Auth ID: #AUTH_ID#
Contact ID: #HOLDER_ID#
Expiration Date: #EXPIRATION_DATE#
Use Code: #USE_CODE#

FS-2700-5b (09/2020)
OMB No. 0596-0082

U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE

SKI AREA TERM SPECIAL USE PERMIT

AUTHORITY:
National Forest Ski Area Permit Act of 1986, 16 U.S.C. 497b

<Delete all user notes before printing.>

Holder Name, Address, City, State, and Zip Code.

Holder Name (the holder) is authorized to use and occupy National Forest System (NFS) lands in the National Forest, subject to the terms of this ski area term special use permit (the permit).

This permit covers number acres in township, range, and section (the permit area), as shown on the map incorporated into this permit as Appendix A. This permit is issued for the purpose of [describe purpose]:

The following appendices are incorporated into this permit:

APPENDIX A: Map of the Permit Area
APPENDIX B: Master Development Plan
APPENDIX C: Operating Plan
APPENDIX D: Authorized Improvements
APPENDIX E: Authorized Services
APPENDIX F: Ski Area Water Facilities and Original Water Rights
APPENDIX G: Initial and Follow-Up Environmental Site Assessments

[list any additional appendices]

I. GENERAL TERMS

A. AUTHORITY. This permit is issued pursuant to the National Forest Ski Area Permit Act of 1986, 16 U.S.C. 497b, 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.

<USER NOTES FOR CLAUSE I.C>
<The term may not exceed 40 years.>

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.

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D. CONTINUATION OF USE AND OCCUPANCY. This permit is not renewable. Prior to expiration of this permit, the holder may apply for a new permit for the use and occupancy authorized by this permit. Applications for a new permit must be submitted at least 6 months prior to expiration of this permit. Issuance of a new permit is at the sole discretion of the authorized officer. At a minimum, before issuing a new permit, the authorized officer shall ensure that (1) the use and occupancy to be authorized by the new permit are consistent with the standards and guidelines in the applicable land management plan; (2) the type of use and occupancy to be authorized by the new permit is the same as the type of use and occupancy authorized by this permit; and (3) the holder is in compliance with all the terms of this permit. The authorized officer may prescribe new terms when a new permit is issued.

E. AMENDMENT

1. 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 are required by law, regulation, the applicable land management plan, or projects and activities implementing the land management plan pursuant to 36 CFR Part 218. The authorized officer shall amend the permit to authorize new, changed, or additional uses or NFS lands that have been approved by the authorized officer per 36 CFR 251.61.

2. At the sole discretion of the authorized officer, this permit may be amended to remove authorization to use any NFS lands not specifically covered in the master development plan for this permit or not needed for the use and occupancy authorized by this permit.

3. The holder may apply for an amendment to this permit to cover new or changed uses or areas. In approving or denying an amendment, the authorized officer shall consider, in addition to the requirements in applicable laws and regulations, the findings or recommendations of other affected agencies and whether the new or changed use or area can be accommodated by an amendment to this permit, or whether a new permit should be issued.

F. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS. In exercising the 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 and authorized facilities and improvements 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 improvements, the permit area shall remain open to the public for all lawful purposes.

H. ASSIGNABILITY. This permit is not assignable or transferable.

I. TRANSFER OF TITLE TO THE IMPROVEMENTS

1. Notification of Transfer. The holder shall notify the authorized officer when a transfer of title to all or part of the improvements is planned.

2. Transfer of Title. Any transfer of title to the improvements covered by this permit shall result in termination of the permit. The party who acquires title to the improvements must submit an application for a permit. The Forest Service is not obligated to issue a new permit to the party who acquires title to the

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improvements. The authorized officer shall determine that the applicant meets requirements under applicable federal regulations.

<Include clause I.I.3 when a direct, wholly owned subsidiary of the holder owns some of the authorized improvements. Otherwise delete clause I.I.3.>

3. Ownership of Certain Personal Property by the Holder's Subsidiary. To comply with current federal tax law, certain personal property authorized by this permit, i.e., the lift towers and moving parts, which constitute approximately [amount less than 20 percent] percent of the total improvements authorized by this permit, are owned by the holder's direct, wholly owned subsidiary, [name of subsidiary]. For purposes of this permit, this personal property shall be treated as if it were directly owned by the holder. The construction, operation, and maintenance of this personal property must satisfy all applicable permit requirements. During the term of this permit, the ownership of this personal property shall not be transferred to any individual or entity other than another direct, wholly owned subsidiary of the holder, or, if permitted by changes in federal tax law, the holder. Transfer of the ownership of this personal property from [name of subsidiary] to another direct, wholly owned subsidiary of the holder or to the holder shall not be considered a change in ownership of the authorized improvements for purposes of 36 CFR 251.59 and clause I.J.2 of this permit. Transfer of the ownership of this personal property to any other individual or entity shall be subject to 36 CFR 251.59 and clause I.J.2 of this permit. As long as this personal property is owned by [name of subsidiary] or another direct, wholly owned subsidiary of the holder, the holder shall own all the issued and outstanding common stock of [name of subsidiary] or that other subsidiary.

J. CHANGE IN CONTROL OF THE BUSINESS ENTITY

1. Notification of Change in Control. 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. Effect of Change in Control. Any change in control of the business entity as defined in clause J.1 shall result in termination of this permit. The party acquiring control must submit an application for a special use permit. The Forest Service is not obligated to issue a new permit to the party who acquires control. The authorized officer shall determine whether the applicant meets the requirements established by applicable federal regulations.

II. IMPROVEMENTS

A. LIMITATIONS ON USE. Nothing in this permit gives or implies permission to build or maintain any structure or facility or to conduct any activity unless specifically authorized by this permit. Any use not specifically authorized by 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.

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B. DRAWINGS. All drawings for development, layout, construction, reconstruction, or alteration of improvements in the permit area, as well as revisions to those drawings must be prepared by a licensed engineer, architect, landscape architect, or other qualified professional acceptable to the authorized officer. These drawings and drawing revisions must have written approval from the authorized officer before they are implemented. The authorized officer may require the holder to furnish as-built drawings, maps, or surveys upon completion of the work.

C. MASTER DEVELOPMENT PLAN. The holder shall prepare and maintain, in a form acceptable to the Forest Service, a master development plan (MDP) encompassing the entire winter sports resort presently envisioned for development in connection with the NFS lands authorized by this permit. The MDP should encompass all NFS lands authorized for use by this permit. For planning purposes, a capacity for the ski area measured in people-at-one time shall be established in the MDP. Upon acceptance by the authorized officer, the MDP shall be incorporated into this permit as Appendix B. Overall development at the ski area authorized by the permit shall not exceed the capacity established in the MDP, and additional construction beyond maintenance of existing improvements at the ski area covered by this permit shall not be authorized without amendment of the MDP and without the requisite environmental analysis and documentation needed to support that additional construction or development under the National Environmental Policy Act (NEPA). The holder shall propose any changes to the MDP in a form acceptable to the Forest Service and shall submit the proposed changes to the authorized officer. Once accepted, the revised MDP shall become a part of this permit. Acceptance of the original or revised MDP by the authorized officer does not authorize new development or uses. The authorized officer's acceptance of the original or revised MDP does not constitute approval of its contents or provide any assurance that any particular item in the original or revised MDP will be authorized by the Forest Service or constructed by the holder. No rights or obligations of the holder or the Forest Service are determined by the authorized officer's acceptance of the original or revised MDP, nor do any legal consequences, including the requirement to conduct environmental analysis under NEPA, flow from the authorized officer's acceptance of the original or revised MDP.

