



Forest Service
U.S. DEPARTMENT OF AGRICULTURE

Prospectus for an Outfitting and Guiding Opportunity on the Appalachian and Unaka Ranger
Districts, Pisgah and Cherokee National Forests

Appendix 2: Sample End of Year Use Report

 Permit #

 NAME OF ORGANIZATION

 Year Reporting

Please provide the following information so we can determine your fee for this season.

Maps with campsite locations are required for camping and other activities.

Activity	# of Clients Total	# of Days on the River	Location	Gross Revenue (B)
Rafting	153	2	Nolichucky	\$ 17,595.00
Kayaking	20	16	" "	\$ 3,700.00

Rafting/Camping	2	2	Nolichucky/ Lost Cove	\$ 450.00
Kayaking/Camp	4	2	" "	\$ 1,000.00

Fishing	5	4	Nolichucky	\$ 955.00
Other:				

 Name of Permit Holder or Representative

 Signature

 Date

Definitions

Activity- backpacking, camping, swimming, picnicing, fishing, biking, rock climbing, rafting, etc.....

Number of Days- Actual number of days on National Forest. All or part of day counts as a day. This number has no effect on discount.

Revenue- To determine your gross income (Option B), the following revenue additions or exclusions must be considered and documented as part of developing your average client day charge:

Revenue Additions.

The market value of the following items which are added to gross revenue:

- a. The value of goods and services that are donated or the value of goods and services that are bartered in exchange for goods and services received that are directly related to the outfitted or guided trip; and
- b. The value of gratuities, which are goods, services, or privileges that are not available to the general public and that are donated or provided without charge to organizations; individuals; the holder's employees, owners, or officers; or immediate family members of the holder's employees, owners, or officers.

Revenue additions specifically include full or partial scholarships, free use or discounts given to relatives, friends, or business associates or any other discount or gratuity that is not readily available to the general public.

Revenue Exclusions.

The following items which are excluded from gross revenue:

- a. Revenue derived from goods or services sold on private land that are not related to outfitting and guiding operations conducted on National Forest System lands, such as souvenirs, telephone toll charges, and accident insurance sales;
- b. Amounts paid or payable to a State government licensing authority or recreation administering agency from sales of hunting or fishing licenses and recreation fee tickets; and
- c. Revenue from the sale of operating equipment, rental equipment, capitalized assets, or other assets used in outfitting and guiding operations. Examples are horses, tack, watercraft, and rental skis and boots, which are sold periodically and replaced.

Concurrent with this, if you subcontract an outfitter to conduct an activity on NFS lands that is permitted by the Forest Service for activities such as rafting, rappelling, or rock climbing, these days should not be reported as a client day on NFS lands as the permitted outfitter is already assessed a fee for this use. These activities should only be reported in your recreation use report noting that the use fee was paid through another avenue.

Discounts

Discounts are calculated on a trip by trip basis. A typical itinerary can be submitted for similar trips with approximate times of arrival and departure listed. This documentation of times on and off National Forest land will be used to claim discounts.

Apply the following schedule in calculating adjustments for use off National Forest System lands:

Percentage on NFS Lands	Fee Reduction
Less than 5 percent	80 percent
5 to 60 percent	40 percent
Over 60 percent	None

Holder must provide full revenues, and the fee reduction will be calculated at time of annual billing of actual usage associated with National Forest System lands. The 40 percent discount is generally issued for river use based on the mixed land ownership.

Option B Fee Schedule

3 Percent of gross revenue as defined above



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Appendix 3: Sample Unicoi County Tax Report



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Appendix 4: Standard Performance Evaluation

PERFORMANCE EVALUATION

Permit Holder _____

Evaluation Period From _____ **To** _____

Type of Operation _____

Location(s) Nolichucky River, Poplar Boat Launch, NC to Chestoa Recreation Area, TN

Dates(s) of Field Monitoring _____

Field Monitor(s) _____

Holder Representative present during monitoring _____

This evaluation is (circleone): Midseason or Final

CHECK APPROPRIATE BOX

Checks in the boxes and comments must be based on factual objective information observed by field monitor(s) and/or verified through investigation.

A = ACCEPTABLE
P = PROBATIONARY
U = UNACCEPTABLE
NC = NOT CHECKED
NA = NOT APPLICABLE

EVALUATION CATEGORIES

A. SERVICE TO PUBLIC	A	P	U	NC	NA
1. Rates, services, and accommodations provided as represented					
2. Holder shows courtesy to non-outfitted public					
3. Operations properly coordinated with other landowner, if required					
4. Compliance with requirements of Title VI of the Civil Rights Act					
5. Clients received educational and interpretive information about area and its values					
B. COMPLIANCE WITH PERMIT CONDITIONS	A	P	U	NC	NA
1. Application, certificate of insurance, signing of permit and payments submitted on time and properly completed					
2. Use reports submitted accurately and on time					
3. Compliance with Federal, State and County laws and regulations as required by permit					
4. Compliance with other terms and conditions					
C. COMPLIANCE WITH OPERATING PLAN	A	P	U	NC	NA
1. Holder participation in operating plan preparation					
2. Holder's employees are knowledgeable of operating plan contents					
3. Adherence to operating plan, schedules, and itineraries, notification of changes					
4. Adherence to camp management plans, permitted structures, use of site(s)					
D. EQUIPMENT	A	P	U	NC	NA
1. Equipment provided as advertised					
2. Equipment safe & well-maintained					
3. Boats, crafts, or vehicles licensed or certified when required					
E. SAFETY	A	P	U	NC	NA
1. Holder exhibits a concern for health and safety of guests, employees, and general public					

2. Staff current with first aid and knowledgeable of safety procedures					
3. Guests receive a safety orientation to the operation					
F. RESOURCE PROTECTION	A	P	U	NC	NA
1. Holder uses minimum impact techniques					
2. Operation neat and orderly					
3. Compliance with fire regulations, Fish and Game regulations, protection of Cultural Resources					
4. Following appropriate procedures for human waste management and garbage					
5. Protection of threatened and endangered species					
G. MAJOR INCIDENTS, IF ANY	A	P	U	NC	NA
1. This category relates to handling of unusual incidents, accidents, death, significant resource damage, serious violation of law, or confrontations (Describe in separate attachments to this form.)					

COMMENTS: _____

Special Efforts Worthy of Commendation _____

Prior Performance Deficiencies, if any, corrected _____

OVERALL RATING (circle one): Acceptable - Probationary - Unacceptable

SIGNATURES:

Authorized Officer _____ **Holder/Holder Rep.** _____

Title _____

Title _____

Date _____

Date _____

Holder's Comments: _____



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Appendix 5: Monitoring Checklist

APPENDIX 5

Outfitter Guide Monitoring Checklist

O/G: _____

Monitor Name: _____ Date: _____

Safety	Acceptable	Needs Improvement	Unacceptable
1. Vehicle and other equipment in good condition			
2. Safety equipment in good condition and serviceable (seatbelts, helmets, fire extinguisher, first-aid kit, communication device, spare tire...)			
3. Safe driving practices			
4. Weather dependent gear			
5. Watersport equipment in good condition and serviceable (vessel, paddles, vests, helmets, first-aid kit, heaving lines, signaling device...)			

Permit Compliance	Acceptable	Needs Improvement	Unacceptable
1. Stayed on allowed trails/roads and for appropriate amount of time			
2. Respectful of members of the public			
3. Travel and rest on durable surfaces/designated trails			
4. All guides and vehicles wear nametag/company logo			
5. Followed all NF regulations			
6. Client to guide ratio is not exceeded			

Overview	Acceptable	Needs Improvement	Unacceptable
1. Positive personal demeanor			
2. Actual tour participants seemed to enjoy it			
3. Company cooperates with monitoring process			
4. Safety seems to be an overall concern of the guide			
5. Overall permit compliance by guide			



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Appendix 6: Sample Business Plan and Financial Resources Response



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Business Plan and Financial Resource Response

Pisgah and Cherokee National Forests, Appalachian and Unaka Ranger Districts

A proposal in response to the outfitting and guiding prospectus for Whitewater Rafting on the Nolichucky River within the Pisgah and Cherokee National Forests.

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I: The Business

Overview

Business Details

Business Name: _____

Designated Representative: _____

Business Address: _____

Business Phone: _____

Mobile Phone: _____

Email Address: _____

Business Web Address: _____

Business Structure:

Individual

Corporation*

Partnership/Association*

State Government/State Agency

Local Government

Federal Agency

Other: _____

* If checked, complete Attachment I.

Instructions

Italicized, blue text and questions require a response from the Permit Holder or applicant. Complete all pertinent sections providing as much detail as necessary for the Authorized Officer to fully understand the annual operation. Attach supplemental pages, (such as maps or diagrams) if needed. If a section does not apply indicate "N/A". If more space is needed or if there is any information not asked for specifically but is important to your proposal, please include that information in the plan or as attachments.

Mission

Provide a short statement that defines what your business does currently, who it serves, and how.

Vision

Provide a short statement that describes where your business is headed and what you hope to achieve in the future.

Goals

Define your business goals, both short-term and long-term.

Products and Services

List the products and services you will provide or offer.

Management & Staffing

List owners and key management personnel and their primary duties.

Explain how you plan to recruit, develop, and maintain your staff.

Identify essential employees, their job titles, and required skills.

Market Analysis

Briefly describe your target customer, competitors, and market trends. Give an explanation as to why it is necessary to use or occupy Federal land and why there is a need for this service.

II. Business Experience

Provide a detailed description of your business experience relating to the proposed operations. The description must include experience in private business, public service, or any nonprofit or other related enterprises.

Provide a list of all permits you have held on federal lands.

Table 1. List of current or previous permits

Authorization ID / Permit #, etc.	Managing Organization (Forest/BLM)	Authorized activities & locations	Years permit held

Authorization ID / Permit #, etc.	Managing Organization (Forest/BLM)	Authorized activities & locations	Years permit held

Past Performance

Provide copies of performance evaluations you have received for the permits listed above.

If you have not received a performance evaluation for the permit, provide documentation that you are in compliance with the terms and conditions of your authorization (i.e. a letter from the permit administrator).

References

Applicants must furnish three references in support of relevant experience (see below).

- 1. Personal: One reference who can attest to the applicant’s personal attributes and character traits.*
- 2. Professional: One reference who can speak to the applicant’s job specific skillset, knowledge, and experience.*
- 3. Financial: One reference who can speak to the financial accountability of the applicant.*

Table 2. References

Reference Type	Name	Email	Phone
<i>Personal</i>			
<i>Professional</i>			
<i>Financial</i>			

III. Financial Resources

Provide a statement or documentation of financial capability that provides information about the organization’s financial resources and capacity. It should demonstrate your business’s ability to carry out specific activities, projects, or obligations related to the opportunity.

