

CONDOMINIUM DECLARATION
FOR
SKI RUN CONDOMINIUM

Article I
Submissions Defined Terms

Section 1.1 Submission of Property. The Angel Fire Corporation, a New Mexico corporation (“Declarant”), owner of the real property described on Exhibit “A” attached hereto, located in Colfax County, New Mexico, hereby submits the real property described in Exhibit “A”, together with all improvements thereon, easements, rights and appurtenances thereunto belonging (the “Property”) to provisions of the New Mexico Condominium Act, New Mexico Laws 1982, Chapter 27, (Chapter 47, Articles 7A, 7B, 7C, and 7D NMSA, 1978) (the “Condominium Act”), and hereby creates with respect to the Property, a Condominium to be known as the “Ski Run Condominium”, (“Condominium”).

Section 1.2 Defined Terms.

- (a) The term “Association: shall mean the Ski Run Condominium Association, Inc., a New Mexico non-profit corporation.
- (b) The term “Bylaws” shall mean and refer to the Bylaws of the Association, including any amendments thereto, filed with the New Mexico State Corporation Commission, as from time to time amended.
- (c) The term “Board of Directors” shall mean the board of directors of the Association.
- (d) Terms not otherwise defined herein or in the Plat, Plans, exhibits, or Bylaws, or in any amendment hereto, shall have the meanings specified in Section 47-7A-3 of the Condominium Act.

ARTICLE II

Buildings on the Property; Unit Boundaries; Common Elements

Section 2.1 The Buildings. The Location, dimensions and area of the buildings on the Property as depicted on Exhibit “B”, the “Plat” attached hereto and made a part hereof. There are three completed buildings designated as Buildings A, B, and C.

Section 2.2 Units. The locations of Units within the Buildings are shown on Exhibit “C”, the “Plans” attached hereto and made a part hereof. A list of the Units, their identifying numbers and letters, locations, sizes (all as shown more fully on the Plat and Plans), and the undivided percentage interest in the Common Elements and Common Expenses (“Allocated Interest”), appurtenant to each Unit and determined on the basis of size, is attached hereto as Exhibit “D”. The size of each Unit is the total number of square feet contained therein determined by reference to the dimensions shown on the Plat and Plans. The Percentage Interest allocated and appurtenant to each Unit in the Condominium is the ratio of the size of the Unit to

the size of all Units in the Condominium expressed as a decimal fraction. The total number of Units created in the Condominium is thirty (30). Each Building contains ten (10) units. Each Unit shall be allocated one (1) vote in the Association.

Section 2.3 Unit Boundaries. Each Unit consists of the space within the boundaries defined by the finished surfaces of its walls, floors and ceilings as shown on the Plans attached.

Section 2.4 Common Elements. All portions of the Condominium other than the Units are Common Elements. Any portion of, a chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture which lies partially within and partially outside the designated boundaries of a Unit serving more than one Unit or any portion of the Common Elements is a part of the Common Elements. Any portion of any of such fixtures serving more than one Unit or any portion of the Common Elements is a part of the Common Elements. Any portion of any of such fixtures serving only one Unit is a Limited Common Elements allocated solely to that Unit. Any balcony or patio designed to serve a single Unit and adjacent to that Unit, but located outside the boundaries of the Unit is a Limited Common Element allocated exclusively to that Unit.

Section 2.5 Relocating of Unit Boundaries and Subdivision of Units. Other than the relocation of Unit boundaries and the subdividing of Units by the Declarant under its reserved Development Rights the relocation of boundaries between Units and the subdividing of Units is prohibited.

Section 2.6 Maintenance Responsibilities. The provisions of the Bylaws and Condominium Act shall govern the division of maintenance and repair responsibilities between the Unit Owners and the Association.