D. SITE DEVELOPMENT SCHEDULE. The holder and the Forest Service jointly shall prepare a site development schedule, which shall be incorporated into this permit as part of Appendix C, Operating Plan, before any construction occurs in the permit area. The site development schedule shall list improvements in the master development plan and any amendments to the plan in order of priority, and shall include the starting date for their construction, and the due date for their completion. All required plans and specifications for improvements included in the site development schedule shall be properly certified and submitted to the authorized officer at least 45 days before the starting date for their construction. The holder may accelerate the scheduled date for completion of any improvement, as long as the other scheduled improvements are completed on time and to the satisfaction of the authorized officer. Any other changes to the site development schedule must have prior written approval from the authorized officer. Pursuant to clause IV.L, the authorized officer may require a performance bond for improvements constructed under a site development schedule.

<USER NOTES FOR CLAUSES II.E>

<Select the following clause II.E when aerial tramways, aerial or surface lifts, tows, conveyors, or funiculars are authorized. Otherwise delete this clause and re-letter any remaining clauses in this section.>

E. DRAWINGS, SPECIFICATIONS, AND RECORDS FOR AERIAL TRAMWAYS, AERIAL AND SURFACE LIFTS, TOWS, CONVEYORS, AND FUNICULARS. All drawings, specifications, and records for aerial tramways, aerial and surface lifts, tows, conveyors, and funiculars, hereinafter "ropeways," shall, notwithstanding clause II.B of this permit, be properly prepared and certified by a qualified ropeway engineer as being in accordance with the latest edition in effect of American National Standards Institute (ANSI) Standard B77.1, American National Standard for Passenger Ropeways – Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors – Safety Requirements (ANSI B77.1), or ANSI Standard B77.2, Funiculars – Safety Requirements (ANSI B77.2), as applicable, or applicable state standards that have been certified in writing by a qualified ropeway engineer to be more restrictive than ANSI B77.1 or B77.2. The effective date of the latest edition of ANSI B77.1 or B77.2 is 1 year from the date of its approval by

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ANSI. A complete set of drawings, specifications, and records for each ropeway shall be maintained by the holder and shall be made available to the Forest Service upon request. These drawings, specifications, and records shall be retained by the holder for 3 years after removal of a ropeway from NFS lands.

<USER NOTES FOR CLAUSES II.F>
<Read the instructions for clause C-16 in FSH 2709.11, Chapter 50, section 52.3, on use of clause II.F. Include clause II.F when a natural resource-based recreational facility is authorized under this permit. Otherwise delete clause II.F.>

F. DRAWINGS, SPECIFICATIONS, AND RECORDS FOR NATURAL RESOURCE-BASED RECREATIONAL FACILITIES. All drawings, specifications, and records for natural resource-based recreational facilities as defined in FSM 7330.05 shall be properly prepared and certified by a qualified engineer as being in accordance with American Society for Testing and Materials (ASTM) Standard F24 or other applicable industry standards developed and adopted by a consensus organization that have been certified in writing by a qualified engineer to be an acceptable alternative to ASTM F24, or applicable state standards that have been certified in writing by a qualified engineer to be more restrictive than ASTM F24. A complete set of drawings, specifications, and records for each natural resource-based recreational facility shall be maintained by the holder and shall be made available to the Forest Service upon request. These documents shall be retained by the holder for 3 years after removal of a natural resource-based recreational facility from NFS lands.

III. OPERATIONS

A. OPERATING PLAN. The holder shall prepare and annually revise by [date] an operating plan or by [date] an operating plan for the winter season and by [date] an operating plan for the summer season. The operating plan and any operating plan revisions shall be prepared in consultation with the authorized officer or the authorized officer's designated representative and shall cover all operations authorized by this permit. The operating plan shall outline steps the holder will take to protect public health and safety and the environment and shall include sufficient detail and standards to enable the Forest Service to monitor the holder's operations for compliance with the terms of this permit. The operating plan shall be submitted by the holder and approved in writing by the authorized officer or the authorized officer's designated representative prior to commencement of operations and shall be incorporated into this permit as Appendix C. 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. The authorized officer may require an annual meeting with the holder to discuss the terms of the permit or operating plan, annual use reports, or other concerns either party may have. A ski area operating plan must address:

1. Designation of on-site representatives and their contact information, including cellular telephone number and email address.
2. Communications.
3. Signage.
4. Inspections that the holder must obtain.
5. Ski patrol and first aid.
6. Accident reporting and incident notification.
7. Avalanche mitigation, including use of military artillery, if applicable.
8. Explosives magazine security log, if applicable.
9. Search and rescue.
10. Boundary management.
11. Vegetation management.
12. Drainage management.
13. Trail routes for Nordic skiing and other winter sports, if applicable.
14. Procedures for reporting of child abuse, if applicable.
15. Procedures for background checks for employees who supervise children, if applicable.

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16. Operation of natural resource-based recreational facilities, if applicable.
17. Performance bond for construction projects and amount of bond, if applicable.
18. Uphill access.
19. Contractors' and lessees' activities.
20. Rules of use established by the holder and restrictions established by an order issued by the Forest Service.
21. Slope transport feet percentage (STFP) calculation.
22. Site development schedule.
23. Submission of annual use reports.

B. PERIOD OF USE. The use and occupancy authorized by this permit shall be in normal operation at least [ ] days each year or season. Failure of the holder to exercise this minimum use may result in revocation of this permit under clause VII.A.

C. RESPONSIBILITY FOR DAY-TO-DAY ACTIVITIES. As a general rule, the holder shall conduct the day-to-day activities authorized by this permit. A limited amount of activities may be conducted by a party other than the holder, but only with prior written approval of the authorized officer. The holder shall continue to be responsible for compliance with all the terms of this permit.

D. LEASING

1. In General. Subject to clause III.C, the holder may lease authorized concessions and improvements owned by the holder that are located within the permit area with the prior written approval of the authorized officer. The Forest Service reserves the right to disapprove these leases. The holder shall remain responsible for compliance of the leased concessions and improvements with all the terms of this permit.

<Select the following clause III.D.2 when the operator is different from the owner of the authorized improvements. Otherwise delete this clause.>

2. Lease for Ski Area Operations. Pursuant to clause III.D.1, the authorized officer has approved a lease between the holder and [name of operating entity] for operation of the authorized improvements (the lease) under the terms of this permit. [Name of operating entity] is executing this permit in the capacity of a lessee under the lease, rather than as a holder. [Name of operating entity] is subject to all obligations in sections III, IV, V, and VI and clauses VII.A.1(a), VII.A.1(b), VII.C, and VII.G, and is also bound to comply with all terms of the lease in operating the authorized improvements. In signing this permit, [name of operating entity] is not acquiring any rights or privileges under this permit. This clause and [name of operating entity]'s execution of this permit shall not (a) create, enlarge, diminish, or otherwise affect any right or obligation of [name of operating entity] or the holder under the lease or any other agreement or (b) in any way affect the rights of the holder to terminate the lease.

E. CONDITION OF OPERATIONS. The holder shall maintain the authorized improvements and permit area to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer and consistent with other provisions of this permit. Standards are subject to periodic change by the authorized officer.

F. 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.

G. MONITORING BY THE FOREST SERVICE. The Forest Service shall monitor the holder's operations and reserves the right to inspect the permit area and authorized facilities and improvements at

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any time for compliance with the terms of this permit. The holder shall comply with inspection requirements deemed appropriate by the authorized officer. The obligations of the holder under this permit are not contingent upon any duty of the Forest Service to inspect the permit area or authorized facilities or improvements. A failure by the Forest Service or other governmental officials to inspect is not a defense to noncompliance with any of the terms of this permit.