Do you have any outstanding liens, legal judgments, or significant debt that could impair your financial capacity?

What contingencies or reserve funding do you have in place in case of revenue shortfalls or unexpected expenses? Have you had any bankruptcies or failed operations in the past 10 years? If yes, please explain?

Capital-Equipment List

Capital equipment is defined as assets which have useful lives of more than one year. Examples include machines, equipment, vehicles, livestock, tack, gear, and computers. Describe the equipment, the quantity, whether the equipment is new or used (N/U), the expected useful life, and the cost.

Table 3. Capital Equipment List

Equipment	Quantity	New/Used	Life	Cost
Total Cost of Capital Equipment				\$0.00

Start-Up Expenses

What are your anticipated start-up costs for the first year of operation?

Table 4. Start-Up Expenses

Item	Cost
<i>Total cost of capital equipment</i>	
<i>Beginning inventory of operating supplies</i>	
<i>Legal fees</i>	
<i>Accounting fees</i>	
<i>Other professional fees</i>	
<i>Licenses and permits</i>	
<i>Remodeling and repair work</i>	
<i>Deposits (public utilities, etc.)</i>	
<i>Advertising</i>	
<i>Insurance</i>	
<i>Bonds</i>	
<i>Advance permit fees</i>	
<i>Other expenses:</i>	
Total Start-Up Expenses	\$

Sources and Uses of Financing

Do you have a firm financial commitment for this operation and or what percentage of the total startup/operational costs are already secured through liquid assets or committed funds? Please describe.

What is the total estimated cost to conduct this proposed use through its full operational phase? Use any of the tables below to demonstrate your financial planning.

What is your break-even point for this operation, and how long do you expect it will take to reach it?

Monthly Cash Flow Projections

The cash flow projection is the most important financial planning tool available to you. The cash flow projection attempts to budget the cash needs of a business and shows how cash will flow in and out of the business over a stated period of time. A cash flow deals only with actual cash transactions. Depreciation, a noncash expense, does not appear on a cash flow. Loan repayments (including interest), on the other hand, do, since they represent a cash disbursement.

Table 5. Cash Flow Projection (or Cash Flow Budget) by Month: Year One

	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
<i>Cash Receipts</i>													
<i>Sales Receivables</i>													
<i>Other Services</i>													
<i>Total Cash Receipts</i>													
<i>Cash Disbursements</i>													
<i>Cost of Goods</i>													
<i>Advertising</i>													
<i>Insurance</i>													
<i>Legal and Accounting</i>													
<i>Fixed Cash Disbursements*</i>													
<i>Mortgages (Rent)</i>													
<i>Loan / Credit</i>													
<i>Other</i>													
<i>Total Cash Disbursements</i>													
<i>Net Cash Flow</i>													
<i>Cumulative Cash Flow</i>													
<i>*Fixed Cash Disbursements</i>													
<i>Utilities</i>													
<i>Salaries</i>													
<i>Payroll Taxes and Benefits</i>													
<i>Office Supplies</i>													
<i>Maintenance and cleaning</i>													
<i>Licenses</i>													
<i>Total FCD/Year</i>													
<i>FCD/Month</i>													
<i>Cash on Hand</i>													
<i>Opening Balance</i>													
<i>+ Cash Receipts</i>													
<i>-Cash Disbursements</i>													
<i>Total = New Balance</i>													

Start-Up Balance Sheet

Balance sheets are designed to show how the assets, liabilities, and net worth of a company are distributed at a given point in time.

Table 6. Start-Up Balance Sheet

Item	Cost
Assets:	
Current Assets	\$
Fixed Assets	\$
Less Accumulated Depreciation	\$
Net Fixed Assets	\$
Other Assets	\$
Total Assets	\$
Footnotes:	
Liabilities:	
Current Liabilities	\$
Long-Term Liabilities	\$
Total Liabilities	\$
Net Worth or Owner's Equity (Total assets minus total Liabilities)	\$
Total Liabilities and Net Worth	
Footnotes:	

Start-Up Income Statement Projection:

Income Statements (also called Profit and Loss Statements) complement balance sheets. The income statement provides a moving picture of the company during a particular period of time. If you are in a start-up situation, look for financial statement information and income ratios for businesses similar to yours.

Table 7. Income Projection by Month: Year One

	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
<i>Sales</i>													
<i>Total Sales</i>													
<i>Cost of Material</i>													
<i>Variable Labor</i>													
<i>Cost of Goods Sold</i>													
<i>Gross Margin</i>													
<i>Operating Expenses</i>													
<i>Utilities</i>													
<i>Salaries</i>													
<i>Payroll Taxes and Benefits</i>													
<i>Advertising</i>													
<i>Office Supplies</i>													
<i>Insurance</i>													
<i>Maintenance and Cleaning</i>													
<i>Legal and Accounting</i>													
<i>Delivery Expenses</i>													
<i>Licenses</i>													
<i>Telephone</i>													
<i>Depreciation</i>													
<i>Miscellaneous</i>													
<i>Rent</i>													
<i>Total Operating Expenses:</i>													
<i>Other Expenses</i>													
<i>Interest (Mortgage)</i>													
<i>Interest (Term Loan)</i>													
<i>Interest (Line of Credit)</i>													
<i>Total Other Expenses:</i>													
<i>Total Expenses:</i>													
<i>Net Profit (Loss) Pre-Tax</i>													

Attachment 1

Private Corporations:

Please include the following with your application.

1. Articles of Incorporation
2. Corporation Bylaws
3. A certification from the State showing the corporation is in good standing and is entitled to operate within the State
4. Copy of resolution authorizing filing
5. The name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote and the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

Public Corporations:

Please include the following with your application.

1. Copy of law forming corporation
2. Proof of organization
3. Copy of Bylaws
4. Copy of resolution authorizing filing

Partnership Or Other Unincorporated Entity:

Please include the following with your response form.

1. Articles of association, if any
2. If one partner is authorized to sign, the resolution authorizing action
3. Name and address of each participant, partner, association, or other

Burden and Non-Discrimination Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average 10 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency or contact USDA through the Telecommunications Relay Service at 711(voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination](#) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

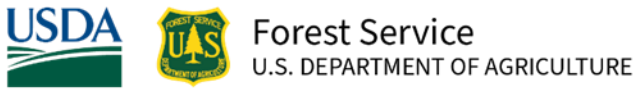
The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.



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Appendix 7: Operating Plan Template



Outfitter & Guide Operating Plan

Pisgah & Cherokee National Forests

Name of Outfitter and/or Business Name:

Name of Agent or Representative:

Address:

Business Phone:

Mobile Phone:

E-mail Address:

Website:

District: Appalachian and Unaka Ranger Districts

Activity:

Operating Season:

Prepared By: _____
Permit Holder signature

Date: _____

Permit Holder printed name

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Introduction

The purpose of this plan is to define the responsibilities of the Permit Holder for protecting public health, safety, and the environment and for ensuring delivery of high-quality services as authorized through a special use permit for outfitting and guiding. This operating plan describes conditions pertaining to the Permit Holder's outfitting and guiding special use permit.

This plan shall be updated annually by the Permit Holder, reviewed by the Forest Service (FS) Permit Administrator, and approved by the Authorized Officer. The Permit Holder understands and acknowledges that no operations can commence until all the documentation referenced below has been received by the Forest Service and approved by the Authorized Officer. Failure to submit the required documentation or timely fee payment may result in a notice of non-compliance, probation, suspension, or termination of the authorization. The Permit Holder will submit the following documentation annually, by 30 days prior to seasonal operations, or as indicated:

1. Operating Plan Cover Sheet (i.e. first page of this document)
2. Requested service days
3. Annual itinerary
4. Maps and proposed access points, if changes are proposed
5. Overview of operations
6. Current Guide List with certifications and qualifications (Attachment A)
7. Current Vehicle and Watercraft List (Attachment B)
8. Insurance
9. Advertising material
10. Safety, accident prevention and communication plans
11. List of ancillary service providers, a copy of the contract and insurance certificate (FSH 2709.14, 53.1J(5) (if applicable))
12. Copy of State licenses and/or registrations

Instructions

Italicized, blue text and questions require a response from the Permit Holder or applicant. Complete all pertinent sections providing as much detail as necessary for the Authorized Officer to fully understand the annual operation. Attach supplemental pages, (such as maps or diagrams) if needed. If a section does not apply indicate "N/A". If more space is needed or if there is any information not asked for specifically but is important to your proposal, please include that information in the plan or as attachments.

I. AUTHORIZED USE

A. Service Days

A service day is defined as one person on a guided trip for any part of a day. Under no circumstances will any group size limitations defined by the permit be exceeded, without written permission. To request excess service days from other outfitters/guides, the outfitter/guide requesting service days must receive written confirmation from the outfitter/guide releasing service days stating the number of service days being released and the date those service days are to be used. These service days will no longer be

Outfitter and Guide Operating Plan

available for use by the outfitter/guide releasing the service days. A copy of this information must be sent to the Permit Administrator at sm.fs.pisgahpermit@usda.gov on the same day.

The entire amount of permitted or allocated use must be applied for in the annual operating plan. All use applied for must include the estimated fees at representative rates. Non-use is not accounted for or tracked for billing purposes. Service days are allocated based on the total use from all outfitters/guides for the past four (4) years. The best three (3) of the four (4) years is used to calculate a percentage for each outfitter/guide. Allocations will be distributed annually in March.

The 1984 Nolichucky River Plan sets the maximum number of service days at 480 per day. A portion of the maximum daily number of service days is allocated to each Permit Holder.

Enter the minimum and maximum requested service days preferred for each activity.

Table 1: Minimum and maximum service days requested

Activity Type	Minimum number of daily service days requested	Maximum number of daily service days requested
Whitewater Rafting		
Kayaking		
Other		

The Authorized Officer may withhold authorization for the Permit Holder to use all or part of an assigned amount of service days for reasons of resource protection, public health and safety, user conflict or violations of the terms and conditions of the permit.

B. Annual Itinerary

The annual itinerary details proposed activities and estimated fees for the upcoming operating season. If the annual itinerary is not submitted prior to the operation season each year, authorization to operate on the National Forest may be denied for the affected season and points may be assessed in the Annual Performance Evaluation.

List the activities and services you will be providing on National Forest System lands. Include the fees to the public for the services being proposed and the operating season.

Table 2: Fees and operating season

Activity Type and Service	Fees	Operating Season
Whitewater Rafting		
Kayaking		
Other		

C. Maps

Approved launch and take-out sites include: 1. Poplar Boat Launch, 2. Chestoa Recreation Area, TN. Provide additional maps, including topographical maps clearly identifying routes to be used and specific locations of all "other" activities. Trails Illustrated, USGS Quad sheets, etc. are acceptable. GPS (global positioning) coordinates would also be useful.

