

Use Code: 153
Authorization ID: #AUTH_ID#
Contact Name: #HOLDER_ID#
Expiration Date: #EXPIRATION_DATE#

FS-2700-4i (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 form may be used to authorize up to 10-year priority use, 2-year priority use, or one-year transitional priority use. Do not authorize temporary use on this form. Delete all instructions prior to printing.>

<Choose one of the following provisions. If you select 2-year priority use, this selection must also be made for clause I.D, Renewal, and clause II.A, Annual Operating Plan. If you select Transitional Priority Use, this selection must be identified as the purpose below and must also be made in clause I.D, Renewal, and clause II.A, Annual Operating Plan.>

Selection item 1: up to 10-year Priority Use Outfitting and Guiding.

- ☐ This permit authorizes priority use outfitting and guiding for [number up to 10] __ years.

Selection item 2: 2-year Priority Use Outfitting and Guiding.

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

Selection item 3: Transitional Priority Use Outfitting and Guiding.

- ☐ This permit authorizes transitional priority use outfitting and guiding for 1 year.

#HOLDER_NAME# of #HOLDER_ADD_LINE_1#, #HOLDER_ADD_LINE_2#, #HOLDER_ADD_LINE_3#, #HOLDER_CITY#, #HOLDER_STATE# #HOLDER_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 [name of Ranger District] [] of the [] [name of] National Forest or National Grassland, described as #TOWNSHIP_SECT_RANGE# #FIRST_DIVISION# #FIRST_DIV_NAME_NUMBER#, #SECOND_DIVISION# #SECOND_DIV_NAME_NUMBER#, #THIRD_DIVISION# #THIRD_DIV_NAME_NUMBER# (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:

#PURPOSE#

and assign use as follows:

<Fill in the appropriate blanks below. To track service days for multiple activities or multiple districts, duplicate the applicable service day line. If use is allocated as a quota rather than as service days, compute the service day equivalent for the quota, and enter that number. In addition, describe the quota or delete the quota line. Enter "0" for assigned site or grazing use if not applicable.>

Selection item 1: For holders of a priority use permit.

☐ priority use service days ["or the service day equivalent of a quota"] for
 [if appropriate, designate activity or district].

Selection item 2: For holders of a transitional priority use permit.

☐ transitional priority use service days ["or the service day equivalent of a quota"] for
 [if appropriate, designate activity or district].

Selection item 1: Select to have clause appear.

☐ The quota for this use is ["Describe the quota. For example, the quota for this use is 3 launches per day, six people per launch, 2 days per week for 12 weeks"].

Selection item 2: Select to remove item 1 and have nothing appear.

assigned sites
 grazing use (in head months (HMs))

This use will be exercised as described in the ["five-year" or "annual"] operating plan.

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

<Do not modify the list or designation of appendices, but note as "not applicable" any appendix that is not attached to the permit.>

APPENDIX A: Map of the Permit Area

APPENDIX B: ["Five-Year" or "Annual"] Operating Plan, dated and approved annually

APPENDIX C: Trip Itinerary

APPENDIX D: Estimated Fee Determination Sheet (approved annually)

APPENDIX E: Actual Use Report Format

APPENDIX F: Performance Evaluation Criteria

APPENDIX G: Other

APPENDIX H: Annual Stewardship Act Fee Offset Agreement

APPENDIX I: Stewardship Act Fee Offset Claim

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 #EXPIRATION_DATE#. Expiration of this permit shall not require notice, a decision document, or any environmental analysis or other documentation.

<Select the first clause I.D for up to 10-year priority use permits. Select the second clause I.D for 2-year priority use permits. Select the third clause I.D for transitional priority use permits. Select the fourth clause I.D. for permits in Alaska Conservation System Units that are subject to competition.>

Selection item 1: For up to 10-year priority use permits.

☐ **D. RENEWAL.** This permit may be renewed upon expiration, provided the use is consistent with the applicable land management plan, applicable laws and regulations, and the terms of this permit and the holder has performed satisfactorily under this permit, as demonstrated by acceptable annual performance reviews. If the holder wants this permit to be renewed, the holder must notify the authorized officer in writing at least 6 months before this permit expires. The decision whether to issue a new permit to the holder is at the sole discretion of the Forest Service. The authorized officer may prescribe new terms when a new permit is issued.