H. 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.

I. SIGNAGE. Signage posted on NFS lands must have prior written approval of the authorized officer.

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

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

L. DRINKING WATER SYSTEM. The holder, as the water supplier and owner or operator of the drinking water system for the facilities authorized by this permit, is responsible for compliance with all applicable federal, state, and local drinking water laws and regulations governing operation and maintenance of a public drinking water system, including but not limited to developing, operating, and maintaining the system and conducting drinking water testing and taking appropriate corrective and follow-up actions in accordance with federal, state, and any other applicable requirements. For purposes of this permit, public water systems are defined in accordance with the Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq*.), and the National Primary Drinking Water Regulations, 40 CFR Part 141, or state regulations, if more stringent. The holder shall retain all drinking water system records as required by applicable laws and regulations. The holder agrees to make the records available to the Forest Service and to any other regulatory agency authorized to review Forest Service activities.

M. HOLDER'S REPRESENTATIVE. The holder or the holder's designated representative shall be within the permit area at all times when the authorized facilities are open to the public. The holder shall notify the authorized officer in writing of the designated representative's name and contact information, including cellular telephone number and email address.

N. 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 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.

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3. The Forest Service shall furnish signs setting forth this policy of nondiscrimination. These signs shall be conspicuously displayed at the public entrance to the permit area and at other exterior or interior locations, as directed by the Forest Service.

4. 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.

O. 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.

P. PROHIBITION OF TIME-SHARE ARRANGEMENTS. No commercial lodging facilities on NFS lands authorized under this permit shall be operated under a time-share or interval-ownership arrangement. All authorized commercial lodging facilities on NFS lands, except for employee housing authorized pursuant to Forest Service Manual 2341.5, shall be made available to the general public on a short-term rental basis.

<USER NOTES FOR CLAUSE III.Q>
<Select the following clause III.Q if the sale of alcoholic beverages is prohibited in the permit area and delete the remaining clause III.Q.>

Q. SALE OF ALCOHOLIC BEVERAGES. The sale of alcoholic beverages is prohibited in the permit area.

<Select the following clause III.Q if the sale of alcoholic beverages is allowed in the permit area. Select the types of alcoholic beverages that may be sold under the holder's liquor license and delete the inapplicable beverages; move the word "and" as necessary; and delete the brackets. Delete the remaining clause III.Q>

Q. SALE OF ALCOHOLIC BEVERAGES. The sale of [liquor, beer, wine, and other types alcoholic beverages] is allowed in the permit area, provided the holder has a valid state liquor license. However, in the event of a violation of any liquor law or regulation, the authorized officer may require that the sale of alcoholic beverages shall cease. The holder shall be informed in writing by the authorized officer if the sale of alcoholic beverages must cease.

R. GAMBLING. Gambling and gambling machines and devices are prohibited on NFS lands, regardless of whether they are lawful under state or local law.

S. 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.

<USER NOTES FOR CLAUSES III.T>
<Select the following clause III.T when ropeways are authorized. Otherwise delete clause III.T and re-letter any remaining clauses in this section.>

T. INSPECTION OF ROPEWAYS. The holder at its expense shall have ropeways inspected annually by a qualified ropeway engineer or qualified ropeway specialist prior to commencement of the primary season of use and while the ropeways are not in use by the public. Inspections shall be conducted in accordance with the latest edition in effect of ANSI B77.1 or B77.2, as applicable, including the general inspection provisions, or applicable state standards that have been certified in writing by a qualified ropeway engineer to be more restrictive than ANSI B77.1 or B77.2. A report signed by the qualified

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ropeway engineer or qualified ropeway specialist shall document the inspection and any deficiencies to be corrected. The holder shall submit a written certification of inspection to the authorized officer attesting that the ropeways authorized by this permit have been inspected for public safety and that they are ready for public use. The written certification of inspection shall be submitted to the Forest Service prior to commencement of the primary season of use. At a minimum, the written certification of inspection shall state in its entirety and without revision:

> Pursuant to [holder's name]'s Forest Service permit, [authorization ID], [holder's name] has had an annual inspection performed of the ropeways authorized by the permit to determine their compliance with ANSI B77.1 or B77.2, as applicable, or applicable state standards. [Holder's name] has received the results of that inspection and has made and documented corrections of all deficiencies noted in the inspection report. The ropeways authorized by the permit are ready for public use.

<USER NOTES FOR CLAUSE III.U>

<Read the instructions for clause C-17 in FSH 2709.11, Chapter 50, section 52.3, on use of clause III.U. Include clause III.U when a natural resource-based recreational facility is authorized under this permit. Otherwise delete clause III.U and re-letter any remaining clauses in this section.>

U. AUDIT OF NATURAL RESOURCE-BASED RECREATIONAL FACILITIES. The holder shall, at its own expense, have all natural resource-based recreational facilities as defined in FSM 7330.05 audited annually by a qualified engineer or qualified auditor prior to commencement of operations of the primary season of use and while the facilities are not in use by the public. Audits shall be conducted in accordance with ASTM F24, including the audit provisions of ASTM F2974, or other applicable industry standards developed and adopted by a consensus organization that have been certified in writing by a qualified engineer to be an acceptable alternative to ASTM F24, or applicable state standards that have been certified in writing by a qualified engineer to be more restrictive than ASTM F24. A report signed by the qualified engineer or qualified auditor shall document the audit, including the applicable industry or state standards utilized in the audit, and any deficiencies to be corrected. The holder shall submit a written certification of audit to the authorized officer attesting that the natural resource-based recreational facilities authorized by this permit have been audited for public safety and that they are ready for public use. The written certification of audit shall be submitted to the Forest Service prior to commencement of the primary season of use. At a minimum, the written certification of audit shall state in its entirety and without revision:

> Pursuant to [holder's name]'s Forest Service permit, [authorization ID], [holder's name] has had an annual audit performed of the natural resource-based recreational facilities authorized by the permit to determine their compliance with ASTM F24 or other applicable industry standards. [Holder's name] has received the results of that audit and has made and documented corrections of all deficiencies noted in the audit report. The natural resource-based recreational facilities authorized by the permit are ready for public use.

<USER NOTES FOR CLAUSE III.V>

<Read the instructions for clause C-15 in FSH 2709.11, Chapter 50, section 52.3, on use of clause III.V. Include clause III.V when this permit authorizes the holder or the holder's employees, agents, or contractors to provide health care (including first aid), teaching, instruction (including at a ski school), or childcare for children under the age of 18. Otherwise delete clause III.V and re-letter any remaining clauses in this section.>

V. 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

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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.

<USER NOTES FOR CLAUSE III.W>
<Read the instructions for clause B-29 in FSH 2709.11, Chapter 50, section 51.3, on use of clause III.W. Include clause III.W when this permit authorizes the storage and use of explosives. Otherwise delete clause III.W.>

W. STORAGE AND USE OF EXPLOSIVES AND MAGAZINE SECURITY

1. Applicable Legal Framework

<USER NOTES FOR PARAGRAPH 1>
<Select the applicable paragraphs below, depending on the party storing and using explosives and the type of explosives stored and used under the authorization. Delete the paragraphs that do not apply, and re-letter the paragraphs, as appropriate. If only one paragraph applies, the text of the paragraph should immediately follow the heading "Applicable Legal Framework" on the same line, without a letter designation.>

<Include paragraph 1(a) when a private party is storing and using explosives under a special use authorization. This is the most common scenario for storage and use of explosives and typically involves a ski area.>

(a) The purchase, storage, and handling of explosives by the holder under this permit are regulated by United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), under 27 CFR Part 555. Inspections of magazines authorized by this permit are subject to all ATF inspection requirements at 27 CFR Part 555 and shall be conducted by ATF. Property records and inventories of these magazines shall be reconciled by ATF in accordance with ATF requirements at 27 CFR Part 555 during ATF's routine periodic inspections.