II. OVERVIEW OF OPERATIONS

A. Skills, Experience, and Standard Operating Procedures

1. *Describe employee skills and experience including education, training, and abilities. Provide detailed information about your operating knowledge of the area in which you plan to operate.*
2. *Explain how you aim to reach diverse, youth, or underserved populations and how your activities support the local community and local economy.*
3. *Describe the services that will be provided for persons with disabilities, including special equipment or accommodations.*
4. Refuse shall not be discarded in the water, along the shore of the river, or on the ground of National Forest System lands. Guided trips may utilize trash cans at put-ins / take-outs. If trash cans are unavailable, guides and clients must pack out all waste. Forest Service restrooms located at put-ins / take-outs should be utilized when possible. If restrooms are unavailable, guides and clients must pack out all waste. All bathroom breaks must occur 200 ft. from any source of water. A human waste carry-out system shall be utilized in emergency situations and toilet paper shall be carried out with the waste. *Explain your methods for sanitation including food, trash, and human waste.*
5. It is the Permit Holder's responsibility to ensure not only that waste is properly managed and resource protection methods are being used, but that clients / participants leave with an understanding of these practices. *Describe "Leave No Trace," educational/interpretive practices to be used to educate clients or participants and reduce resource impacts.*
6. *Explain the resource protection methods that will be used to prevent resource damage from this permitted activity.*

Outfitter and Guide Operating Plan

7. Every commercial boating activity on the Nolichucky River must have a minimum of two (2) boats and a minimum of two (2) guides in separate crafts. There must be a ratio of one (1) guide per six (6) customers. Guides shall be responsible for keeping the boats in sight. A minimum of one (1) guide on each trip shall qualify as a trip leader. *What will be the average and maximum ratio of guides to customers and group size for each activity?*
8. *Describe any ancillary services proposed to be used in this operation. Please note that a copy of the contract for these services and a copy of the contract holder's insurance policy (if applicable) is due to the Forest Service a minimum of 15 days prior to the start of the operating season.*
9. Use of the permit area is not exclusive. The Permit Holder and their employees must respect the rights of other visitors and river users. *Describe how conflicts with other users will be prevented and/or minimized. Include how you propose to mitigate parking congestion at the boat launches.*
10. *Detail how employees, guests, agents or customers will be informed of Forest Service regulations, and permit requirements.* For example, describes things such as literature that will be handed out, pre-trip discussions or presentations, signing or other methods to disseminate this information.
11. If and when guides interact with the Forest Service or law enforcement, it must be made known that the guides are conducting authorized commercial business. Guides must carry the permit (first page and signature page) while operating. *All guides/instructors, vehicles, and boats must be made identifiable by display of company name or logo. Please explain how you will accomplish this.*

B. Guides and Trip Leaders

Minimum requirements, qualifications, and training for Nolichucky River Guides and Trip Leaders are detailed below. These qualifications will be available for review by the Forest Service upon request. Online courses or refreshers do not meet Forest Service requirements and are not acceptable.

1. Guide Requirements

Each raft shall be guided by a person meeting the following minimum requirements.

- a) A guide shall be at least eighteen (18) years old.
- b) A guide shall be certified as having completed a nationally recognized Basic First Aid and CPR course, or an equivalent course, or a more extensive First Aid and CPR course.
- c) A guide must be under the supervision of a trip leader.

- d) A guide shall have navigated the Nolichucky River between Poplar, North Carolina and Unaka Springs, Tennessee at least six (6) times or have a combination of at least three (3) times on the Nolichucky and six (6) times on other rivers of equal or greater difficulty in rafts approved for commercial use.

2. Trip Leader Requirements

Each trip shall be led by a person meeting all the requirements for a guide and meeting the following minimum requirements.

- a) A trip leader shall be at least twenty-one (21) years of age.
- b) A trip leader shall be certified as having completed a nationally recognized Advanced First Aid and CPR course, or an equivalent course, or a more extensive course in Advanced First Aid and CPR. The trip leader need not meet this requirement if a guide on the trip meets such requirements.
- c) A trip leader for the Nolichucky River shall have navigated the Nolichucky River between Poplar, North Carolina and Unaka Springs, Tennessee at least thirty (30) times, or shall have navigated the above section of the Nolichucky River at least ten (10) times and like sections on other rivers of equivalent difficulty at least twenty (20) times.

3. River Training Guidelines

- a) Trips may be conducted for the purpose of training new guides/boaters or familiarizing boaters with significant new types of equipment. Outfitters who charge fees for training activities must report associated revenue in their year-end actual use report.
- b) The Permit Holder or a designated representative must accompany each training trip.
- c) Non-employees will not accompany such trips. Training trips should be used to check and test both new and previously used equipment that will be utilized on client trips.
- d) When a trainee accompanies a regularly scheduled trip, they will be under the direct supervision of a certified boater and will be personally evaluated by the Permit Holder before being certified as qualified.
- e) For each guide/trip leader to be qualified, the Permit Holder must certify in writing that each guide working for them has a complete knowledge of the Nolichucky River rapids/holes and has completed the minimum requirements/qualifications outlined in B.1. and B.2. of this section. Certification shall include an outline of training completed including the date of training, name of instructors, material presented at the training, and date(s) of on-river training for the Nolichucky River or other qualifying river.

Acknowledge and describe how minimum guide and trip leader requirements will be met and how river trip training will be conducted. Attachment A can be used to list guide and trip leader qualifications and training.

4. Guide Training

- a) All guides and trip leaders are expected to have a general knowledge of the natural history of the Nolichucky River Gorge area.

- b) As required by the Special Use permit, list all required periodic training on the signs of child abuse and the reporting requirements when child abuse is suspected.

Describe how the minimum training requirements will be met and list any additional training provided. Attachment A can be used to list guide and trip leader qualifications and training.

C. Vehicles and Equipment

A complete list of vehicles and equipment including the number, type, licenses, registration, and insurance for any vehicles used on National Forest System lands must be kept on file by the Permit Holder and be available to the Authorized Officer upon request. The Permit Holder must ensure that clients and guides carpool to help alleviate congestion. Vehicles associated with the authorized use shall not be parked in such a manner as to impede or obstruct the normal flow of traffic, create a hazardous condition, or parked in any area designated as closed to parking. Guides and their clients are not to block gates under any circumstances. Due to limited space at the launch and take-out sites, vehicles and trailers may not be parked for extended periods of time. The Permit Holder is responsible for directing customers to follow these same guidelines. The Permit Holder and staff may not exceed posted speed limits, disregard traffic control devices, or operate a motor vehicle while under the influence of alcohol, drugs, or intoxicants, or any combination thereof.

Watercraft

1. Size of watercraft must correspond to the water levels being run.
2. All rafts shall be river-worthy and have a minimum of at least three (3) integral compartments and at least one (1) cross thwart except for one- or two-man inflatable watercraft.
3. Only well-constructed watercraft, in good repair, shall be utilized.
4. All boats will display the name of the permittee, or their firm, on the side of the boat at least six (6) inches high. Design of the display should be readable from the shoreline. Display will require approval by the Forest Service.

Acknowledge and describe how the minimum vehicle, equipment, and watercraft requirements will be met. Attachment B can be used to list current vehicles and watercraft and/or projected assets.

D. Insurance

Commercial general liability insurance coverage must be obtained by the Permit Holder for the outfitting and guiding services authorized by the permit. In addition, motor vehicle insurance must be obtained by the Permit Holder and employees if clients are to be transported on National Forest System lands. Proof of insurance shall be submitted on the standard ACORD 25 form at least 30 days prior to the policy expiration. The Permit Holder's commercial general liability and motor vehicle insurance policies shall name the United States as the additionally insured and meet coverage requirements.

E. Advertising Material

The Permit Holder is responsible for ensuring their advertisements do not misrepresent in any way, either the accommodations provided, the status of the permit, or the area in which they are authorized to operate. A copy of current brochures must be submitted prior to operations each year.

All publications, brochures, fliers, web postings and other visual or written communications regarding operations under the special use authorization must include the following statement about nondiscrimination and how to file a discrimination complaint:

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint](#) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

If the publication or material is too small to use the full statement, at a minimum, the following statement must be included:

USDA is an equal opportunity provider, employer, and lender.

Also include the following statement in all publications, written communications, and web postings regarding operations under your special use authorization:

The public services described [in this publication/in this document/on this website] are provided under a special use authorization issued by the Forest Service.

Include current brochures or links to advertising material, if applicable. Describe how the business will advertise for persons with disabilities or who have special needs, if applicable.

III. SAFETY

If your company or operation has a Safety Plan for the activities involved, it may be attached in lieu of answering these questions. However, the Safety Plan must address all questions. Failure to include all information required below could result in an unacceptable rating.

A. Reporting Requirements

All injuries, accidents, or medical emergencies involving clients or employees, occurring on National Forest System lands will be reported within one business day to the appropriate FS Permit Administrator or Ranger District Office (District Ranger Office issuing the permit). Allegations of child abuse or neglect must be reported immediately to County Department of Social Services and law enforcement, and as soon as practicable to the Authorized Officer (District Ranger). The Authorized Officer will be notified as soon as possible regarding any accident involving a death, serious human injury or damage to public or government property in excess of \$250.00 in connection with the operation of this permit. The Permit Holder will follow-up all incidents with a written report to the Forest Service within 10 business days of the incident.

1. Key Phone Numbers of the Ranger District Personnel:
 - a. District Special Use Lead: Shawn Cloutier, (828) 689-9694 x107
 - b. District Ranger: Jennifer Barnhart, (828) 974-1094
2. In case of a serious injury, fatality or lost person(s) report, the Forest Service and appropriate County Sheriff shall be notified immediately.
 - a. Mitchell Co. Sheriff – (828) 688-2171
 - b. Unicoi Co. Sheriff – (423) 743-1864
 - c. Madison Co. Sheriff – (828) 649-2721

All requests for search and rescue, including any injury, accident, or medical emergency requiring helicopter evacuation must be coordinated through the local County Sheriff by dialing 911. Additional emergency dispatch numbers for the appropriate local counties will be known by all employees. The Permit Holder will obtain a copy of the Sheriff Office's report of the incident and will submit the same report to the Forest Service within 10 business days of the incident.

Explain in detail how the minimum reporting requirements will be met.

B. Safety Measures, Injury, and Accident Procedures

The Permit Holder will provide a safe environment for all customers, guests, and employees as is reasonably possible under the permitted use conditions. It is the responsibility of the Permit Holder to ensure all guides have appropriate training and equipment and are prepared to conduct the activities listed on their permit. High risk activities including, but not limited to, whitewater rafting pose not only a risk to the guide and clients, but to the general public operating in vicinity of the permitted use. Guides must ensure that they are not creating a dangerous situation for themselves, their clients, or others in the vicinity.