ARTICLE III

Restriction of Common Elements

Section 3.1 Designation of Reserved Common Elements. The Board of Directors shall have the power in its discretion to designate from time to time certain Common Elements as “reserved Common Elements” and grant reserved rights to any or less than all of the Unit Owners and establish a reasonable charge to such Unit Owners for the use and maintenance thereof. Such designation by the Board shall not be construed as a sale or disposition of the Common Elements.

Section 3.2 Occupancy and Use. No Unit shall be used for other than residential housing and accommodations and the related purposes for which the Property was designed. Nothing in this Declaration shall be construed to prohibit the Declarant from using any Unit owned by Declarant from using any Unit owned by Declarant for promotional, marketing, or display purposes or from using any appropriate portion of the Common Elements as a management or sales office for marketing and closing of sales of Condominium Units.

Article IV

Easements

In addition to the easements created by Sections 47-7B-14 and 47-7C-7 of the Condominium Act, the following easements are hereby granted:

Section 4.1 Easement for Ingress and Egress Through Common Elements and Access to Units. Each Unit Owner is hereby granted a non-exclusive easement in common with each other Unit Owner appurtenant to each Unit for ingress and egress through all Common Elements, subject to each reasonable rules, regulations and restrictions as may be imposed by the Unit Owners' Association.

Section 4.2 Other Easements.

(a) Declarant reserves in favor of Declarant, its agents and employees, the managing agent, and/or any other person authorized by the Board of Directors, the right of access to any Unit for maintenance, repair, and/or replacement of the Common Elements. In case of emergency, such access may be immediate whether the Unit Owner is present at the time or not.

(b) Declarant expressly reserves for itself, its agents and employees an easement through the Common Elements, and the right of access to any Unit, as may be reasonably necessary, for the purpose of (i) making improvements within the Condominium and/or (ii) exercising any Special Declarant Rights and/or (iii) discharging the Declarant's obligations under this Declaration.

Article V

Amendment of Declaration

Section 5.1 Other than any amendment of the Declaration by the Declarant under its reserved Special Declarant Rights, no amendment of this Declaration may be made by the Association or the Unit Owners without the prior written consent of all holders of first mortgages encumbering Condominium Units ("First Mortgagees") where such amendment:

(a) Changes the Percentage Interest or obligations of any Unit for the purpose of: (i) levying assessments or charges or allocating distribution of hazard insurance proceeds of condemnation awards, or (ii) determining the pro rata share of ownership of each Unit in the Common Elements;

(b) Subdivides, partitions or relocates the boundaries of any Unit or the Common Elements;

(c.) By act or omission, seeks to abandon or terminate the Condominium;

(d) By act or omission, seeks to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed a transfer within the meaning of this subparagraph);

(e) Uses hazard insurance proceeds for losses to any Condominium Property (whether Units or Common Elements) for other than the repair, replacement, or reconstruction of such Condominium Property.

(f) Imposes any restriction on the right of Unit Owner to sell or transfer his Unit; or

(g) Changes the votes in the Association allocated in Section 2.2 of this Declaration.

Section 5.2 Except as otherwise provided or reserved herein or in the Condominium Act, this Declaration may be amended only by a vote of agreement of Unit Owners of Units to which at least sixty-seven (67%) percent of the votes in the Association are allocated.

Section 5.3 No amendment to this Declaration which purports to decrease, modify or otherwise limit the Special Declarant Rights described in Article VIII hereof shall be valid unless written consent of the Declarant is endorsed thereon prior to the recording of such amendment.

Article VI

Right to Rent Units

Declarant shall retain title to each Unit not sold to a purchaser or exchanged for other property. Declarant retains the right to enter into one or more leases or other rental agreements including overnight accommodations with others for the occupancy of any of the Units retained by Declarant.

Article VIII

Priority of Mortgagees

Section 7.1 Mortgagee Protection. Except as specifically provided in the Declaration, no provision of the Declaration shall be construed to grant to any Unit Owner or to any other person, any priority over any lien rights of First Mortgagees.