<Include paragraph 1(b) with paragraph 1(a) when the Forest Service is also storing and using military ammunition at a ski area.>

(b) The purchase, storage, and handling of military weapons and ammunition used for avalanche mitigation by the Forest Service under this permit are subject to the current Master Interagency Agreement between the Forest Service and the Assistant Secretary of the Army (Acquisition, Logistics and Technology), hereinafter "Master Interagency Agreement." Under the Master Interagency Agreement, military weapons are loaned by the Department of the Army (DOA) to the Forest Service, ammunition is purchased by the Forest Service from DOA, and the Forest Service controls the storage and use of the weapons and ammunition (FSM 2343.12). The Forest Service is not subject to state or ATF oversight, jurisdiction, licensure, and permitting requirements (27 CFR 555.141(a)(5) and (a)(6)). Inspections of magazines authorized by this permit that contain Forest Service-owned ammunition purchased from DOA under the Master Interagency Agreement are subject to all DOA inspection requirements under that agreement and shall be conducted by DOA and the Forest Service artillery program manager. Property records and inventories of these magazines shall be reconciled by the Forest Service artillery program manager in accordance with the Master Interagency Agreement.

SAMPLE

<Include paragraph 1(c) when a state is storing and using explosives other than ammunition purchased from the Department of the Army.>

(c) The purchase, storage, and handling of explosives by the holder under this permit are subject to applicable state and Forest Service requirements, as well as storage requirements in United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), regulations at 27 CFR Part 555. The holder is not otherwise subject to ATF oversight, jurisdiction, licensure, and permitting requirements. Inspections of magazines authorized by this permit are subject to all state inspection requirements and shall be conducted by the state. Property records and inventories of these magazines shall be reconciled by the holder in accordance with state requirements.

<Include paragraph 1(d) with paragraph 1(c) when a state is also storing and using ammunition purchased from the Department of the Army. Include only paragraph 1(d) when a state is only storing and using ammunition purchased from the Department of the Army.>

(d) The purchase, storage, and handling of military weapons and ammunition used for avalanche mitigation by the holder under this permit are subject to an agreement between the Department of the Army (DOA) and the holder. The holder is not subject to United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), oversight, jurisdiction, licensure, and permitting requirements. However, the holder is subject to applicable Forest Service requirements. Inspections of magazines authorized by this permit that contain ammunition purchased by the holder from DOA under an agreement between the holder and DOA are subject to all DOA inspection requirements under that agreement and shall be conducted by DOA and the holder. Property records and inventories of these magazines shall be reconciled by the holder in accordance with the holder's agreement with DOA.

<END OF USER NOTES FOR PARAGRAPH 1>

2. Documentation of Inspections. All required inspections, including inspections required every seven days, shall be documented in a log. The log shall indicate the inspection type, date of inspection, and the date all deficiencies identified in any inspection report were corrected. A current copy of the log; corresponding inspection reports, if any; and a copy of the holder's current ATF-issued federal explosives license or federal explosives permit, if applicable, shall be included annually in the operating plan for review by the authorized officer.

3. Loss or Theft of Explosive Material. Any loss or theft of explosive material shall be reported to ATF or the Department of the Army (DOA), as appropriate, local law enforcement authorities, and the Forest Service within 24 hours of discovery.

4. Minimum Standards for Locks and Keys

(a) ATF Requirements. Locks and keys for authorized magazines and key security shall meet ATF requirements at 27 CFR Part 555.

(b) Replacement and Documentation. Locks and keys shall be replaced periodically at least every ten years. In the case of deterioration or a potential breach in security, such as lost keys, any affected keys and locks shall be replaced immediately. Periodic lock and key replacement shall be documented in a log. The log shall include the date of the most recent replacement. A current copy of the log shall be included annually in the operating plan for review by the authorized officer.

<USER NOTES FOR PARAGRAPHS 4(c) and 4(d)>
<Include paragraph 4(c) when a private party is storing and using explosives under a special use authorization or when a state is storing and using explosives other than ammunition purchased from the Department of the Army.>

SAMPLE

(c) Key Control for Magazines Containing Explosives Not Purchased From DOA. Key control for magazines authorized by this permit containing explosives not purchased from DOA shall at a minimum provide for appointment of a custodian, maintenance of a list of personnel authorized to use and issue keys, a locked container for key storage, and documentation of locks and keys on a key control register and inventory.

<Include paragraph 4(d) with paragraph 4(c) when the Forest Service or a state is also storing and using ammunition purchased from the Department of the Army. Include paragraph 4(d) by itself, re-lettered as 4(c), when a state is only storing and using ammunition purchased from the Department of the Army. Delete paragraph 4(d) if it does not apply.>

(d) Key Control for Magazines Containing Ammunition Purchased From DOA. Key control for magazines authorized by this permit containing ammunition purchased from DOA shall be in accordance with the Master Interagency Agreement and shall be documented on DOA form DA-5513-R, Key Control Register and Inventory.

IV. 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 permit 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. 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 site for the permitted use, or for the furnishing of road maintenance, water, fire protection, or any other such service by a government agency, utility, association, or individual.

E. RISK OF LOSS. The holder assumes all risk of loss to the authorized improvements and all risk of loss of use and occupancy of the permit area, in whole or in part, due to theft or vandalism, natural events, or environmental hazards. Loss to the authorized improvements and of use and occupancy of the permit area may result from but is not limited to environmental contamination and forces of nature such as avalanches, rising waters, winds, falling limbs, or trees. If any authorized improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, this permit shall terminate as to those improvements. If the authorized officer determines that any portions of the permit area cannot be safely occupied due to a public health or safety or environmental hazard, this permit shall terminate as to those portions of the permit area. Termination under this clause shall not give rise to any claim for damages, including lost profits and the value of the improvements, by the holder against the Forest Service.

<USER NOTES FOR THE FOLLOWING CLAUSE IV.F>
<Read the instructions for clause D-30 in FSH 2709.11, Chapter 50, section 52.4, on use of the following clause IV.F. Include the following clause IV.F if the ski area authorized by this permit is in a prior appropriation doctrine state. Delete the remaining clause IV.F.>

SAMPLE

F. WATER FACILITIES AND WATER RIGHTS

"Used primarily for operation of the ski area" in relation to a water facility or water right means that the water facility or water right provides significantly more water for operation of the permitted portion of the ski area than for any other use.

"Sufficient quantity of water to operate the ski area" means that under typical conditions, taking into account fluctuations in utilization of the authorized improvements, fluctuations in weather and climate, changes in technology, and other factors deemed appropriate by the holder's qualified hydrologist or licensed engineer, the holder has sufficient water rights or access to a sufficient quantity of water to operate the permitted facilities, and to provide for the associated activities authorized under the ski area permit in accordance with the approved operating plan.

1. Water Facilities

(a) The term "water facility" means a facility located on NFS lands that diverts withdraws, stores, or distributes water, such as a diversion, ditch, pipeline, reservoir, well, tank, impoundment structure, or similar facility or feature.

(b) The term "ski area water facility" means any water facility on NFS lands that is authorized by this permit and used primarily for operation of the ski area authorized by this permit (hereinafter "ski area").

(c) The authorized officer may place conditions, as necessary to protect public property, public safety, cultural resources, and natural resources on NFS lands, on the installation, operation, maintenance, and removal of any water facility, but only in accordance with applicable law. Clause IV.F does not expand or contract the agency's authority to place conditions on the installation, operation, maintenance, and removal of water facilities at issuance or reissuance of the permit, throughout the permit term, or otherwise. The holder must comply with present and future laws, regulations, and other legal requirements in accordance with section I of this permit.

(d) Only ski area water facilities may be authorized by this permit.

(e) If due to a change (e.g., due to a change in the ownership of the water facility or the associated water rights or a change in the beneficial use, location, or season of use of the water) a ski area water facility will primarily be used for purposes other than operation of the ski area, the authorization for that ski area water facility under this permit shall terminate. Unless the holder has a valid existing right for the water facility to be situated on NFS lands, the holder must obtain a separate special use authorization to operate that water facility or to develop any new water facility on NFS lands that is used primarily for purposes other than operation of the ski area. When such facilities continue to support approved ski area operations at any time of year, the separate special use authorization for these water facilities shall not contain any possessory interest policy based on FSM 2541.32, paragraph 2 (or similar clauses), any waiver provision, or any power of attorney provision. Unless the holder has a valid existing right for the water facility to be situated on NFS lands, if the holder does not obtain a separate special use authorization for these water facilities, the holder shall remove them from NFS lands.