It is the responsibility of the Permit Holder, if an accident, injury, or medical emergency involving a client or employee occurs, to care for and transport the victim as required by the circumstances to a location where the victim can receive professional medical help. Care should also be taken to remove or protect other clients and the public from similar risk or injury. All Nolichucky River guides must be familiar with their entities' emergency procedures related to the Nolichucky River. These include but are not limited to:

1. Knowledge of escape or evacuation routes along the river
2. Ability to lead or conduct an emergency evacuation

3. Knowledge of accessible phones closest to the river
4. Knowledge of the closest medical facility (three 24/7 hospitals are listed below)
 - a. Unicoi County Hospital, 2030 Temple Hill Rd, Erwin, TN 37650
 - b. Blue Ridge Medical Center, Yancy Campus, 800 Medical Campus Dr, Burnsville, NC 28714
 - c. Johnson City Medical Center, 400 N State of Franklin Rd, Johnson City, TN 37604

During the client instruction or pre-trip briefing, the Permit Holder will discuss safety regarding the environment to be encountered, and the activities authorized under this special use permit including what the clients should do in the event that their guide is injured. The Permit Holder will be responsible for providing clients with a clear understanding of the physical and mental requirements of the activity.

Explain in detail the safety measures used to prevent injuries, accidents or medical emergencies, and the procedures to be taken in the event of injuries, accidents or medical emergencies involving clients or employees.

C. Safety Equipment

Safety equipment, appropriate for the activity(ies) permitted shall be provided and made available to customers, clients and employees, pursuant to the Permit Holder's insurance requirements. All equipment used will be in good working order. Equipment that is unsafe or approaching the end of its useful service-life will be discarded. Helmets and life vests are required for every participant. Standard operating guidelines and requirements regarding emergency equipment are outlined below.

1. Each participant must wear a serviceable and fastened U.S. Coast Guard (USCG) approved Type III or Type V personal flotation device (PFD) at all times when on moving water.
2. All persons shall wear a fastened helmet at all times when on water of Class III or greater difficulty or sign a waiver form.
3. Two (2) buoyant heaving lines, at least fifty (50) feet in length and three eight (3/8) inches in diameter, shall be carried on each trip and occupants will be trained in its use.
4. A first-aid kit meeting the requirements of the America Outdoors shall be carried on each trip.
5. Emergency signaling equipment shall be carried on each trip.
6. A spare paddle or oar shall be carried on each boat.
7. A boat repair kit, including the proper repair materials for the type of watercraft being used, and an inflation pump with hose or valve adaptor shall be carried on each trip.
8. Z-drag equipment is required on one of the watercrafts in a commercial outing.

List the safety equipment to be used, where it will be located, and who will ensure proper access and use.

D. Communications, Trip Cancellation, Client Accountability

1. Describe the communication systems that will be used during general operations and for emergencies. Include contingency plans for failed equipment or weather and other emergencies.

Communication plan.

2. Trips shall be delayed or cancelled when water conditions are deemed too high or hazardous. The Permit Holder is responsible for reviewing the water level in connection with the scheduled activity on the river. For all operations, explain in detail the protocols used for go or no-go decisions, (trip cancellation) hazard predictions, travel precautions, and route selections.

Go or no-go decisions.

3. Describe the procedures to account for all clients and employees at the end of the day or trip.

Client accountability.

IV. ADDITIONAL OPERATING STANDARDS

1. **Alcohol and Controlled Substances** – Use and possession of alcoholic beverages, illegal drugs/substances or other impairing substances that may impair ones mental or physical faculties and the ability to make sound decisions is prohibited, regardless of whether such substances were obtained through a valid prescription, order, or from a physician. The above-mentioned shall not be consumed immediately before or during any rafting trip. Any person determined to be under the influence or impaired by the above-mentioned shall not participate in a raft trip.
2. **Amplified Music** – To maintain the character of the streams and other waterways in the Pisgah and Cherokee National Forests, refrain from playing amplified music.
3. **Camping** – It is the responsibility of the Permit Holder to ensure clients/participants are following best practices regarding campsite and campfire management. Please refer to your local district office for guidance on campsites, campfires, and fire restrictions.
4. **Courtesy** – All personnel associated with the Permit Holder under attached permit shall always show courtesy and professionalism while operating on the river. This includes courtesy toward other permitted guides and private recreationalists. A permit does not grant exclusive use to any location, trail, or site. If you have a negative interaction with a member of the general public, other guide service, or Forest Service personnel, you are encouraged to immediately contact the Forest Service Permit Administrator directly.
5. **Fire** – Fires shall only be built in a fire pan or existing fire ring. Do not move rocks. Coals and partially burned wood will be disposed of in the river. During periods of fire restrictions,

campfires and smoking will not be allowed. If the Forest is closed due to extreme fire hazard, all operations will cease immediately.

6. **Illegal Outfitters** – Please report illegal outfitters to the Permit Administrator immediately. Passing on information such as date, time, location, and name of individual or company is critical to ensure that only permitted guides are operating in the Forest. These reports are considered anonymous, and your identity will not be revealed to the suspected illegal outfitter.
7. **Invasive Species Prevention** – Boats, wading boots, and gear should be inspected and properly cleaned to prevent the spread of aquatic and terrestrial invasive species. You are encouraged to avoid felt bottom boots when possible as these are more likely to spread invasive species and harder to clean. This is especially important when switching from one water source to another. Boot soles should be scrubbed with bristle brush, wading booties should be thoroughly rinsed and inspected, and both should be fully dried before using in a different water source. Outfitters will ensure that their gear, and their clients' gear, is cleaned in accordance with the guidance laid out by North Carolina and Tennessee Department of Fish and Wildlife.
8. **Soap** – The use of soap is prohibited in the river or on the shoreline.
9. **Unexpected Fish Species** – If the guides or clients catch, hook, or see non-native fish species, please report this with pictures and locations when possible.

V. ACTUAL USE REPORTING

An actual use report for the yearly activities must be submitted annually by December 15th, using the Use and Revenue reporting document provided by the Forest Service. This report must include the name of the permittee, reporting period, activity, number of clients, number of days, location (put-in/take-out), and gross revenues. See Appendix 2 for a Sample End of Year Use Report. The End of Year Use Report must be completed and signed by the designated representative. Late submission of this report may result in a negative notation on the annual performance evaluation. Final fee determination will be based on the actual annual gross revenue minus the estimated fees paid.

Additionally, the Unicoi Tax office requires a monthly report and fee collection for commercial use on the Nolichucky River (appendix 3). This report is also to be submitted to the Forest Service by the 15th of each month for the previous month. The last report of the season shall be accompanied with a note designating it as the final report and that the outfitter season is over.

VI. PERFORMANCE EVALUATION

The objective of Outfitter and Guide Annual Performance Evaluations is to provide feedback to the Permit Holder on how well the operation met the conditions of the permit and Operating Plan. The overall goal is increased resource protection, service to the public, and safety.

The Forest Service Standard Performance Evaluation, Appendix 4, shall be prepared and conducted, at minimum, every 3 to 4 years. Evaluations are based on the performance review standards established by the Authorized Officer. Permit Holders will be made aware of the evaluation factors during the permitting process. Evaluations may include observations from field monitoring and progress on the part of the Permit Holder to remedy deficiencies. All Permit Holders are required to make available to the Forest Service two user slots per year. This will be used by a Forest Service representative to monitor the Permit Holder's performance. The Forest Service may perform additional monitoring without notification to the Permit Holder.

Probationary or unacceptable evaluations given by the Authorized Officer will be discussed with the Permit Holder prior to finalizing. Copies of probationary and unacceptable evaluations given by the Authorized Officer will be sent to the Forest Recreation Staff Officer at the time it is given to the Permit Holder. Probationary and unacceptable Performance Evaluations given on this or other Forests will be considered when issuing permits for future operations.

VII. OTHER LAND USE AGREEMENTS

Copies of any Land Use Agreements from landowners, either public or private, which grant parking, utilization of, or access through their lands to or from National Forest lands must be included with the Operating Plan, if used as part of the operation.

Describe other land use, attach approval separately.

N/A

VIII. FIREARMS

All employees, guides and clients will abide by all applicable State laws and regulations, including but not limited to possessing a valid hunting license, not hunting while under the influence of intoxicating liquor or any controlled substance, wearing blaze orange, not shooting from any vehicle, and not carrying a loaded firearm in or on a vehicle.

N/A

IX. SALE OF OUTFITTER OPERATIONS

The Forest Service is under no obligation to issue a new permit to a business purchaser. If a Permit Holder decides to sell his/her commercial business, he/she and the prospective buyer must meet with the Forest Service to discuss the past operation and future use prior to concluding the sale or applying for a new permit. Information on procedures, necessary documentation, and qualification requirements will be provided at that time. The Forest Service requires prospective buyers to submit a business plan, financial capability statement, and technical capability statement for review, which must be approved prior to the issuance of a permit.

X. COMPLAINT/ CONFLICT RESOLUTION

It is in the Permit Holder's best interest to resolve conflicts that occur with the general public, clients and other forest users. If a complaint is filed against the holder, the Forest Service will investigate the complaint to the extent warranted. Complaints filed with the Forest Service will be forwarded to the Permit Holder via certified mail. The Permit Holder will have 30 days from the postmark date to respond to the Authorized Officer regarding the complaint and its resolution. If the Permit Holder fails to respond, the Authorized Officer may make a decision in regard to the complaint without further input from the holder and points may be assessed during the annual performance evaluation. Failure to accept the certified letter will be considered the same as failure to respond.

Outfitter and Guide Operating Plan

I certify that I have read and understood the above operating standards and requirements, and I have responded to all prompts in blue text, for outfitting and guiding on the Nolichucky River. If I have questions or concerns, I know to contact the Permit Administrator for the Pisgah National Forest at sm.fs.pisgahpermit@usda.gov or 828-689-9694 x107.

Company: _____

Print: _____

Sign: _____

Date: _____



Forest Service
U.S. DEPARTMENT OF AGRICULTURE

Prospectus for an Outfitting and Guiding Opportunity on the Appalachian and Unaka Ranger
Districts, Pisgah and Cherokee National Forests

Appendix 8: Sample Permit

Use Code: 153
 Authorization ID: APP####
 Contact Name: COMPANY NAME
 Expiration Date: 12/31/20##

FS-2700-4i (VER 09/2020)
 OMB No. 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE
 FOREST SERVICE
 SPECIAL USE PERMIT FOR OUTFITTING AND GUIDING
 Authority: Federal Lands Recreation Enhancement Act, 16 U.S.C. 6801-6814
 (Ref. FSH 2709.11, section 41.53)**

This permit authorizes priority use outfitting and guiding for 2 years.