Selection item 2: For 2-year priority use permits.

☐ **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.

Selection item 3: For transitional priority use permits.

☐ **D. CONTINUATION OF USE AND OCCUPANCY.** This permit is not renewable. Upon expiration, this permit may be extended for 1 year if the transitional 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. Additionally, this permit may be extended each year thereafter, up to a total of 5 years or until the holder's application for conversion to priority use is granted or denied. If the application for conversion to priority use is granted, this permit shall terminate and a priority use permit shall be issued. If the application for conversion to priority use is denied, this permit shall terminate, and the use shall not be reauthorized.

Selection item 4: For priority use outfitting and guiding permits when competition is required under 36 CFR Part 251, Subpart E. Do not make this clause substitution for historical operators or the guiding of sport hunting or fishing.

☐ **D. CONTINUATION OF USE AND OCCUPANCY.** This permit is not renewable. After it expires, continuation of the type of use and occupancy authorized by this permit shall be subject to competition at the sole discretion of the authorized officer.

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 Part 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.

SAMPLE

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

<Select the appropriate clause II.A. For an up to 10-year priority use permits, select the 5-year operating plan. For 2-year priority use permits and transitional priority use permits, select the annual operating plan.>

<Selection item 1: For up to 10-year priority use permits.>

A. **FIVE-YEAR OPERATING PLAN.** The 5-year operating plan, which shall be attached to this permit as Appendix B, shall be submitted by the holder and approved in writing by the authorized officer before the holder conducts any services authorized by this permit. The holder shall prepare, annually review, and revise as needed

the 5-year operating plan by [] [date before start of operating season], in consultation with the authorized officer. At a minimum, the five-year 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) identification of 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.

<Selection item 2: For 2-year priority use permits and transitional priority use permits.>

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 in writing by the authorized officer before the holder conducts any services authorized by this permit. The holder shall prepare an annual operating plan by

[] [date before 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 [name] National Forest or Grassland.

<Clauses II.Q and II.R are optional and may be deleted. If deleted, re-letter appropriately.>
<Selection item 1: Select to have clause appear.>

<Selection item 2: Select to remove item 1 and have nothing appear. Re-letter the following clause if necessary.>

Q. INVASIVE SPECIES PREVENTION AND CONTROL. The holder shall be responsible for the prevention and control of invasive species, including invasive plants, within the permit area. For purposes of this clause, invasive plants include non-native species recognized as such by the Forest Service, which are generally,

but are not limited to, state-listed noxious weeds. The holder shall follow invasive species prevention and control measures prescribed by the operating plan.

<Include the following clause in permits involving livestock. Delete for all other permits.>

<Selection item 1: Use this clause in permits involving livestock.>

R. WEED-FREE HAY. The holder shall use only hay, grain, straw, pelletized feed, or mulch certified as noxious weed-free or noxious weed seed-free by a State Department of Agriculture or other authorized county official. The holder shall provide documentation of that certification to the authorized officer.

<Selection item 2: Select to remove item 1 and have nothing appear.>

<USER NOTES FOR CLAUSE II.S>

<Read the instructions for clause C-15 in FSH 2709.11, Chapter 50, section 52.3, on use of clause II.S. Include clause II.S when the holder or the holder's employees, agents, or contractors will outfit and guide children under the age of 18. Otherwise, delete clause II.S.>

S. 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.

<USER NOTES FOR CLAUSES III.F THROUGH III.K>

<Include the following clauses III.F through III.K in permits issued to non-federal entities. Omit clauses III.F through III.H for federal entities below.>

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 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 include the United States as an additional insured in an endorsement to the policy, 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 [] [mailing address of administering office]. 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 \$ [] 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.

<Include clause III.L in permits involving contracts for ancillary services as defined in FSH 2709.14, Chapter 50, section 53.1e. Otherwise, omit clause III.L.>

L. CONTRACTED SERVICES. The holder shall have in force an endorsement covering contracted services and equipment or, alternatively, the holder or the holder's contractor shall procure a separate insurance policy that covers these services.

<USER NOTES FOR STATES>

<If the holder is a state or a political subdivision of a state that has shown that state law limits its liability or obligation to indemnify, follow the direction in FSH 2709.11, Chapter 50.>

<USER NOTES FOR FEDERAL ENTITIES>

<When issuing a permit to federal entities, include the following clauses III.F through III.H, and delete clauses III.F through III.L above.>

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 authorized 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.