<USER NOTES FOR CLAUSE IV.F.1(f)>
<Include Clause IV.F.1(f) in permits issued in California, which has both prior appropriation doctrine and riparian doctrine systems. Otherwise delete clause IV.F.1(f).>

(f) This permit does not convey, dispose of, extinguish, or otherwise effect a transfer of any title, rights, or interest of the United States or the holder as a riparian or littoral landowner. The United States and the holder retain all rights, title, and interests they have as riparian or littoral landowners.

2. Water Rights. The term "water right" as used below means a right to use water that is recognized under state law under the prior appropriation doctrine. This permit does not confer any water rights.

SAMPLE

3. Acquisition and Maintenance of Water Rights

(a) Terms

(1) The term “ski area water right” means any water right for use of water from a point of diversion on NFS lands, either inside or outside the permit boundary, that is primarily for operation of the ski area.

(2) The term “original water right” means any existing or new ski area water right with a point of diversion that was or is, at all times during its use, located within the permit boundary for this ski area and originally established under state law through an application for a decree to state water court, permitting, beneficial use, or otherwise recognized method of establishing a new water right, in each case by the holder or a prior holder of the ski area permit. The term “original water right” shall not include any “acquired water right” and shall not be deemed to become an “acquired water right” by virtue of the sale of the original water right to a subsequent holder of the ski area permit.

(3) The term “acquired water right” means any ski area water right that is purchased, bartered, exchanged, leased, or contracted by the holder or by any prior holder, except as expressly provided in the last sentence of paragraph F.3.a(2).

(b) An inventory of all ski area water facilities and original water rights is included in Appendix F of this permit and shall be updated by the holder upon reissuance of this permit, upon installation or removal of a ski area water facility, when a listed ski area water facility is no longer authorized by this permit, or when an original water right is no longer used for operation of the ski area.

(c) Original water rights must be established in accordance with applicable state law. The holder, not the United States, shall bear the cost of establishing, acquiring, maintaining, and perfecting original water rights, including any original water rights owned solely or jointly by the United States.

(d) Original water rights owned solely by the United States and the United States’ interest in jointly owned original water rights shall remain in federal ownership. Notwithstanding the holder’s obligation to maintain original water rights owned by the United States, the United States reserves the right to take any action necessary to maintain and protect those water rights, including submitting any applications or other filings that may be necessary to protect the water rights.

4. Ensuring Sufficiency of Water Rights and Water for Permitted Ski Area Operations

(a) Where the United States solely or jointly owns water rights used by the holder, the Forest Service shall not divide or transfer ownership of or seek any change in those water rights that would adversely affect their availability for operation of the ski area during the term of this permit, unless required to comply with a statute or an involuntary court order that is binding on the Forest Service.

(b) Where the holder solely or jointly owns original water rights, the holder shall not divide or transfer ownership of or seek any change in those water rights that would adversely affect their availability for operation of the ski area during the term of this permit, unless approved in writing in advance by the authorized officer. In deciding whether to grant this approval, the authorized officer shall consider any documentation prepared by the holder’s qualified hydrologist or licensed engineer demonstrating that such action will not result in a lack of a sufficient quantity of water to operate the permitted portion of the ski area.

(c) At any time and solely within its discretion, the holder may seek to change, abandon, lease, divide, or transfer ownership of or take other actions with respect to acquired water rights. Following such actions, paragraph F.1.e shall apply to the associated ski area water facilities.

5. Transfer of Certain Water Rights With Sale of the Ski Area Improvements

SAMPLE

(a) Upon termination or revocation of this permit, the holder shall offer to sell the holder's interest in any solely or jointly owned original water rights at market value to the succeeding permit holder. If the succeeding permit holder declines to purchase original water rights owned solely by the holder, the holder may transfer them to a third party. If the succeeding permit holder declines to purchase the holder's interest in original water rights jointly held with the United States, the holder shall offer to sell that interest at market value to the United States. If the United States declines to purchase that interest, the holder may abandon, divide, lease, or transfer its interest at its sole discretion. This clause imposes no restrictions on acquired water rights. There are no restrictions on the transfer or abandonment of acquired water rights. In all instances, the holder shall retain the full amount of any consideration paid for water rights. Following such actions, paragraph F.1.e shall apply to the associated ski area water facilities.

(b) If the Forest Service does not reauthorize the ski area, the holder may submit a proposal to the Forest Service for a permit authorizing a different use for the ski area water facilities. If a different use is not authorized for those water facilities, the holder shall remove them from NFS lands. The holder may, in its sole discretion, abandon, divide, lease, or transfer any water rights solely owned by the holder. The holder shall offer to sell to the United States the holder's interest in original water rights jointly owned with the United States at market value. If the United States declines to purchase that interest, the holder may abandon, divide, lease, or transfer its interest at its sole discretion.

<USER NOTES FOR THE FOLLOWING CLAUSE IV.F>
<Read the instructions for clause D-31 in FSH 2709.11, Chapter 50, section 52.4, on use of the following clause IV.F. Include the following clause IV.F if the ski area authorized by this permit is in a riparian doctrine state. Delete the preceding clause IV.F.>

F. WATER FACILITIES AND WATER RIGHTS

"Used primarily for operation of the ski area" in relation to a water facility or water right means that the water facility or water right provides significantly more water for operation of the permitted portion of the ski area than for any other use.

"Sufficient quantity of water to operate the ski area" means that under typical conditions, taking into account fluctuations in utilization of the authorized improvements, fluctuations in weather and climate, changes in technology, and other factors deemed appropriate by the holder's qualified hydrologist or licensed engineer, the holder has sufficient water rights or access to a sufficient quantity of water to operate the permitted facilities, and to provide for the associated activities authorized under the ski area permit in accordance with the approved operating plan.

1. Water Facilities

(a) The term "water facility" means a facility located on NFS lands that diverts, withdraws, stores, or distributes water, such as a diversion, ditch, pipeline, reservoir, well, tank, impoundment structure, or similar facility or feature.

(b) The term "ski area water facility" means any water facility on NFS lands that is authorized by this permit and used primarily for operation of the ski area authorized by this permit (hereinafter "ski area").

(c) The authorized officer may place any conditions, as necessary to protect public property, public safety, cultural resources, and natural resources on NFS lands, on the installation, operation, maintenance, and removal of any water facility, but only in accordance with applicable law. Clause IV.F does not expand or contract the agency's authority to place conditions on the installation, operation, maintenance, and removal of water facilities at issuance or reissuance of the permit, throughout the permit term, or otherwise. The holder must comply with present and future laws, regulations and other legal requirements in accordance with section I of this permit.

(d) Only ski area water facilities may be authorized by this permit.

SAMPLE

(e) An inventory of all ski area water facilities is included in Appendix F of this permit and shall be updated by the holder upon reissuance of this permit, upon installation or removal of a ski area water facility, or when a listed ski area water facility is no longer authorized by this permit.

(f) If due to a change (e.g., due to change in ownership of the water facility or the associated water rights or a change in the use, location, or season of use of the water) a ski area water facility will primarily be used for purposes other than operation of the ski area, the authorization for that water facility under this permit shall terminate. Unless the holder has a valid existing right for the water facility to be situated on NFS lands, the holder must obtain a separate special use authorization to operate that water facility or to develop any new water facility on NFS lands that is used primarily for purposes other than operation of the ski area. When such facilities continue to support approved ski area operations at any time of year, the separate special use authorization for these water facilities shall not contain any possessory interest policy based on FSM 2541.32, paragraph 2 (or similar clauses), any waiver provision, or any power of attorney provision. Unless the holder has a valid existing right for the water facility to be situated on NFS lands, if the holder does not obtain a separate special use authorization for these water facilities, the holder shall remove them from NFS lands.