COMPANY NAME of # Street, City, State Zip (hereinafter "the holder"), is hereby authorized to use and occupy National Forest System lands, subject to the terms of this permit, to provide outfitting and guiding services within the Appalachian Ranger District of the NATIONAL FORESTS IN NORTH CAROLINA, described as (the permit area), as shown on the map in Appendix A.

The purpose of this permit is to authorize the following outfitting and guiding activities:

Activity: Rafting/Boating

Priority Use Days: Allocated annually per direction in the Nolichucky River Plan

General Location: Nolichucky River (Poplar Boat Launch to Chestoa Recreation Area)

- Use is authorized on National Forest Land only.
- Use of the Appalachian Trail is **not** authorized under this permit.
- Use of Bent Creek Experimental Forest is **not** authorized under this permit.

This use will be exercised as described in the operating plan.

The following appendices are attached to and made a part of this permit:

APPENDIX A - Map of Authorized Area

APPENDIX B - Annual Operating Plan, dated #/#/20## and reviewed annually

APPENDIX C - Actual Use Report Format

APPENDIX D - Authorized Officer's Outfitter and Guide Performance Evaluation Criteria

APPENDIX E – Other

I. GENERAL TERMS

A. AUTHORITY. This permit is issued pursuant to Federal Lands Recreation Enhancement Act, 16 U.S.C. 6801-6814, and 36 CFR Part 251, Subpart B, as amended, and is subject to their provisions.

B. AUTHORIZED OFFICER. The authorized officer is the Forest Supervisor, a District Ranger, or the Station, Institute, or Area Director with delegated authority pursuant to Forest Service Manual 2700.

C. TERM. This permit shall expire at midnight on 12/31/2026. Expiration of this permit shall not require notice, a decision document, or any environmental analysis or other documentation.

D. CONTINUATION OF USE AND OCCUPANCY. This permit is not renewable. Upon expiration, this permit may be extended for up to 8 years if the priority use authorized by this permit is consistent with applicable law and the applicable land management plan and if the holder's performance is satisfactory.

E. AMENDMENT. This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms that may be required by law, regulation, directive, the applicable land management plan, or projects and activities implementing the land management plan pursuant to 36 CFR 218.

F. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS. In exercising the rights and privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulation, or policy. The Forest Service assumes no responsibility for enforcing laws, regulations, and other legal requirements that fall under the jurisdiction of other governmental entities.

G. NON-EXCLUSIVE USE. The use and occupancy authorized by this permit are not exclusive. The Forest Service reserves the right of access to the permit area, including a continuing right of physical entry to the permit area for inspection, monitoring, or any other purpose consistent with any right or obligation of the United States under any law or regulation. The Forest Service reserves the right to allow others to use the permit area in any way that is not inconsistent with the holder's rights and privileges under this permit, after consultation with all parties involved. Except for any restrictions that the holder and the authorized officer agree are necessary to protect the installation and operation of authorized temporary improvements, the lands and waters covered by this permit shall remain open to the public for all lawful purposes.

H. CHANGE IN CONTROL

1. **Notification.** The holder shall notify the authorized officer when a change in control of the business entity that holds this permit is planned.

(a) In the case of a corporation, control is an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the business so as to permit the exercise of managerial authority over the actions and operations of the corporation or election of a majority of the board of directors of the corporation.

(b) In the case of a partnership, limited partnership, joint venture, or individual entrepreneurship, control is a beneficial ownership of or interest in the entity or its capital so as to permit the exercise of managerial authority over the actions and operations of the entity.

(c) In other circumstances, control is any arrangement under which a third party has the ability to exercise management authority over the actions or operations of the business.

2. **Termination.** This permit is not transferable. Any change in control of the business entity as defined in clause I.H.1 shall cause this permit to terminate upon issuance of a new permit to another party for the use and occupancy authorized by this permit. The party who acquires control of the business entity must submit an application for a permit for the type of use and occupancy authorized by this permit. Issuance of a new permit to the party acquiring control shall be at the sole discretion of the authorized officer. The authorized officer shall determine that the applicant meets requirements under federal regulations.

I. LIMITATIONS. Nothing in this permit gives or implies permission to build or maintain any structure or facility or to conduct any activity, unless specifically provided for in this permit. Any use not specifically identified in this permit must be proposed in accordance with 36 CFR 251.54 or 251.61. Approval of such a proposed use through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer.

II. OPERATIONS

A. ANNUAL OPERATING PLAN. The annual operating plan, which shall be attached to this permit as Appendix B, shall be submitted by the holder and approved by the authorized officer before the holder conducts any services authorized by this permit. The holder shall prepare an annual operating plan by 30 days before the start of operating season, in consultation with the authorized officer. At a minimum, the annual operating plan shall include (1) the season of use for authorized outfitting and guiding activities, including the start and stop date of operations; (2) limitations on use established by the Forest Service (including fire restrictions); (3) the fee calculation option to be used and a completed Estimated Fee Determination Sheet (appendix D); and (4) any of the following that are applicable: (a) a process for submitting trip itineraries (appendix C); (b) guidelines and limits for incidental grazing; (c) location and layout of assigned sites to be used for base, spike, and drop camps or other purposes; and (d) authorized temporary improvements on National Forest System lands, including a schedule for their construction and removal ; (e) identity and schedule for any inspections that the holder is required to conduct at the holder's expense. Any operating plan revisions shall be submitted by the holder and approved in writing by the authorized officer or the authorized officer's designated representative before they are implemented.

B. ITINERARY. The holder shall submit an itinerary for each type of trip.

C. PERFORMANCE REVIEW AND EVALUATION. The holder's compliance with the terms of this permit and the five-year or annual operating plan is subject to annual performance review and evaluation by the authorized officer. The holder's performance will be documented using the Outfitter and Guide Performance Evaluation Criteria, Appendix F.

D. TEMPORARY IMPROVEMENTS. No permanent improvements may be constructed under this permit. Temporary improvements with negligible value, such as hitching posts, corrals, tent frames, and shelters, may be approved by the authorized officer in the five-year or annual operating plan. Plans and revisions to plans for design, development, and layout of temporary improvements must have prior written approval from the authorized officer.

E. PROHIBITION ON ASSIGNMENT OF USE. The holder may not assign all or part of the authorized use to others.

F. PERFORMANCE OF SUPPORT SERVICES. As a general rule, the holder shall conduct the day-to-day activities authorized by this permit. Activities that support the use authorized by this permit, such as food or shuttle services, may be conducted by a party other than the holder, but only with prior written approval from the authorized officer. The holder shall continue to be responsible for compliance with all the terms of this permit.

G. MAINTENANCE. The holder shall maintain authorized temporary improvements and the permit area to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer and consistent with other provisions of this authorization. The holder shall comply with inspection requirements deemed appropriate by the authorized officer.

H. SIGNS. Signs posted on National Forest System lands must have prior written approval of the authorized officer.

I. NONDISCRIMINATION

1. The holder and its employees shall not discriminate against any person on the basis of race, color, sex (in educational and training programs), national origin, age, or disability or by curtailing or refusing to furnish accommodations, facilities, services, or use privileges offered to the public generally. In addition, the holder and its employees shall comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments Act of 1972, as amended, and the Age Discrimination Act of 1975, as amended.

2. The holder shall include and require compliance with the above nondiscrimination provisions in any third-party agreement made with respect to the operations authorized under this permit.

3. The Forest Service shall have the right to enforce the foregoing nondiscrimination provisions by suit for specific performance or by any other available remedy under the laws of the United States or the State in which the violation occurs.

J. EQUAL ACCESS TO FEDERAL PROGRAMS. In addition to the above nondiscrimination policy, the holder agrees to ensure that its programs and activities are open to the general public on an equal basis and without regard to any non-merit factor.

K. SANITATION. The operation and maintenance of all sanitation and food service systems and facilities shall comply with applicable standards set by state and local health departments.

L. REFUSE DISPOSAL. The holder shall comply with all applicable federal, state, and local requirements related to disposal of any refuse resulting from the use and occupancy authorized by this permit.

M. CUTTING, DISPOSAL, AND PLANTING OF VEGETATION. This permit does not authorize the cutting of trees, brush, shrubs, and other plants ("vegetation"). Vegetation may be cut, destroyed, or trimmed only after the authorized officer or the authorized officer's designated agent has approved in writing and marked or otherwise identified what may be cut, destroyed, or trimmed. The holder shall notify the authorized officer when approved cutting, destruction, or trimming of vegetation has been completed. The Forest Service shall determine in advance of felling the method of disposal of trees felled in the permit area that meet utilization standards. Disposal may be by sale or without charge per 36 CFR Part 223, as may be most advantageous to the United States. Debris from felling that does not meet utilization standards shall also be disposed of according to methods determined by the Forest Service. Planting of vegetation in the permit area must have prior written approval from the authorized officer.

N. FAILURE TO EXERCISE AUTHORIZED PRIVILEGES. During the 5th year of operation and upon termination, the authorized officer shall review actual use and adjust the allocation of use to match the highest amount of actual use in 1 calendar year

during the first 5 years of operation, plus 25 percent of that amount for holders with up to 1,000 service days or the equivalent in quotas or 15 percent of that amount for holders with more than 1,000 service days or the equivalent in quotas, provided that:

1. The combination of the highest amount of actual use in 1 calendar year and the additional 25 or 15 percent of use not exceed the amount of use allocated when the permit was issued; and
2. To ensure that 5 years of use are available for review as a basis for making the allocation adjustment, the authorized officer may adjust the review period to include a previous or an additional year of use based on a finding that extraordinary circumstances prevented a season of operation.

O. USE OF NATIONAL FOREST SYSTEM ROADS AND NATIONAL FOREST SYSTEM TRAILS. The holder's use of National Forest System roads and National Forest System trails shall comply with applicable requirements in 36 CFR Part 212, Subpart A; 36 CFR Part 261, Subpart A; and orders issued under 36 CFR Part 261, Subpart B. Motor vehicle use shall be consistent with designations made under 36 CFR Part 212, Subpart B, unless specifically provided otherwise in the operating plan. Over-snow vehicle use shall be consistent with designations made under 36 CFR Part 212, Subpart C, unless specifically provided otherwise in the operating plan.

P. ADVERTISING. The holder shall not misrepresent in any way, either orally; in online or print circulars, brochures, advertising, and other media; or on its website, signs, or letterheads, any aspect of the use authorized by this permit, including services provided by the holder, the status of this permit, or the permit area. All the holder's online or print circulars, brochures, advertising, and other media regarding use of the permit area shall state that the permit area is located in the NATIONAL FORESTS IN NORTH CAROLINA.