G. 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.

H. 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 clause III.G and section V, "hazardous material" shall mean (a) any hazardous substance under section 101(14) of the 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.

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.

<USER NOTES FOR CLAUSES IV.F.1 THROUGH IV.F.4>

<Include clauses IV.F.1 through IV.F.4 for non-federal entities, and clauses IV.F.1, IV.F.3 and IV.F.4, re-lettered appropriately, for federal entities, when consenting to store hazardous materials. Otherwise, delete all four paragraphs.>

1. If the holder receives consent to store hazardous material, the holder shall identify to the Forest Service any hazardous material to be stored at the site. This identifying information shall be consistent with column (1) of

the table of hazardous materials and special provisions given at 49 CFR 172.101 whenever the hazardous material appears in that table. For hazard communication purposes, the holder shall maintain Material Safety Data Sheets for any stored hazardous chemicals, consistent with 29 CFR 1910.1200(c) and (g). In addition, all hazardous materials stored by the holder shall be used, labeled, stored, transported, and disposed of in accordance with all applicable federal, state, and local laws and regulations. Any hazardous material transportation and disposal manifests shall clearly identify the holder as the generator of the hazardous waste.

2. If hazardous materials are used or stored at the site, the authorized officer may require the holder to deliver and maintain a surety bond.
3. The holder shall not release any hazardous material onto land or into rivers, streams, impoundments, or into natural or artificial channels leading thereto. All prudent and safe attempts must be made to contain any release of these materials. The authorized officer in charge may specify specific conditions that must be met, including conditions more stringent than federal, state, and local regulations, to prevent releases and protect natural resources.
4. If the holder uses or stores hazardous materials at the site, upon revocation or termination of this permit the holder shall provide the Forest Service with a report certified by a professional or professionals acceptable to the Forest Service that the permit area is uncontaminated by the presence of hazardous materials and that there has not been a release or discharge of hazardous materials upon the permit area, into surface water at or near the permit area, or into groundwater below the permit area during the term of the permit. If a release or discharge has occurred, the professional or professionals shall document and certify that the release or discharge has been fully remediated and that the permit area is in compliance with all applicable federal, state, and local laws and regulations.

<Selection item 2: Select to remove selection item 1 and have nothing appear.>

V. LAND USE FEE AND DEBT COLLECTION

Selection item 1: Use this clause in all permits except in the Alaska Region.

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 \$. 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 A (fee schedule); option B (3% of gross revenue); option C (short-stop fee); option D (regional fee system such as Alaska Region flat fee system, or option E (fee pursuant to 36 CFR Part 251, Subpart E).

(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 commercial use, assigned site fee, and grazing fee, in advance of the authorized use, as follows:

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.

<USER NOTES FOR CLAUSES V.D AND V.E>

<Include clauses V.D and V.E when the permit is subject to a National Forest System Trails Stewardship Act fee offset agreement. Otherwise, omit these clauses, and re-letter the remaining clauses in this

section. For additional information on the definitions in clause V.D.1, including trail-related examples, see Trail Performance Measure Accomplishment Reporting, posted at <http://fsweb.wo.fs.fed.us/rhwr/ibsc/tr-cost-mi.shtml>.

D. NATIONAL FOREST SYSTEM TRAILS STEWARDSHIP ACT (STEWARDSHIP ACT) FEE OFFSET.

Pursuant to 16 U.S.C. 583k-5, the Forest Service may offset all or part of the land use fee by the cost of construction, improvement, or maintenance of National Forest System trails, trailheads, or developed sites that support public use.

1. Definitions. The following definitions apply solely for purposes of this clause:

(a) Construction. Building a new facility or upgrading an existing facility to serve needs different from or significantly greater than those originally intended.

(b) Facility. A National Forest System trail, trailhead, or developed site.

(c) Improvement. Advancing a facility to a better quality or state, including replacement or substitution of a facility or any of its components with one having essentially the same capacity and purpose.

(d) Maintenance. Work needed to keep a facility in an acceptable condition, including preventive upkeep, normal repairs, replacement of parts and structural components, and other activities needed to preserve a facility so that it continues to provide acceptable service and achieves its expected life. Maintenance excludes activities aimed at expanding the capacity of an asset or otherwise upgrading it to serve needs different from, or significantly greater than those originally intended.