Section 7.2 Subordination. Notwithstanding any other provisions of this Declaration to the contrary, the lien of any assessment levied pursuant to the Bylaws upon any Unit (and any penalties, interest on assessments, late charges or the like) shall be subordinate to, and shall in no way affect, the rights of First Mortgagees holding a prior first mortgage made in good faith for value received; provided that such first mortgagee secures a loan initially made by an institutional lender; and provided further, that such subordination shall apply only to assessments on a Unit which have become due and payable prior to a sale or transfer of such Unit pursuant to a decree of foreclosure or to any deed or other proceeding in lieu of foreclosure, and any such sale or transfer in foreclosure or in lieu of foreclosure shall not relieve the purchaser of the Unit from liability for any assessment thereafter becoming due, nor from the lien of any such subsequent assessment.

ARTICLE VIII

Special Declarant Rights

Section 8.1 Option to Add Real Estate to the Condominium. Declarant hereby expressly reserves the right, until the seventh (7th) anniversary of the recordation of this Declaration to add all or any portion or portions of the Real Estate (Additional Land), described on Exhibit "D", to

the Condominium and to create upon such Additional Land up to One Hundred and Forty (140) additional Units, in addition to those Units described in Section 2.2, and appurtenant Common Elements and Limited Common Elements in accordance with Section 47-7B-10 of the Condominium Act and without the consent of any Unit Owner or Mortgagee. This right to add Additional Land may be terminated prior to such anniversary only upon the filing by Declarant of an Amendment to this Declaration expressly terminating this right. Declarant expressly reserves the right to add all or any portion of the Additional Land at any time, at different times, in any order, without limitation, provided however, that the Additional Land shall not exceed the area described on Exhibit "E" attached hereto. Any additional Units will be of the same quality of construction as the Units described in Section 2.2 of this Declaration. There are no other limitations on this right and option to add Real Estate to the Condominium.

Section 8.2 Option to Withdraw Real Estate From and To Subsequently Add Real Estate To the Condominium. Declarant hereby expressly reserves the right, until the seventh (7th) anniversary of the recordation of this Declaration to withdraw all of the Real Estate described on Exhibit "F" from the Condominium and subsequently to add all or any portion or portions of said Real Estate ("Withdrawable and Addable Land") and to create on all or a portion of said Real Estate up to forty (40) additional Units, in addition to those Units described in Sections 2.2 and 8.1 of this Declaration, and appurtenant Limited Common Areas, in accordance with Section 47-7B-10 of the Condominium Act, and all without the consent of any Unit Owner or Mortgagee. This right to withdraw Real Estate from the Condominium and subsequently to add all or a portion of said Real Estate may be terminated prior to such anniversary only upon the filing by Declarant of an amendment to the Declaration expressly terminating this right. Declarant expressly reserves the right to withdraw the Real Estate described on Exhibit "F" at any time and to subsequently add to the Condominium any or all of the Withdrawable and Addable Land at any time, at different times, in any order without limitation, provided however, that the Withdrawable and Addable Land shall not exceed the area described on Exhibit "F" attached hereto. Any additional Units will be of the same quality of construction as the Units described in Section 2.2 of this Declaration. There are no other limitations on this right and option to withdraw and to subsequently add Real Estate to the Condominium.

Section 8.3 Option to Create Units and Common Elements. Declarant expressly reserves the right, until the seventh (7th) anniversary of the recordation of this Declaration to add (by subdivision or otherwise) up to a maximum of One Hundred and Eighty (180) additional Units with or without appurtenant Common Elements and Limited Common Elements on the Real Estate described as Exhibits "E" and "F" and designated on the Plat attached. (Additional Land and Withdrawable and Addable Land). This option may be exercised in accordance with Section 47-7B-10 of the Condominium Act without the consent of any Unit Owner or Mortgagee. This reserved Development Right may be exercised with respect to all or any portion of the Real Estate so described on Exhibits "E" and "F" and designated on the Plat attached in any order, and at any time. Any additional Units will of the same quality of construction as the Units described in Section 2.2 of this Declaration. There are no limitations on this right and option to create Units and appurtenant Common Elements and Limited Common Elements.