(g) Upon termination or revocation of this permit, if the Forest Service does not reauthorize the ski area, the holder may submit a proposal to the Forest Service for a permit authorizing a different use for the ski area water facilities. If a different use is not authorized for those water facilities, the holder shall remove them from NFS lands.

2. Water Rights. This permit does not convey, dispose of, extinguish, or otherwise effect a transfer of any title, rights, or interest of the United States or the holder as a riparian or littoral landowner. The United States and the holder retain all rights, title, and interest they have as riparian or littoral landowners.

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 NFS 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. Such costs may be deducted from a performance bond required under clause IV.L.

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, contractors, or lessees to the same extent as provided under clause IV.G.1, except that liability shall not include reasonable and ordinary wear and tear.

H. HEALTH AND SAFETY. The holder shall take all necessary precautions to protect the health and safety of all persons affected by the use and occupancy authorized by this permit. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any physical or mechanical procedure, activity, event or condition existing or occuring in connection with the authorized use and occupancy during the term of this permit that causes or threatens to cause a hazard to the health or safety of the public or the holder's employees, agents, or contractors. This clause does not alter in any way the statutory protections afforded to ski areas with respect to inherent risk or common law protections afforded to ski areas through the assumption of risk doctrine. The holder shall as soon as practicable notify the authorized officer of all serious accidents that occur in connection with these procedures, activities, events, or conditions. The Forest Service has no duty under the terms of this

SAMPLE

permit to inspect the permit area or operationsof 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 IV.I and V, "hazardous material" shall mean (a) any hazardous substance under section 101(14) of 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. Environmental Site Assessments (SAs). Except as provided in clause IV.I.3(c), the holder is required to submit for written approval by the authorized officer an initial SA prior to use and occupancy under this permit and a follow-up SA prior to termination or upon revocation of this permit. The initial and follow-up SAs shall be incorporated into this permit as Appendix H.

(a) Purposes. The purpose of initial and follow-up SAs is to identify Recognized Environmental Conditions in the permit area, that is, the presence or likely presence of any hazardous substances or petroleum products in, on, or at the permit area: (1) due to any release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment. A comparison of the initial and follow-up SAs shall assist the authorized officer in determining whether any environmental cleanup or restoration is required as a result of the use and occupancy. Any cleanup or restoration shall be completed promptly by the holder in accordance with all applicable federal, state, and local laws and regulations, to the satisfaction of the authorized officer and at no expense to the United States.

(b) Standard. All SAs must be conducted by the holder's environmental professional with the requisite certification and experience and must meet the objectives and performance factors of 40 CFR Part 312, Innocent Landowners, Standards for Conducting All Appropriate Inquiries. The holder may use The American Society for Testing and Materials (ASTM) guideline E1527-13, entitled Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, or the most recent version (40 CFR 312.11(b)), or select an alternate practice that constitutes all appropriate inquiries consistent with good commercial and customary practices.

(c) Exceptions. If a new permit will be issued to the same holder upon expiration of this permit, the follow-up SA shall satisfy the requirement for an initial SA for the new permit. Initial and follow-up SAs are not required when this permit is revoked at the request of the holder and a new permit is issued to the holder for the balance of this permit's term or when this permit is reissued for the balance of its term to the holder due to a modification pursuant to 36 CFR 251.61(a), provided that an initial SA shall be completed in either of these scenarios if one has not been done by the holder. When a new permit is issued due to a change in control of the business entity that holds this permit, the holder may rely on the initial SA performed by the future holder, provided that it is accepted by the authorized officer prior to termination of this permit.

SAMPLE

(d) Cleanup or Other Remedial Action Based on the Initial SA. If the initial SA shows that a hazardous substance release is present in the permit area, the holder shall be responsible for any cleanup or other remedial action that the Forest Service determines to be required in the permit area based on the initial SA. The level of cleanup or other remedial action shall be commensurate with the holder's intended use and occupancy of the permit area and shall be completed before the holder's use and occupancy commence.

4. 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.

5. 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, contractors, or lessees 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 provision includes but is not limited to acts and omissions of the holder or the holder's heirs, assignees, agents, employees, 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 materials, 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 activities 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 and require any changes needed to ensure adequate coverage of the United States inconnection 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. The holder shall give 30 days prior written notice to the authorized officer of cancellation of the insurance policy by the holder or any modification to the insurance policy by the holder. Additionally, the holder shall immediately notify the authorized officer of cancellation of the policy by the insurance company. 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.

SAMPLE

1. 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 $#AMOUNT# 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 case by case by the authorized officer based on the degree of environmental risk from the holder's operations. The storage and use of normal maintenance supplies in nominal amounts generally would not trigger financial assurance requirements.

L. BONDING. The authorized officer may require the holder to furnish a surety bond or other security for any of the obligations imposed by the terms of this permit or any applicable law, regulation, or order.

<USER NOTES FOR CLAUSES IV.L.1, IV.L.2, and IV.L.3>
<Delete clauses IV.L.1, IV.L.2, and IV.L.3 when a bond is not required.>

1. As a further guarantee of compliance with the terms of this permit, the holder shall deliver and maintain a surety bond or other acceptable security, such as cash deposited and maintained in a federal depository or negotiable securities of the United States, in the amount of #AMOUNT# for [specify obligations covered, e.g., to secure the holder's obligation to restore the permit area after construction or upon revocation or termination of the permit without issuance of a new permit]. The authorized officer may periodically evaluate the adequacy of the bond or other security and increase or decrease the amount as appropriate. If the bond or other security becomes unsatisfactory to the authorized officer, the holder shall within 30 days of demand furnish a new bond or other security issued by a surety that is solvent and satisfactory to the authorized officer. If the holder fails to meet any of the requirements secured under this clause, money deposited pursuant to this clause shall be retained by the United States to the extent necessary to satisfy the obligations secured under this clause, without prejudice to any other rights and remedies of the United States.

2. The bond shall be released or other security returned 30 days after (a) the authorized officer certifies that the obligations covered by the bond or other security are met and (b) the holder establishes to the satisfaction of the authorized officer that all claims for labor and material for the secured obligations have been paid or released.

3. The holder may be required to obtain additional bonding or security prior to undertaking additional construction or alteration not covered by the bond or other security or when the authorized improvements are to be removed and the permit area restored.

V. RESOURCE PROTECTION

A. WATER POLLUTION. No waste or by-product shall be discharged into water in connection with the use and occupancy authorized by this permit except in full compliance with all applicable federal, state, and local environmental and other laws. Storage facilities for materials capable of causing water pollution, if accidentally discharged, shall be located so as to prevent any spillage into waters or channels leading into water except in full compliance with all applicable federal, state, and local environmental and other laws.

B. SCENIC VALUES. The holder shall protect the scenic values of the permit area and the adjacent land to the greatest extent possible during construction, operation, and maintenance of the authorized improvements.

SAMPLE

C. VANDALISM. The holder shall take reasonable measures to prevent and discourage vandalism or disorderly conduct and when necessary shall contact the appropriate law enforcement officer to address these problems.

D. PESTICIDE USE

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

E. 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 by this permit. The holder shall leave these discoveries intact and in place until otherwise directed by the authorized officer.

F. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION (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 NFS 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

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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.

G. PROTECTION OF THREATENED AND ENDANGERED SPECIES, 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) of 1973, 16 U.S.C. 531 *et seq*., as amended, or within designated critical habitat 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 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 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.