(e) Government Maintenance. Maintenance that arrests deterioration, improves and upgrades, and appreciably prolongs the life of a facility, including but not limited to repairing or installing trail facilities such as trails bridges, replacing or fixing signage, installing water bars, installing a new roof, new floor, or new siding; repairing or maintaining the paths, lands, walks, walls, or landscaping adjacent to a facility; replacing vault toilets with flush facilities, paving interior roads, upgrading facilities, and installing utilities; and performing exterior painting and refinishing (other than repair of unsightly visual marks caused by everyday use), and that is performed at the sole discretion of the authorized officer.

(f) Holder Maintenance. Maintenance that neither materially adds to the value of a facility nor appreciably prolongs its life and that serves only to keep the facility in an ordinary, efficient operating condition, such as, from an accounting or tax perspective, work that may be expensed but not capitalized, including but not limited to routine activities that occur on a predictable annual schedule and isolated maintenance activities like removal of a fallen tree and brushing and limbing.

2. Land Use Fee Offset

(a) Stewardship Act Fee Offset Agreement. Before issuance of this permit and before each operating season thereafter, the Forest Service and the holder shall annually enter into a written Stewardship Act fee offset agreement that specifies the facility construction, improvement, or maintenance that will be used to offset the land use fee. The Stewardship Act fee offset agreement shall enumerate the portion of the land use fee to be offset by the cost of work performed by the holder and the schedule for completion of offset work; which projects are to be used for offset that year; standards for completion of the projects; and examples of allowable costs.

(b) Stewardship Act Fee Offset. Notwithstanding clauses V.A and V.B, the cost of work performed by the holder pursuant to a Stewardship Act fee offset agreement as provided in clause V.D.2(a) may be credited in lieu of cash payments against the annual land use fee, provided that the work has been accomplished in accordance with the Stewardship Act fee offset agreement and has been accepted as completed by the Forest Service before the end of the holder's fiscal year. In the absence of an approved Stewardship Act fee offset agreement, payment of the land use fee shall be made in accordance with clauses V.A and V.B.

(c) Documentation of Expenses. Prior to credit for Stewardship Act fee offset work, the holder shall submit sufficient documentation to allow the authorized officer to determine that the costs claimed are allocable to the Stewardship Act fee offset agreement, actual, reasonable, and not unallowable.

(d) Final Payment. The Forest Service shall reconcile annually the actual land use fee against land use fee payments made and credit given by the Forest Service for Stewardship Act fee offset work. The holder shall pay any additional land use fees owed for the past year's operations within 30 days of billing.

(e) Overpayment. Overpayment of the land use fee will be reimbursed by the Forest Service only if paid pursuant to clauses V.A and V.B. Credit for Stewardship Act fee offset work pursuant to clause V.D.2 is limited to the amount of the annual land use fee; expenses will not be reimbursed if they are greater than the annual land use fee.

E. HOLDER MAINTENANCE PLAN. The holder at its expense shall perform holder maintenance as defined in clause V.D.1(f) of this permit under a holder maintenance plan approved by the Forest Service. The holder maintenance plan shall describe required holder maintenance and its frequency. The work performed under the holder maintenance plan shall not be subject to land use fee offset under clause V.D.2.

F. 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 Land Use Fees. Land use fees are due and payable by the due date. Disputed land use fees other than land use fees recalculated pursuant to an audit, must be paid in full. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlement terms.

3. Late Payments

(a) Interest. Pursuant to 31 U.S.C. 3717 *et seq.*, interest shall be charged on any land use fee 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 United States 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 fee amount 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 from the due date. The holder shall remain responsible for the delinquent charges.

4. Administrative Offset and Credit Reporting. Delinquent land use fees and other charges associated with this 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.*

(d) Disclosure to consumer or commercial credit reporting agencies.

G. 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.

H. 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.

Selection item 2: Use this clause in permits issued in the Alaska Region.

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 \$. 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 the Alaska Region flat fee system, or 36 CFR Part 251, Subpart E, as applicable.
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 commercial use, assigned site fee, and grazing fee, in advance of the authorized use, as follows:

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 permit fee against permit 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 ACTUAL USE. The holder shall provide documentation of actual use 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.

