer and Employee agree that Employee may draw an advance on said bonus based upon the current net earnings, before depreciation, at the time of said request. If, upon submission of the annual Enterprise audit report, it is determined that the amount so advanced exceeds 5% of the net earnings, before depreciation, then Employee, within 30 days from receipt of said audit report, shall pay back the difference within interest at the rate of 10% per annum from the date the funds were so advanced.

If a dispute arises regarding the calculation of the bonus as provided above, a committee composed of the representative from the Tribal Auditors, a representative agreed to by both parties, and a representative selected by the Employee shall arbitrate the dispute and a decision of a majority of this committee shall be final. The expense of the Arbitration Committee shall be paid by the Enterprise.

The Employee shall be eligible hereunder to accrue annual and sick leave at the current rate established by the Employer's Personnel Manual. The Employee shall be allowed to participate in the tribal health and retirement plans provided that he shall meet the qualifications for participation in either plan, previously established by the Employer.

In the event Employee leaves prior to the term of his contract, for any reason whatsoever, Employer agrees to immediately compensate Employee for all salary and bonuses earned pursuant to the terms and conditions set forth herein through and including the final day of service. Employee's bonus of 5% of net profits, before depreciation, to be paid through and including the final day of service, shall be forthcoming immediately subsequent to preparation of the Enterprise audit report. Additionally, Employer agrees to immediately compensate Employee for all annual leave accrued through and including the final day of service.

If for any reason the Enterprise is unable to furnish a vehicle to the Employee for Enterprise business or when such travel by tribal vehicle is impractical, the Employee is authorized to use his personally owned car for Enterprise business, and he shall be reimbursed thereafter at the rate of \$30.00 per month, plus his actual fuel costs in the use of such vehicle within a 100 mile radius of the Enterprise operations; and at the current mileage rates established by the Employer, generally for such travel beyond a 100 mile radius of the Enterprise operations. All claims for reimbursement for mileage shall be in writing, showing speedometer readings at the beginning and end of such trips, travel time involved and the necessity for such trips. The Employee, when off the reservation beyond the 100 mile radius of Enterprise operation on authorized Enterprise business, shall be considered in a travel status and shall be reimbursed at current per diem rates established generally by the Employer. Claims for per diem shall be in writing and supported by written statements showing the travel time involved and the necessity for such trips. No claims hereunder by the Employee shall be payable by the Employer in excess of the amount therefore set forth in the approved current budget for the Enterprise.

5. It is mutually agreed by both parties hereto that this contract may be terminated, in any one of the ways hereinafter set forth; and provided that at the

time of any termination, a full accounting for all property and funds of the Employer in the custody of the Employee shall be rendered by the Employee; and any audit of such funds and property shall be made at the expense of the Employer except as provided in subsection (d) of this section:

a) Notwithstanding anything in this agreement to the contrary, the total disability or death of the Employee shall terminate his duty to render further managerial services and the duty of the Employer to make further payments except in settlement of obligations already accrued under this contract. A full and complete audit and accounting for the funds and property of the Employer in the custody of the Employee shall be made in accordance with instructions of the Board of Directors, a copy of which shall be furnished to the Employee, or in the event of the Employee's death, to his estate's executor or administrator. The expense of such audit shall be paid by the Employer. Any payments, bonuses or benefits due the Employee shall be made to the Employee pursuant to Section 4 above or, in the event of his death, to his estate. The Employee or, in the event of his death, his estate shall be liable for the proper accounting of all property and funds of the Employer.

b) For the purposes of this agreement, should the Employee be incapacitated or unable to perform his duties hereunder for a period of thirty (30) days, the Board of

Directors shall give the General Manager written notice to arrange for a physical examination, at the expense of the Enterprise and within seven (7) days from the date of such notice by one qualified member of the American Medical Association. A written report of the results of the examination shall be furnished forthwith to the Board of Directors. If the Board thereupon determines that such incapacity or inability to perform shall continue beyond the date of receipt of said medical examination or earned or accrued sick leave, whichever is greater; it may recommend to the Tribal Council of the Employer that this contract be terminated. Any termination hereunder shall be made in accordance with subsection (a) hereinabove.

c) The Employer may further terminate this contract any time, without prior notice to Employee, for neglect of duty, malfeasance, negligence, incompetence or inefficiency; for dishonesty, disobedience of the Employer's laws, reasonable instructions or orders; for unfaithfulness to Employer's interests, or a conflict of interest, created by the Employee. The Employee may be required to surrender all property and funds of the Employer to an authorized representative of the Employer upon receipt of a notice of termination. In the event this contract is terminated in this manner, the Employee shall be entitled to payment for any expenses incurred by him in accordance with Section 3 and any salary, bonus or benefits in accordance with Section