Section 8.4 Option to Relocated Easement for Access, Ingress, Egress and Utilities. Declarant expressly reserves the right until the seventh (7th) anniversary of the recordation of the

Declaration, from time to time, to move, relocate, or vacate all or any portion or portions of the easements for access, ingress, egress and utilities shown on the Plat attached, provided however, that prior to or concurrently therewith the Declarant will, to the extent necessary, provide comparable access to the Units in the Condominium.

Section 8.5 Option to Subdivide or Convert Units Into Common Elements. Declarant expressly reserves the right until the seventh (7th) anniversary of the recordation of the Declaration to subdivide any Unit created into additional Units with or without appurtenant Limited Common Elements. Declarant further reserves the right to convert any Unit into Common Elements or Limited Common Elements, or both. This reserved Development right may be exercised with respect to all or any portion of the Property in any order, and at any time. There are no limitations on this right.

Section 8.6 Allocation of Limited Common Elements. A portion of the Common Elements is marked on the Plat as "Parking Area". This portion of the Common Elements includes parking spaces near the buildings. Declarant reserves the right to assign or not to assign some or all of the parking spaces in the Parking Area as Limited Common Elements for the exclusive use of certain Unit Owners to whose Units such assigned parking spaces shall become appurtenant. Declarant may allocate such parking spaces as Limited Common Elements pursuant to the provisions of Section 47-7B-5 of the Condominium Act by making an express allocation in the deed to the Unit to which such Limited Common Element parking space or spaces shall be appurtenant or at any time in a separate instrument and by subsequently confirming any such allocations by recording in appropriate amendment or amendments to this Declaration and/or to the Plat.

Section 8.7 Use for Sales Purposes. All Units shall be subject to statutory right concerning sales and management offices and models in Units in favor of Declarant provided in Section 47-7B-15 of the Condominium Act, and Declarant otherwise expressly reserves the right to use one or more Units owned by Declarant and any appurtenant Limited Common Areas as models, management offices and/or sales offices until such time as Declarant conveys title thereto to a Unit Owner. Declarant reserves the right to relocate offices and/or models from time to time within the Property. Upon relocation or sale of a model, management office or sales office, the furnishings thereof may be removed. Declarant further reserves the right to maintain on the Property including, but not limited to, on the Common Elements, advertising signs or banners in any location or locations and from time to time to relocate and/or remove the same, all in the sole discretion of Declarant.

Section 8.8 Other Special Declarant Rights. In addition to the Special Declarant Rights provided above, the Declarant hereby expressly reserves the right, until the seventh (7th) anniversary of the recordation of the Declaration, in compliance with the Condominium Act, and without the consent of any Unit Owner or Mortgagee, to:

- (a) Make the Condominium part of another Condominium;
- (b) Make the Condominium subject to a Master Association;
- (d) Appoint or remove any officer of the Association or any Master Association or any executive board member during the maximum period permitted under the Subsection D and E of Section 47-7C-3 of the Condominium Act; and

(e) Complete all or any portion of any improvements indicated on the Plats and Plans attached hereto as Exhibits "B" and "C".

Section 8.9 Adjustment of Allocated Interests. Should Declarant exercise the right to add additional Units to the Condominium, or to withdraw land from the Condominium or subdivide or convert any Unit previously created into additional Units and/or Common Elements, the Percentage Interest of each Unit in the Common Elements and Common Expenses shall be computed and reallocated on the basis of size, as specified in Article II, Section 2.2 hereof, and each new Unit shall be allocated one (1) vote in the Association. Declarant will file an amendment or amendments hereto specifying the Percentage Interest reallocated to each Unit in the Condominium.