Q. OPERATING PLAN FOR SUPERVISION OF CHILDREN. The operating plan must provide that if the holder, holder's employees, agents, or contractors learn of facts that give reason to suspect that a child under the age of 18 has suffered physical or mental injury, sexual abuse or exploitation, or negligent treatment (child abuse), the holder, holder's employees, agents, or contractors shall as soon as possible report the child abuse to the local law enforcement or child protective services agency, as designated in 28 CFR Part 81, Subpart A and as soon as practicable thereafter to the authorized officer. The operating plan shall include:

1. The name, address, telephone number, facsimile number, and e-mail address of the local law enforcement or child protective services agency, as designated in 28 CFR Part 81, Subpart A.
2. A schedule for providing periodic training on the signs of child abuse and the reporting requirement when child abuse is suspected.
3. A sample form for reporting suspected child abuse or neglect and, to the extent mandated by applicable state law, the requirement for all employees who work with children under the age of 18 to undergo a criminal background check.

III. RIGHTS AND LIABILITIES

A. LEGAL EFFECT OF THE PERMIT. This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR Part 214, and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.

B. VALID EXISTING RIGHTS. This permit is subject to all valid existing rights. Valid existing rights include those derived under mining and mineral leasing laws of the United States. The United States is not liable to the holder for the exercise of any such right.

C. ABSENCE OF THIRD-PARTY BENEFICIARY RIGHTS. The parties to this permit do not intend to confer any rights on any third party as a beneficiary under this permit.

D. WATER RIGHTS. This permit does not confer any water rights on the holder. Water rights are not required by state law and may not be acquired to exercise the minor water uses authorized by this permit.

E. NO WARRANTY OF ACCESS, SITE SUITABILITY, OR SERVICES. This permit authorizes the use and occupancy of National Forest System lands by the holder for the purposes identified in this permit. The Forest Service does not make any express or implied warranty of access to the permit area, of the suitability of the permit area for the authorized uses, or for the furnishing of road or trail maintenance, water, fire protection services, search and rescue services, or any other services by a government agency, utility, association, or individual.

F. RISK OF LOSS. The holder assumes all risk of loss to authorized temporary facilities and all risk of loss of use and occupancy of the permit area, in whole or in part, due to public health and safety or environmental hazards. Loss to temporary facilities and of use and occupancy of the permit area may result from but is not limited to theft, vandalism, fire and any fire-fighting activities (including prescribed burns), environmental contamination, avalanches, rising waters, winds, falling limbs or trees, and other forces of nature. If the authorized officer determines that the permit area cannot be safely occupied due to a public health or safety or environmental hazard, this permit shall terminate. Termination under this clause shall not give rise to any claim for damages, including lost profits, by the holder against the Forest Service.

G. DAMAGE TO UNITED STATES PROPERTY. The holder has an affirmative duty to protect from damage the land, property, and other interests of the United States that are associated with the use and occupancy authorized by this permit. Damage includes but is not limited to destruction of or damage to National Forest System lands, fire suppression costs, and destruction of or damage to federally owned improvements.

1. The holder shall be liable for all injury, loss, or damage, including fire suppression costs, prevention and control of the spread of invasive species, and the costs of rehabilitation or restoration of natural resources, resulting from the holder's use and occupancy of the permit area. Compensation shall include but not be limited to the value of resources damaged or destroyed, the costs of restoration, cleanup, or other mitigation, fire suppression or other types of abatement costs, and all administrative, legal (including attorney's fees), and other costs.

2. The holder shall be liable for damage to all roads and trails of the United States caused by use of the holder or the holder's heirs, assignees, agents, employees, or contractors to the same extent as provided under clause III.G.1, except that liability shall not include reasonable and ordinary wear and tear.

H. HEALTH AND SAFETY. The holder shall address the health and safety of its employees, agents, contractors, and clients by having trained and qualified staff, utilizing properly maintained equipment, and providing supervision appropriate for the level of risk associated with the authorized activity. The holder shall avoid situations or conditions that cause or threaten to cause a hazard to public health or the safety of the holder's employees, agents, contractors, or clients. The holder shall as soon as practicable notify the authorized officer of all serious accidents that occur in connection with such activities. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations and activities of the holder for hazardous conditions or compliance with health and safety standards.

I. ENVIRONMENTAL PROTECTION

1. **Compliance with Environmental Laws.** The holder shall in connection with the use and occupancy authorized by this permit comply with all applicable federal, state, and local environmental laws and regulations, including but not limited to those established pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. 9601 et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., the Oil Pollution Act, as amended, 33 U.S.C. 2701 et seq., the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 et seq., and the Safe Drinking Water Act, as amended, 42 U.S.C. 300f et seq.

2. **Definition of Hazardous Material.** For purposes of clauses III.I and V, "hazardous material" shall mean (a) any hazardous substance under section 101(14) of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601(14); (b) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. 9601(33); (c) any petroleum product or its derivative, including fuel oil, and waste oils; and (d) any hazardous substance, extremely hazardous substance, toxic substance, hazardous waste, ignitable, reactive or corrosive materials, pollutant, contaminant, element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment under any applicable environmental laws.

3. **Oil Discharges and Release of Hazardous Materials.** The holder shall immediately notify all appropriate response authorities, including the National Response Center and the authorized officer or the authorized officer's designated representative, of any

oil discharge or of the release of a hazardous material in the permit area in an amount greater than or equal to its reportable quantity, in accordance with 33 CFR Part 153 and 40 CFR Part 302. For the purposes of this requirement, "oil" is as defined by section 311(a)(1) of the Clean Water Act, 33 U.S.C. 1321(a)(1). The holder shall immediately notify the authorized officer or the authorized officer's designated representative of any release or threatened release of any hazardous material in or near the permit area which may be harmful to public health or welfare or which may adversely affect natural resources on federal lands.

4. **Remediation of Release of Hazardous Materials.** The holder shall remediate any release, threat of release, or discharge of hazardous materials that occurs in connection with the holder's activities in the permit area, including activities conducted by the holder's agents, employees, or contractors and regardless of whether those activities are authorized under this permit. The holder shall perform remediation in accordance with applicable law immediately upon discovery of the release, threat of release, or discharge of hazardous materials. The holder shall perform the remediation to the satisfaction of the authorized officer and at no expense to the United States. Upon revocation or termination of this permit, the holder shall deliver the site to the Forest Service in compliance with all applicable laws and regulations and free and clear of contamination.

J. INDEMNIFICATION OF THE UNITED STATES. The holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use and occupancy authorized by this permit. This indemnification and hold harmless provision includes but is not limited to acts and omissions of the holder or the holder's heirs, assignees, agents, employees, or contractors or lessees in connection with the use and occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may in the future become applicable; (2) judgments, claims, demands, penalties, or fees assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) the release or threatened release of any solid waste, hazardous waste, hazardous substance, pollutant, contaminant, oil in any form, or petroleum product into the environment. The authorized officer may prescribe terms that allow the holder to replace, repair, restore, or otherwise undertake necessary curative actions to mitigate damages in combination with or as an alternative to monetary indemnification.

K. INSURANCE. The holder shall furnish proof of insurance, such as a certificate of insurance, to the authorized officer prior to issuance of this permit and each year thereafter that this permit is in effect. The Forest Service reserves the right to review the insurance policy and require any changes needed to ensure adequate coverage of the United States in connection with the authorized use and occupancy. The holder shall send an authenticated copy of any insurance policy obtained pursuant to this clause to the authorized officer immediately upon issuance of the policy. Any insurance policies obtained by the holder pursuant to this clause shall name the United States as an additional insured, and the additional insured provision shall provide for insurance coverage for the United States as required under this clause and to the extent of the full limits of insurance available to the holder. The holder shall give 30 days prior written notice to the authorized officer of cancellation of or any modification to the insurance policy. The certificate of insurance, the authenticated copy of the insurance policy, and written notice of cancellation or modification of insurance policies should be sent to **Appalachian Ranger District, 632 Manor Road, Mars Hill, NC 28754**. Minimum amounts of coverage and other insurance requirements are subject to change at the sole discretion of the authorized officer on the anniversary date of this permit.

1. **Liability.** The holder shall have in force liability insurance covering losses associated with the use and occupancy authorized by this permit arising from personal injury or death and third-party property damage in the minimum amount of **\$1,000,000** as a combined single limit per occurrence.

2. Depending on the holder's operations, the Forest Service may require the holder to demonstrate the availability of funds to address any release or threatened release of hazardous materials that may occur in connection with the holder's use and occupancy. Any requirements imposed would be established on a case-by-case basis by the authorized officer based on the degree of environmental risk from the holder's operations. The use and storage of normal maintenance supplies in nominal amounts generally would not trigger financial assurance requirements.

IV. RESOURCE PROTECTION

A. VANDALISM. The holder shall take reasonable measures to prevent and discourage vandalism and disorderly conduct and when necessary shall contact the appropriate law enforcement officer.

B. PESTICIDE USE

1. **Authorized Officer Concurrence.** Pesticides may not be used outside of buildings in the permit area to control pests, including undesirable woody and herbaceous vegetation (including aquatic plants), insects, birds, rodents, or fish without prior written

concurrence of the authorized officer. Only those products registered or otherwise authorized by the U.S. Environmental Protection Agency and appropriate State authority for the specific purpose planned shall be authorized for use within areas on National Forest System lands.

2. **Pesticide-Use Proposal.** Requests for concurrence of any planned uses of pesticides shall be provided in advance using the Pesticide-Use Proposal (form FS-2100-2). Annually the holder shall, on the due date established by the authorized officer, submit requests for any new, or continued, pesticide usage. The Pesticide-Use Proposal shall cover a 12-month period of planned use. The Pesticide-Use Proposal shall be submitted at least 60 days in advance of pesticide application. Information essential for review shall be provided in the form specified. Exceptions to this schedule may be allowed, subject to emergency request and approval, only when unexpected outbreaks of pests require control measures which were not anticipated at the time a Pesticide-Use Proposal was submitted.

3. **Safety Plan.** Before applying pesticides in the permit area, the holder shall submit to the authorized officer a safety plan that includes, at a minimum, a precise statement of the treatment objectives; a description of the equipment, materials, and supplies to be used, including pesticide formulation, quantities, and application methods; a description of the lines of responsibility for project planning, project monitoring, and after-action review; a description of any necessary interagency coordination; a copy of the current Pesticide-Use Proposal for the permit; a description of the process by which treatment effectiveness will be determined; and a spill plan, communications plan, security plan, and when required by applicable local requirements, a provision for prior notification to sensitive individuals.

4. **Reporting.** By September 30th annually, the holder shall submit to the authorized officer a written report of each pesticide application project completed during the previous 12-month period. The report shall contain information pertaining to the pesticide application projects as requested by the authorized officer.

5. **Labeling, Laws, and Regulations.** Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers. No pesticide waste, excess materials, or containers shall be disposed of in any area administered by the Forest Service.

C. ARCHAEOLOGICAL AND PALEONTOLOGICAL DISCOVERIES. The holder shall immediately notify the authorized officer of any antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized under this permit. The holder shall leave these discoveries intact and in place until otherwise directed by the authorized officer.

D. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT (NAGPRA). In accordance with 25 U.S.C. 3002(d) and 43 CFR 10.4, if the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on National Forest System lands, the holder shall immediately cease work in the area of the discovery and shall leave the discoveries intact and in place. The holder shall follow the applicable NAGPRA protocols for the undertaking provided in the NAGPRA plan of action or the NAGPRA comprehensive agreement; if there are no such agreed-upon protocols, the holder shall as soon as practicable notify the authorized officer of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the authorized officer certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, or at any time if a NAGPRA plan of action has been executed by the Forest Service following tribal consultation and any preconditions have been met.

E. PROTECTION OF THREATENED AND ENDANGERED, SENSITIVE SPECIES, AND SPECIES OF CONSERVATION CONCERN AND THEIR HABITAT

1. **Threatened and Endangered Species and Their Habitat.** The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA), 16 U.S.C. 531 et seq., as amended, or within designated critical habitat shall be shown on a map included in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on listed species or designated critical habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing threatened or endangered species or designated critical habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

2. **Sensitive Species and Species of Conservation Concern and Their Habitat.** The location of sites within the permit area needing special measures for protection of plants or animals designated by the Regional Forester as sensitive species or as species of conservation concern pursuant to FSM 2670 shall be shown on a map in an appendix to this permit and may be shown on the

ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on sensitive species or species of conservation concern or their habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing sensitive species or species of conservation concern or their habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

F. CONSENT TO STORE HAZARDOUS MATERIALS. The holder shall not store any hazardous materials at the site without prior written approval from the authorized officer. This approval shall not be unreasonably withheld. If the authorized officer provides approval, this permit shall include, or in the case of approval provided after this permit is issued, shall be amended to include specific terms addressing the storage of hazardous materials, including the specific type of materials to be stored, the volume, the type of storage, and a spill or release prevention and control plan. Such terms shall be proposed by the holder and are subject to approval by the authorized officer.

V. LAND USE FEE AND DEBT COLLECTION

A. LAND USE FEE. The holder shall pay to the USDA, Forest Service, an annual land use fee for the term of this permit based on the fair market value of the use and occupancy authorized by this permit. The annual land use fee shall include a commercial use fee and, if applicable, an assigned site fee and grazing fee, as enumerated in clauses V.B, V.C, and V.D. The minimum annual land use fee for the authorized use and occupancy shall be **\$130**. Estimates of service days, the number of assigned sites, and grazing use shall be determined from the five-year or annual operating plan. Estimated land use fees shall be calculated on an Estimated Fee Determination Sheet. The holder shall pay the annual land use fee in advance of the authorized use and occupancy, as provided in clause V.B. Payments due before commercial operations commence are not refundable. The Forest Service shall adjust and calculate land use fees authorized by this permit to comply with any new land use fee system based on market value that may be adopted by statute, regulation or directive issued by the Chief after issuance of this permit.

1. Commercial Use Fee. The annual land use fee shall be determined in accordance with **option B (3% of gross revenue)**.

a) Definitions

(1) Adjusted Gross Revenue. Gross revenue and revenue additions less applicable exclusions.

(2) Gross Revenue. The total amount of receipts from the sale of goods or services provided by the holder or third party under the permit.

(3) Revenue Additions. The market value of the following items, which are added to gross revenue:

(a) The value of goods and services that are donated or the value of goods and services that are bartered in exchange for goods and services received that are directly related to the outfitted or guided trip; and

(b) The value of gratuities, which are goods, services, or privileges that are not available to the general public and that are donated or provided without charge to organizations; individuals; the holder's employees, owners, or officers; or immediate family members of the holder's employees, owners, or officers.

(4) Revenue Exclusions. The following are excluded from gross revenue:

(a) Revenue derived from goods or services sold on private land that are not related to outfitting and guiding operations conducted on National Forest System lands, such as souvenirs, telephone toll charges, and accident insurance sales.

(b) Amounts paid or payable to a State government licensing authority or recreation administering agency from sales of hunting or fishing licenses and recreation fee tickets.

(c) Revenue from the sale of operating equipment, rental equipment, capitalized assets, or other assets used in outfitting and guiding operations, such as horses, tack, watercraft, and rental skis and boots, which are sold periodically and replaced.

2. Assigned Site Fee. A fee shall be charged for the occupancy of National Forest System sites assigned to the holder. Assigned site fees shall not be prorated; the holder shall pay the full annual fee for each assigned site. No refunds or credits will be given for authorized but unused assigned sites.

3. Grazing Fee. A fee shall be charged for grazing livestock used in conjunction with the use and occupancy authorized by this permit. No refunds or credits will be given for authorized but unexercised grazing use.

B. PAYMENT SCHEDULE. The holder shall pay the annual estimated land use fee, including the fee for

1. Single Payment. The holder shall pay the total annual estimated fee in advance when it is less than \$500.

2. Two Payments. The holder shall pay half the total annual estimated fee in advance and the remainder by mid-season when the total is equal to or greater than \$500, but less than \$2,500.

3. Three Payments. The holder shall pay one-third of the total annual estimated fee in advance and the remainder in two equal payments by mid-season when the total is \$2,500 or more.

4. Final Payment. The Forest Service shall reconcile annually the actual land use fee against land use fee payments made. The holder shall pay any additional fees owed for the past year's operation within 30 days of billing.

C. DOCUMENTATION OF REVENUE. The holder shall provide documentation of use and revenue for purposes of land use fee verification.

1. Actual Use Report. Within 30 days of completion of the holder's approved operating season, the holder shall submit to the authorized officer an actual use report in accordance with the format in Appendix E.

2. Income Statements. No later than 90 days after the close of the holder's fiscal year, the holder shall submit to the authorized officer a statement of income reporting the results of the holder's annual operations. The statement shall include gross revenue, the value of donated goods and services, the value of gratuities, the value and description of items excluded from gross revenue, and all adjustments, such as taxes deducted, and shall be broken down by permitted activities.

D. LAND USE FEE PAYMENTS

1. Crediting of Payments. Payments shall be credited on the date received by the deposit facility, except that if a payment is received on a non-workday, the payment shall not be credited until the next workday.

2. Disputed Fees. Land use fees are due and payable by the due date. Disputed fees must be paid in full. Adjustments will be made if dictated by settlement terms or an appeal decision.

3. Late Payments

(a) Interest. Pursuant to 31 U.S.C. 3717 et seq., interest shall be charged on any fee amount not paid within 30 days from the date it became due. The rate of interest assessed shall be the higher of the Prompt Payment Act rate or the rate of the current value of funds to the Treasury (i.e., the Treasury tax and loan account rate), as prescribed and published annually or quarterly by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. Interest on the principal shall accrue from the date the land use fee is due.

(b) Administrative Costs. If the account becomes delinquent, administrative costs to cover processing and handling the delinquency shall be assessed.

(c) Penalties. A penalty of 6% per annum shall be assessed on the total amount that is more than 90 days delinquent and shall accrue from the same date on which interest charges begin to accrue.

(d) Termination for Nonpayment. This permit shall terminate if the holder fails to pay any land use fee, interest, or any other charges within 90 calendar days of the due date. The holder shall remain responsible for the delinquent charges.

4. Administrative Offset and Credit Reporting. Delinquent fees and other charges associated with the permit shall be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 et seq. and common law. Delinquencies are subject to any or all of the following:

(a) Administrative offset of payments due the holder from the Forest Service.

(b) If in excess of 90 days, referral to the United States Department of the Treasury for appropriate collection action as provided by 31 U.S.C. 3711(g)(1).

(c) Offset by the Secretary of the Treasury of any amount due the holder, as provided by 31 U.S.C. 3720 *et seq.*

E. ACCOUNTING RECORDS. The holder shall follow generally accepted accounting principles or another comprehensive basis of accounting, such as the cash, modified cash, or income tax basis of accounting, in recording financial transactions. The minimum acceptable accounting system shall include:

1. Systematic internal controls and separate recording of gross receipts from each type of business conducted under this permit, separate from any other commercial or personal activity. Receipts shall be recorded daily without reduction and, if possible, deposited into a bank account. Receipt entries shall be supported by documentation such as cash register tapes, sales invoices, reservation records, and cash accounts from other sources.

2. For permits with land use fees greater than \$10,000, when requested by the Forest Service, the holder at its own expense shall have its annual accounting records audited by an independent public accountant acceptable to the Forest Service.

F. ACCESS TO ACCOUNTING RECORDS. The holder shall make all of the accounting books and supporting records for the business activities authorized by this permit available for audit by the Forest Service or other federal agencies authorized to review Forest Service activities. The holder shall retain these records and make them available for review for five years after the end of the year they were generated, unless disposition is otherwise authorized by the Forest Service in writing.

VI. REVOCATION, SUSPENSION, AND TERMINATION

A. REVOCATION AND SUSPENSION.

1. The authorized officer may revoke or suspend this permit in whole or in part:

- (a) For noncompliance with federal, state, or local laws and regulations;
- (b) For noncompliance with the terms of this permit;
- (c) For failure of the holder to exercise the privileges granted by this permit;
- (d) At the discretion of the authorized officer, for specific and compelling reasons in the public interest.

2. The authorized officer may revoke this permit at the request of the holder. Revocation at the request of the holder must be agreed to in writing by the authorized officer. As a condition of revocation of this permit at the request of the holder, the authorized officer has discretion to impose any terms deemed appropriate as provided for in this permit.

B. REVOCATION BASED ON PERFORMANCE RATING. If the holder receives an annual rating of unacceptable based on deficiencies identified but uncorrected in a mid-season review and evaluation, the Forest Service shall revoke this permit or, if it is about to expire, shall allow it to terminate.

C. NOTICE AND OPPORTUNITY TO TAKE CORRECTIVE ACTION. Prior to revocation or suspension, other than revocation at the request of the holder under clause VI.A.2 or immediate suspension under clause VI.D, the authorized officer shall give the holder written notice of the grounds for the action to be taken. For purposes of revocation under clause VI.B, written notice must be given to the holder after a review and evaluation that if the identified deficiencies are not corrected, they will result in an annual rating of unacceptable, which in turn will result in revocation of the permit. Prior to revocation or suspension under clause VI.A.1(a), VI.A.1(b), or VI.A.1(c) or revocation under clause VI.B, the authorized officer also shall give the holder a reasonable opportunity to complete corrective action prescribed by the authorized officer. The period between the review and evaluation and the annual rating shall constitute adequate opportunity to take corrective action for purposes of revocation under clause VI.B.

D. IMMEDIATE SUSPENSION. The authorized officer may immediately suspend this permit in whole or in part when necessary to protect public health or safety or the environment. The suspension decision shall be in writing. The holder may request an on-site review with the authorized officer's superior of the adverse conditions prompting the suspension. The authorized officer's superior shall grant this request within 48 hours. Following the onsite review, the authorized officer's superior shall promptly affirm, modify, or cancel the suspension.