4, to the date of receipt of notice of termination, provided that payments of any kind to the Employee may be withheld provided the Tribal Auditors, after an audit is completed and a full accounting for all funds and property of the Employer is made, determined that Employee is indebted to Employer.

d) In the event of a termination by the Employee at any time other than the close of a fiscal year, the Employee shall bear the expense of the audit required by his termination, and any funds due him shall be held back until such audit is completed in addition to any other remedies available to the Employer by reason of said termination.

6. The Employer authorizes the employment of the Employee's spouse within the Enterprise, under all such terms and conditions as are otherwise applicable to the position which she may hold or for which she may apply: PROVIDED that the Employee shall not employ his spouse on a commission basis of compensation, and the amount of her salary established by the Employee shall be reasonable and fixed in good faith, in the interests of the Employer.

The Employer shall provide living quarters for the use of the Employee and his family during his tenure as General Manager hereunder.

7. Purchases made by the Employee of personal property excluding consummables for the benefit of the Employer

costing One Thousand Dollars (\$1,000) or more and not held for resale or the incurring of other obligations by the Employee for repairs, improvements, or construction within the Enterprise costing \$2,500 or more shall have the prior approval of the Chairman of the White Mountain Apache Tribe, in writing, in addition to being provided for within the current approved Enterprise budget.

8. A record shall be kept of all food and beverage items consumed by Employees of the Enterprise and a separate account shall be written off as an expense of operation. In addition, a separate account will be maintained for expenses charged to the Enterprise. The Employee shall have the discretion to furnish complimentary rooms for business purposes, provided that proper records shall be maintained to support the exercise of such discretion.

9. This agreement contains the sole and entire agreement between the parties and shall, as of the effective date hereof, supercede any and all prior agreements between the parties.

10. The Employee shall be bonded to the White Mountain Apache Tribe by the Employer in the amount of at least \$100,000.00 with the surety company or companies covering all tribal employees under the Tribal Blanket Bond to protect the Employer against any loss by reason of any act or acts of fraud, dishonesty, forgery, embezzlement, wrongful abstraction or willful misappropriation on the part of Employee. The cost of all bonds for the Employee and his subordinates

or employees under this supervision shall be considered an operating expense of the Enterprise.

11. The Employee shall be allowed annual leave with pay exclusive of Saturdays, Sundays, and holidays, in accordance with all applicable Tribal Personnel Manual provisions of the Employer; and provided that such leave be taken when the business of the Employer warrants, and any annual leave, with pay, taken in excess of three (3) days at any one time shall be approved in advanced by the Chairman of the Board of Directors of the Enterprise.

The Employee shall also be allowed sick leave in accordance with all applicable Tribal Personnel Manual provisions of Employer during time of actual illness, provided that any sick leave with pay taken in excess of three (3) days at a time must be accompanied by a physician's certificate showing that the Employee was unable to work during the leave period.

The fact that the Employee is on either sick or annual leave, with or without pay, at any time shall not relieve him of his responsibilities under this contract.

12. a) No officer, agent, or employee of the Department of Interior shall be permitted to share in any part of this agreement or derive any benefit therefrom.

b) The Employee shall not transact business on behalf of the Employer with any corporation, joint-stock company, association, or any firm partnership, or other business entity in which he is directly interested without the specific

written approval of the Board of Directors of the Enterprise.

13. This contract shall be effective for a period of three (3) years from the date hereinabove first written.

Employee agrees that he shall notify Employer in writing through Employer's Tribal Chairman, 90 days prior to the expiration date of this contract, of his intentions to request or to terminate employment by contract with Employer beyond the term of this contract. Employer agrees to respond to any request for continued employment of the Employee by contract or to notify Employee of Employer's intent to terminate any employment by contract beyond the term of this contract in no less than 30 days prior to the expiration date hereof.

IN WITNESS WHEREOF, the parties hereto subscribed their names, effective on the day and year indicated hereinabove at Whiteriver, Arizona on the Fort Apache Indian Reservation.

WHITE MOUNTAIN APACHE TRIBE
Employer

Date

By _____
Chairman, Tribal Council

Date

Attest: _____
Secretary, Tribal Council

GENERAL MANAGER/Employee

Date

RON MALFARA