H. 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 V.H.1, V.H.2, and V.H.3>
<Include clauses V.H.1, V.H.2, and V.H.3 when consenting to store hazardous materials. Otherwise delete them.>

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. Such identification information shall be consistent with column (1) of the table of hazardous materials and special provisions enumerated 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 in accordance with clause IV.L.

3. The holder shall not release any hazardous material onto land or into rivers, streams, impoundments, or natural or artificial channels leading to them. All prudent and safe attempts must be made to contain any release of these materials. The authorized officer may specify conditions that must be met, including

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conditions more stringent than those imposed by 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.

I. WATER WELLS AND ASSOCIATED PIPELINES

1. Other Jurisdictional Requirements. Clause IV.F governs water facilities and water rights. The holder shall obtain all required state, county and local water permits, licenses, registrations, certificates, or rights and shall provide a copy of them to the authorized officer. For new wells, this information shall be provided prior to disturbing NFS lands for the purpose of water use or development.

2. Well Construction or Development. For new or reconstruction of existing wells, the holder shall prepare a well construction and development plan and submit it to the authorized officer for approval. The well development and construction plan must have prior written approval from the authorized officer before well construction or development is initiated. The holder shall follow applicable federal, state, county, and local standards for design, construction, and development of new wells or reconstruction of existing wells. If such standards do not exist, the holder shall follow applicable standards issued by the American Society for Testing and Materials (ASTM), American Water Works Association (AWWA), or National Ground Water Association (NGWA). The construction and development plan must identify all potential sources for any proposed water injection during well construction or development. Only non-chlorinated, potable water may be injected during construction or development of wells to be used for monitoring or water withdrawal. Copies of all documentation for drilling, constructing, or developing wells, including all drilling, boring, and well construction logs, shall be provided to the authorized officer within 60 days of completion of work.

3. Well Decommissioning. The holder shall properly decommission and abandon all wells that are no longer needed or maintained in accordance with applicable federal, state, and local standards for water well abandonment. If such standards do not exist, the holder shall follow applicable standards issued by the ASTM, AWWA, or NGWA. At least 30 days prior to initiation of well decommissioning, the holder shall submit a well decommissioning plan to the authorized officer. The well decommissioning plan shall have written approval from the authorized officer before well decommissioning is initiated. All documentation of well decommissioning shall be provided to the authorized officer within 60 days of completion of the work.

VI. LAND USE FEES

A. NEW LAND USE FEE SYSTEM. The Forest Service shall adjust and calculate land use fees authorized by this permit to reflect any revisions to land use fee provisions in 16 U.S.C. 497c or to comply with any new land use fee system based on market value that may be adopted by statute or otherwise after issuance of this permit.

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B. SKI AREA PERMIT FEE CALCULATION. The annual ski area permit fee (SAPF) due the United States for the activities authorized by this permit shall be calculated using the following formula:

SAPF	=	(.015 x AGR in bracket 1) + (.025 x AGR in bracket 2) + (.0275 x AGR in bracket 3) + (.04 x AGR in bracket 4), where:
SAPF	=	the ski area permit fee for use of NFS lands;
AGR	=	adjusted gross revenue;
AGR	=	[(LT + SS) x (proration %)] + GRAF, prorated as applicable;
LT	=	revenue from sales of alpine and Nordic lift tickets and passes;
SS	=	revenue from alpine and Nordic ski school operations;
Proration %	=	the factor used to prorate LT and SS revenue between NFS lands and private land in the ski area; and
GRAF	=	gross year-round revenue from ancillary facilities located on NFS lands, prorated as applicable.

1. SAPF Formula. The SAPF shall be calculated by summing the products of the amount of the holder's AGR that falls into each of the four revenue brackets multiplied by the applicable percentage rate, as shown in the table below. AGR shall be determined in accordance with clause VI.B.2. The SAPF shall be calculated based on the holder's fiscal year, unless mutually agreed otherwise by the holder and the authorized officer.

The four revenue brackets shall be adjusted annually using the consumer price index (CPI-U) issued in FSH 2709.11, chapter 30. The revenue brackets shall be indexed for the previous calendar year. The holder's AGR for any fiscal year shall not be split into more than one set of indexed brackets. Only the revenue in each bracket shall be updated annually. The percentage rates shall not change.

The revenue brackets and percentages in FSH 2709.11, 38.12, exhibit 01, shall be used as shown in the preceding formula to calculate the SAPF. The revenue brackets for FY2013 through 2020 are shown below.

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REVENUE BRACKETS* AND CORRESPONDING PERCENTAGE RATES

Holder FY	Bracket 1 1.5%	Bracket 2 2.5%	Bracket 3 2.75%	Bracket 4 4%
FY 2013 CPI: 1.014	All revenue Below $4,501,000	$4,501,000 To <$22,514,000	$22,514,000 To $75,045,000	All revenue Over $75,045,000
FY 2014 CPI: 1.020	All revenue below $4,591,000	$4,591,000 to <$22,964,000	$22,964,000 to <$76,546,000	All revenue over $76,546,000
FY 2015 CPI: 1.020	All revenue below $4,683,000	$4,683,000 to <$23,423,000	$23,423,000 to $78,077,000	All revenue over $78,077,000
FY 2016 CPI: 1.002	All revenue below $4,692,000	$4,692,000 to <$23,470,000	$23,470,000 to $78,233,000	All revenue over $78,233,000
FY 2017 CPI: 1.008	All revenue below $4,730,000	$4,730,000 to <$23,658,000	$23,658,000 to $78,859,000	All revenue over $78,859,000
FY 2018 CPI: 1.017	All revenue below $4,810,000	$4,810,000 To <$24,060,000	$24,060,000 to $80,200,000	All revenue over $80,200,000
FY 2019 CPI: 1.029	All revenue below $4,949,000	$4,949,000 To <$24,758,000	$24,758,000 to $82,526,000	All revenue over $82,526,000
FY 2020 CPI: 1.018	All revenue below $5,038,000	$5,038,000 To <$25,204,000	$25,204,000 To <$84,011,000	All revenue over $84,011,000

*The Washington Office, Director of Recreation, Heritage, and Wilderness Resources, updates the revenue brackets annually, based on the Consumer Price Index (CPI-U), Table A, which is published monthly. The CPI is revised and issued annually in section 97. Tables are published at http://www.bls.gov/cpi/.

This information is meant for economists and accounting staff only. The bracket update is accomplished by using the change in the CPI-U for "All Urban Consumers" index for the month of July and is based on the percentage increase or decrease for the preceding calendar year. This index base period is 1982 to 1984 is 100 [this is not a mathematical expression]. For example, the 2020 adjustment uses the change between July 2018 and July 2019, “Not Seasonally Adjusted” values.

2. Calculation of AGR. AGR shall be calculated by summing the year-round revenue from the sale of lift tickets and ski school operations prorated for use of NFS lands and from GRAF, prorated as applicable.

(a) The following shall be included in AGR:

(1) Prorated LT. Year-round revenue from sales of alpine and Nordic ski area passes and lift tickets, including revenue generated on private land (such as from lift tickets sold on private land), prorated according to the percentage of use between NFS lands and private land in the ski area per clause VI.B.3.a and VI.B.3.b;

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(2) Prorated SS. Revenue from alpine and Nordic ski school operations, including lessons provided to teach alpine or Nordic skiing or other winter sports activities, such as racing, snowboarding, or snowshoeing, even if the lessons are purchased on private land, prorated according to the percentage of use between NFS lands and private land in the ski area per clause VI.B.3.a and VI.B.3.b;

(3) GRAF, Prorated As Applicable. Gross year-round revenue from temporary and permanent ancillary facilities, including all the holder's or holder's contractors' and lessees' lodging, food service, rental shops, parking, and other ancillary operations, located on NFS lands in the permit area, prorated, as applicable, according to the percentage of use between NFS lands and private land in the ski area per clause VI.B.3.c. Revenue generated from ancillary facilities on private land shall not be included in AGR;

(4) Bartered Goods and Complimentary Lift Tickets. The market price of bartered goods and complimentary lift tickets offered for commercial or other promotional purposes, such as for advertising. The value of bartered goods and complimentary lift tickets offered for commercial or other promotional purposes shall be categorized as LT, SS, or GRAF, as appropriate; and

(5) Special Event Revenue. Revenue from events such as food festivals, foot races, and concerts on NFS lands in the permit area. Special event revenue shall be included in the AGR formula as LT, SS, or GRAF, as applicable. The revenue shall be prorated according to the percentage of use between NFS lands and private land per clause VI.B.3.