E. APPEALS AND REMEDIES. Written decisions by the authorized officer relating to administration of this permit, including annual ratings of probationary and unacceptable and revocation or suspension decisions, are subject to administrative appeal

in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint](#) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

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The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service



Forest Service
U.S. DEPARTMENT OF AGRICULTURE

Prospectus for an Outfitting and Guiding Opportunity on the Appalachian and Unaka Ranger
Districts, Pisgah and Cherokee National Forests

Appendix 9: Forest Special Orders

Applicable Forest Orders

Included in this appendix are all regionwide and forest wide orders which apply to the National Forests in North Carolina and the Cherokee National Forest. They appear in order by effective date beginning with the most recent for the National Forests in North Carolina and then the Cherokee National Forest. Additional orders, individually specific to each district, are available on the forest webpage. This webpage will also provide the most up to date closures and orders.

Table 1. Applicable Forest Orders.

Effective Date	Order #	Description	Link
05/23/2025	08-11-08-25-03	Tropical Storm Helene Emergency Closure Order Appalachian Ranger District	https://www.fs.usda.gov/r08/northcarolina/alerts/appalachian-ranger-district-hurricane-helene-updated-closures
01/15/2025	08-11-05-25-01	Tropical Storm Helene Emergency Closure Order Grandfather Ranger District	https://www.fs.usda.gov/r08/northcarolina/alerts/grandfather-ranger-district-hurricane-helene-updated-closures
03/06/2025	08-11-04-25-01	I-40 Reconstruction Project Closure Order (expires 09/30/2025)	https://www.fs.usda.gov/sites/nfs/files/r08/northcarolina/publication/alerts/I-40%20closure.pdf
03/23/2015	04-01-2010	General Forest Order on Camping	https://www.fs.usda.gov/sites/nfs/files/legacy-media/northcarolina/General%20Forest%20Order%20On%20Camping.pdf
10/21/2024	08-04-00-22-180	14- Day Camping Restrictions	https://www.fs.usda.gov/sites/nfs/files/r08/cheerokee/publication/Camping%20Restrictions%20-%20Closure%20Order.pdf



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Appendix 10: Forest Service Program Definitions

Appendix 10 – Forest Service Program Definitions

The following terms and definitions will be helpful in reviewing the information presented in *Prospectus for an Opportunity for Outfitting and Guiding on the Pisgah and Cherokee National Forests*.

Allocation of Use: An amount of use allocated to a holder that is measured in service days or quotas and that is enumerated in a programmatic or project decision that is consistent with the applicable land management plan.

Commercial Use: Any use or activity on National Forest System lands (a) where an entry or participation fee is charged or (b) where the primary purpose is the sale of a good or service and, in either case, regardless of whether the use or activity is intended to produce a profit (36 CFR 251.51).

Extenuating Circumstances: A circumstance that renders conduct less serious and thereby serves to reduce the damages to be awarded or the punishment to be imposed, i.e. Wildfire reduces use of service days, recession reduces recreational tourism and impacts service day use.

Guiding: Providing services or assistance (such as supervision, protection, education, training, packing, touring, subsistence, transporting people, or interpretation) for pecuniary remuneration or other gain to individuals or groups on National Forest System lands. The term "guide" includes the holder's employees and agents.

Holder: An individual or entity that holds a special use permit authorizing outfitting or guiding activities on National Forest System lands.

Outfitting: Renting on or delivering to National Forest System lands for pecuniary remuneration or other gain any saddle or pack animal, vehicle, boat, camping gear, or similar supplies or equipment. The term "outfitter" includes the holder's employees and agents.

Priority Use: Authorization of use for up to 10 years, based on the holder's past use and performance and applicable programmatic or project decisions to allocate use. Except as provided in 36 CFR Part 251, Subpart E, authorizations providing for priority use are subject to renewal (FSH 2709.11, sec. 41.531).

Service Day: An allocation of use constituting a day or any part of a day on National Forest System lands for which an outfitter or guide provides services to a client. For a day trip, the number of service days is the same as the total number of clients.

Trip: A quota that can be used for outfitting and guiding authorizations.

Quota: An allocation of use that is measured as the number of stock per trip, people at one time, trips per hour or per day, the number of launches per day, or other unit of measure other than a service day; that is consistent with applicable land management plan guidance, and that is established in a programmatic or project decision.



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Appendix 11: Screening Criteria

Appendix 11 – Screening Criteria

Code of Federal Regulations 36 CFR 251.54(e)(1)

(1) **Initial screening.** Upon receipt of a request for any proposed use other than for noncommercial group use, the authorized officer shall screen the proposal to ensure that the

- (i) The proposed use is consistent with the laws, regulations, orders, and policies establishing or governing National Forest System lands, with other applicable Federal law, and with applicable State and local health and sanitation laws.
- (ii) The proposed use is consistent or can be made consistent with standards and guidelines in the applicable forest land and resource management plan prepared under the National Forest Management Act and [36 CFR part 219](#).
- (iii) The proposed use will not pose a serious or substantial risk to public health or safety.
- (iv) Except for permanent easements issued under [§ 251.53\(j\)](#), the proposed use will not create an exclusive or perpetual right of use or occupancy.
- (v) The proposed use will not unreasonably conflict or interfere with administrative use by the Forest Service, other scheduled or authorized existing uses of the National Forest System, or use of adjacent non-National Forest System lands.
- (vi) The proponent does not have any delinquent debt owed to the Forest Service under terms and conditions of a prior or existing authorization, unless such debt results from a decision on an administrative appeal or from a fee review and the proponent is current with the payment schedule.
- (vii) The proposed use does not involve gambling or providing of sexually oriented commercial services, even if permitted under State law.
- (viii) The proposed use does not involve military or paramilitary training or exercises by private organizations or individuals, unless such training or exercises are federally funded.
- (ix) The proposed use does not involve disposal of solid waste or disposal of radioactive or other hazardous substances.

(2) **Results of initial screening.** Any proposed use other than a noncommercial group use that does not meet all of the minimum requirements of paragraphs (e)(1)(i)-(ix) of this section shall not receive further evaluation and processing. In such event, the authorized officer shall advise the proponent that the use does not meet the minimum requirements. If the proposal was submitted orally, the authorized officer may respond orally. If the proposal was made in writing, the authorized officer shall notify the proponent in writing that the proposed use does not meet the minimum requirements and shall simultaneously return the request.

(3) **Guidance and information to proponents.** For proposals for noncommercial group use as well as for those proposals that meet the minimum requirements of paragraphs (e)(1)(i)-(ix), the authorized officer, to the extent practicable, shall provide the proponent guidance and information on the following:

- (i) Possible land use conflicts as identified by review of forest land and resource management plans, landownership records, and other readily available sources;
- (ii) Proposal and application procedures and probable time requirements;
- (iii) Proponent qualifications;
- (iv) Applicable fees, charges, bonding, and/or security requirements;
- (v) Necessary associated clearances, permits, and licenses;
- (vi) Environmental and management considerations;
- (vii) Special conditions; and
- (viii) identification of on-the-ground investigations which will require temporary use permits.

(4) **Confidentiality.** If requested by the proponent, the authorized officer, or other Forest Service official, to the extent reasonable and authorized by law, shall hold confidential any project and program information revealed during pre-application contacts.

(5) **Second-level screening of proposed uses.** A proposal which passes the initial screening set forth in paragraph (e)(1) and for which the proponent has submitted information as required in [paragraph \(d\)\(2\)\(ii\)](#) of this section, proceeds to second-level screening and consideration. In order to complete this screening and consideration, the authorized officer may request such additional information as necessary to obtain a full description of the proposed use and its effects. An authorized officer shall reject any proposal, including a proposal for commercial group uses, if, upon further consideration, the officer determines that:

- (i) The proposed use would be inconsistent or incompatible with the purposes for which the lands are managed, or with other uses; or
- (ii) The proposed use would not be in the public interest; or
- (iii) The proponent is not qualified; or
- (iv) The proponent does not or cannot demonstrate technical or economic feasibility of the proposed use or the financial or technical capability to undertake the use and to fully comply with the terms and conditions of the authorization; or
- (v) There is no person or entity authorized to sign a special use authorization and/or there is no person or entity willing to accept responsibility for adherence to the terms and conditions of the authorization.

(6) **NEPA compliance for second-level screening process.** A request for a special use authorization that does not meet the criteria established in [paragraphs \(e\)\(5\)\(i\) through \(e\)\(5\)\(v\)](#) of this section does not constitute an agency proposal as defined in [40 CFR 1508.23](#) and, therefore, does not require environmental analysis and documentation.



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Appendix 12: Cover Sheet and Application Package Checklist

Cover Sheet & Application Package Checklist

Cover Sheet

The undersigned proposes the following in response to the 2025 Prospectus for Outfitting and Guiding Services within the Nolichucky River Gorge, Appalachian and Unaka Ranger Districts, Pisgah and Cherokee National Forests.

Detailed service offerings/proposals should be included in the proposed operating plan and other proposal package documents.

Specify the **MINIMUM** and **MAXIMUM** number of preferred service days you are proposing to use for one or more of the activities listed below:

Table 1. Minimum & Maximum Number of Requested Service Days

Activity Type	Minimum number of daily service days requested	Maximum number of daily service days requested
Whitewater Rafting		
Kayaking		
Other		

Are you willing to accept an award of service days less than the minimum number you listed above?

YES NO

Do you commit to work together with other service providers to share the public space, and set a good example regarding ethical behavior, compliance with laws and regulations, low impact practices, and caring for the land? YES NO

Business Name: _____

Designated Representative: _____

Business Address: _____

Business Phone: _____

Mobile Phone: _____

Email Address: _____

Business Web Address: _____

***Signature:** _____ **Date:** _____

Title:

**Original handwritten signature only; signature must not be typed or electronically created. If the proponent is a business structure other than a Sole Proprietorship, the person signing the cover sheet for the business entity must provide proof of authority to sign for that business entity. For example, provide a letter on company letterhead signed by a company official designating the person as a representative with authority to sign for the company.*

Application Package Checklist

The following items must be submitted for a complete proposal package.

- Cover sheet (above) completed and signed.
- Initial application fee of \$500 made out to the USDA Forest Service.
- Proposed Operating Plan **completed and signed.** (see appendix 7)
- Business Plan and Financial Resource Response **completed and signed.** (see appendix 6)

Failure to submit a complete business plan (including all required financial data in the correct format) will not allow us to make an equal evaluation among all applications.

- Date the business plan was submitted to the Small Business Development Center. (SBDC)
- Evaluation or statement from the SBDC summarizing the results of their review.
- Additional/supplemental material submitted in response to this solicitation.