<USER NOTES FOR CLAUSES V.D AND V.E>

<Include clauses V.D and V.E above when the permit is subject to a National Forest System Trails Stewardship Act fee offset agreement. Otherwise, omit these clauses, and re-letter the remaining clauses in this section. For additional information on the definitions in clause V.D.1 above, including trail-related examples, see Trail Performance Measure Accomplishment Reporting, posted at <http://fsweb.wo.fs.fed.us/rhwr/ibsc/tr-cost-mi.shtml>.>

F. 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 land use fees, other than land use fees recalculated pursuant to an audit, must be paid in full. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlement terms.

3. Late Payments

(a) Interest. Pursuant to 31 U.S.C. 3717 *et seq.*, interest shall be charged on any land use fee 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 United States 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 this 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.*

(d) Disclosure to consumer or commercial credit reporting agencies.

G. 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.

H. 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; or
 - (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 the mid-season 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 period, not to exceed 30 days, to complete corrective action prescribed by the authorized officer. The period between the mid-season review and evaluation and the annual rating shall constitute adequate opportunity to take corrective action for purposes of revocation under clause VI.B.

<Use the following clause VI.C for short operating seasons where a mid-term evaluation is not feasible, and delete the preceding clause VI.C. For other permits, delete the following clause.>

Selection item 1: Use for short operating seasons where a mid-term evaluation is not feasible.

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.

Selection item 2: Select to remove selection 1 and to have nothing appear.

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 pursuant to 36 CFR Part 214, as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service.

F. TERMINATION. This permit shall terminate when by its terms a fixed or agreed upon condition, event, or time occurs without any action by the authorized officer. Examples include but are not limited to expiration of the permit by its terms on a specified date and, in the case of a permit issued to a business entity, termination upon change of control of the business entity. Termination of this permit is not subject to administrative appeal and shall not give rise to any claim for damages by the holder against the Forest Service.

G. REMOVAL OF TEMPORARY FACILITIES. Upon revocation or termination of this permit, the holder shall remove within a reasonable time prescribed by the authorized officer all temporary facilities, except those owned by the United States, and shall restore the site. If the holder fails to remove all temporary facilities within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

H. CONTINUATION OF OBLIGATIONS AND LIABILITIES BEYOND TERMINATION OR REVOCATION. Notwithstanding the termination or revocation of this permit, its terms and conditions shall remain in effect and shall be binding on the holder and the holder's personal personal representative, successors, and assignees until all the holder's obligations and liabilities accruing before or as a result of termination or revocation of this permit have been satisfied.

VII. MISCELLANEOUS PROVISIONS

A. MEMBERS OF CONGRESS. No member of or delegate to Congress or resident commissioner shall benefit from this permit either directly or indirectly, except to the extent the authorized use provides a general benefit to a corporation.

B. CURRENT ADDRESSES. The holder and the Forest Service shall keep each other informed of current mailing addresses, including those necessary for payment of fees.

<Use clause VII.E for renewal of priority use permits. Otherwise, delete it and re-letter the remaining clauses.>

C. SUPERSEDED PERMIT. This permit supersedes a permit designated #PREV_REISSUE_HOLDER#, , and dated #PREV_REISSUE_DATE#.



D. SUPERIOR CLAUSES. In the event of any conflict between any of the preceding printed clauses and any subsequent clauses or any provisions in the appendices attached to this permit, the preceding printed clauses shall control.

SAMPLE

THIS PERMIT IS ACCEPTED SUBJECT TO ALL ITS TERMS.

BEFORE THIS PERMIT IS ISSUED TO AN ENTITY, DOCUMENTATION MUST BE PROVIDED TO THE AUTHORIZED OFFICER OF THE AUTHORITY OF THE SIGNATORY FOR THE ENTITY TO BIND IT TO THE TERMS OF THIS PERMIT.

ACCEPTED:

[NAME AND TITLE OF PERSON SIGNING ON BEHALF OF HOLDER, DATE
IF HOLDER IS AN ENTITY]
#HOLDER_NAME#

APPROVED:

#AUTHORIZED OFFICER NAME# DATE
#TITLE#
 National Forest
USDA Forest Service

<Attach operating plan, maps, and other appendices.>

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. Response to this collection of information is mandatory. The authority to collect the information is the Organic Administration Act, 16 U.S.C. 551. The time required to complete this information collection is estimated to average 1 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.

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