Section 8.10 No Limitations as to Development Rights. Other than the Real Estate subject to the development right of withdrawal described in Section 8.2, any Development Right herein reserved by the Declarant under Article VIII may be exercised with respect to different parcels or portions of the Property, the Additional Land, or the Withdrawable and Addable Land at different times. No assurances are made as to the boundaries of those portions of Real Estate subject to any Development Right is exercised in any portion of the Real Estate subject to that Development Right, that Development Right need not be exercised in all or in any other portion of remainder of that Real Estate. If any Development Right is exercise it shall be exercised by the recordation of an amendment to the Declaration under Section 47-7B-10 of the Condominium Act.

Section 8.11 Special Rules for Allocation of Assessments.

(a) Until such time as Declaration exercises the Special Declarant right to withdraw the Real Estate described on Exhibit "E" all common expenses or portions thereof benefitting the Real Estate described on Exhibit "E", (other than for any easement for ingress and egress and utilities shown on the Plat), if any, shall be assessed against the Declarant.

(b) In addition to the liability that a Declarant as a Unit Owner has under the Condominium Act, the Declarant alone is liable for all expenses in connection with Real Estate subject to Development Rights. No other Unit Owner and no other portion of the Condominium is subject to a claim for payment of those expenses. Any income or proceeds from Real Estate subject to Development Rights insures to the Declarant.

Article IX

Powers of Unit Owners' Association

The Unit Owners' Association shall have all the powers provided for in Section 47-7C-2 of the Condominium Act including but not limited to the right to assign its right to future income (including the right to receive Common Expense Assessments) for the purpose of securing repayment of funds borrowed or indebtedness incurred by the Association in the performance of its responsibilities.

Article X

Timeshares

Section 10.1 Timeshares--Declarant. The Declarant, at any time, may elect to record a Supplemental Declaration of Timeshare Covenants, Conditions and Restrictions ("Supplemental Declaration") which creates Timeshare Interests in the form of undivided interests as tenants-in-common in any Unit owned by Declarant and granting to the Grantee the exclusive right to occupy the Unit during one or more Timeshare Use Periods.

Section 10.2 Timeshares--Unit Owners. Other than any supplemental Declaration recorded by or which written consent has been given by the Declarant, no Unit Owner may create Timeshare Interests earlier than:

(a) Ninety (90) days after conveyance by Declarant of ninety percent (90%) of all Timeshare Interests which may be created by the Declarant under any Supplemental Declaration; or

(b) One (1) year after the Declarant has ceased to offer Timeshare Interests or Units for sale in the ordinary course of business. Any such Supplemental Declaration shall be either: (I) identical in form to any Supplemental Declaration creating Timeshare Interests recorded by the Declarant and any amendments thereto; or (ii) substantially similar in form to any Supplemental Declaration creating Timeshare Interests recorded by the Declarant and any amendments thereto and approved and signed by the Board of Directors of the Association prior to recording.

Article XI

Taxes

Section 11.1 The Units on the Property comprising the Condominium and the Percentage Interest of the Common Elements appurtenant thereto shall be deemed separate parcels for the purpose of special assessments and taxation. Each Unit Owner shall be deemed an "owner" as defined in Section 7-35-2 NMSA, 1978.

Section 11.2 Any portion of the Common Elements on which the Declarant has reserved Development Rights (other than subdividing Units) shall be separately assessed against the Declarant.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of this ____ day of _____, 1984.

THE ANGEL FIRE CORPORATION, a
New Mexico corporation

By _____
Robert H. Walker,
Senior Vice President

ATTEST:

D.E. Langdell, Assistant Secretary

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing Declaration was acknowledged before me this ____ day of _____, 1984, by Robert H. Walker, Senior Vice-President and D.E. Langdell, Assistant Secretary of the ANGEL FIRE CORPORATION, a New Mexico corporation. on behalf of said corporation.

Notary Public