Discriminatory pricing, e.g., pricing based solely on race, religion, sex, national origin, or place of residence, is prohibited under clause III.N or III.O, but if it occurs, the amount that would have been received had discriminatory pricing not occurred shall be included in AGR.

(b) The following shall be excluded from AGR:

(1) Revenue from sales of operating equipment;

(2) Refunds;

(3) Rent paid to the holder by the holder's contractors and lessees;

(4) Sponsor contributions to special events;

(5) Employee gratuities and employee lift tickets;

(6) Lift tickets and passes provided for public safety or public service purposes (such as for the National Ski Patrol or for volunteers to assist in the Special Olympics);

(7) Discounts; and

(8) Any other goods and services (other than bartered goods and complimentary lift tickets offered for commercial or other promotional purposes) for which the holder receives no money.

3. Proration of Revenue. Alpine and Nordic revenue shall be prorated separately. Prorated revenues shall be added together and summed with GRAF to produce AGR. One or more of the following methods, as appropriate, shall be used to prorate revenue:

(a) Alpine revenue shall be prorated using the STFP, per the direction in FSM 2715.11c, effective in 1992.

(b) Nordic revenue shall be prorated using the percentage of Nordic trail length on NFS lands to total Nordic trail length.

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(c) For ancillary facilities that are partially located on NFS lands, the ratio of the facility square footage located on NFS lands to the total facility square footage shall be calculated, and the revenue for ancillary facilities shall be prorated in accordance with this ratio. Special event revenue allocatable to GRAF shall be prorated by the ratio of use on NFS lands to the total use.

4. Absence of AGR. In cases when the holder has no AGR for a given fiscal year, the holder shall pay a land use fee of $2 per acre for NFS lands under permit or a percentage of the appraised value of NFS lands under permit, at the discretion of the authorized officer.

C. SAPF PAYMENTS. Reports and deposits shall be sent or delivered to the collection officer, USDA, Forest Service, at the address furnished by the authorized officer. Checks or money orders shall be made payable to USDA, Forest Service.

1. The holder shall calculate and submit an advance payment which is due by the beginning of the holder's payment cycle. The advance payment shall equal 20 percent of the holder's average SAPF for 3 operating years, when available. When past SAPF information is not available, the advance payment shall equal 20 percent of the SAPF, based on the prior holder's average SAPF or projected AGR. For ski areas not expected to generate AGR for a given payment cycle, advance payment of the SAPF as calculated in clause VI.B.4 shall be made. The advance payment shall be credited toward the total SAPF for the payment cycle.

2. The holder shall report sales, calculate the SAPF due based on a tentative percentage rate, and make interim payments each calendar [ ], except for periods in which no sales take place and the holder has notified the authorized officer that the operation has entered a seasonal shutdown for a specific period. Reports and payments shall be made by the end of the month following the end of each reportable period. Interim payments shall be credited toward the total SAPF for the payment cycle.

3. Within 90 days after the close of the ski area's payment cycle, the holder shall provide a financial statement, including a completed SAPF information form, Form FS-2700-19a, representing the ski area's financial condition at the close of its business year and an annual operating statement reporting the results of operations, including a final payment which includes year-end adjustments for the holder and each of the holder's contractors and lessees for the same period. Any balance that exists may be credited and applied against the next payment due or refunded, at the discretion of the holder.

4. Within 30 days of receipt of a statement from the Forest Service, the holder shall make any additional payment required to ensure that the correct SAPF is paid for the past year's operations.

5. All SAPF calculations and records of sales are subject to review or periodic audit as determined by the authorized officer. Errors in calculation or payment shall be corrected as needed for conformance with those reviews or audits. In accordance with clause VI.E, interest and penalties shall be assessed on additional fees due as a result of reviews or audits.

D. CORRECTION OF ERRORS. Correction of errors includes any action necessary to calculate the holder's sales or STFP or to make any other determination required to calculate SAPFs accurately. For SAPF calculation purposes, an error may include:

1. Misreporting or misrepresentation of amounts;

2. Arithmetical mistakes;

3. Typographical mistakes; or

4. Variation from generally accepted accounting principles (GAAP), when such variations are inconsistent with the terms of this permit.

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Correction of errors shall be made retroactively to the date the error was made or to the previous audit period, whichever is more recent, and past SAPFs shall be adjusted accordingly.

E. 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 work day.

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 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 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 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 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*.

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

F. ACCESS TO RECORDS. For the purpose of administering this permit (including ascertaining that the correct land use fee was paid), the holder shall make all accounting books and supporting records for the authorized operations, as well as those of lessees operating in the permit area, available for review by the Forest Service or other federal agencies authorized to review Forest Service activities. Review of accounting books and supporting records shall be made at dates convenient to the holder and reviewers. Financial information so obtained shall be kept confidential to the extent permitted by law. The holder shall retain these records and keep them available for review for 5 years after they were generated, unless otherwise approved by the authorized officer in writing.

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G. ACCOUNTING RECORDS. The holder shall follow GAAP or other comprehensive bases of accounting acceptable to the Forest Service in recording financial transactions and in reporting results to the authorized officer. When requested by the authorized officer, the holder at its own expense shall have the annual accounting reports audited or prepared by a licensed independent accountant acceptable to the Forest Service. The holder shall require lessees to comply with these same requirements. At a minimum, the holder's or lessees' accounting system shall include:

1. Systematic internal controls, including recording by type of business the gross receipts derived from all operations conducted under this permit. Gross receipts should be recorded daily and, if possible, deposited into a bank account without reduction by disbursements. Receipt entries shall be documented by cash-register tapes, sale invoices, rental records, cash accounts from other sources, or some other means.

2. A permanent record of capital investments in facilities (including a depreciation schedule).

3. Generation and maintenance of such other records and accounts as may be specified by the authorized officer.

VII. 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 law;

(b) For noncompliance with the terms of this permit;

(c) For abandonment or other failure of the holder to exercise the privileges granted; 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.

3. Prior to revocation or suspension, other than revocation at the request of the holder under clause VII.A.2 and immediate suspension under clause VII.C, the authorized officer shall give the holder (and if applicable, the operator) written notice of the grounds for revocation or suspension. In the case of revocation or suspension based on clause VII.A.1(a), VII.A.1(b), or VII.A.1(c), the authorized officer shall give the holder a reasonable period, not to exceed 90 days, to cure any noncompliance.

B. REVOCATION FOR SPECIFIC AND COMPELLING REASONS IN THE PUBLIC INTEREST. The authorized officer may revoke this permit during its term if the Forest Service determines based on a land management planning decision that the use and occupancy authorized by this permit should be changed for specific and compelling reasons in the public interest, other than a determination under clause IV.E that the authorized improvements or the permit area cannot be safely occupied. Prior to revoking the permit under this clause, the authorized officer shall give the holder 90 days written notice to the holder, provided that the authorized officer may prescribe a shorter notice period if justified by the public interest. The Forest Service shall then have the right to remove or relocate the authorized improvements, to require the holder to remove or relocate them, or to purchase them. Removal or relocation by the Forest Service of the authorized improvements shall be accepted by the holder in full satisfaction of all claims against the United States under this clause. If the Forest Service requires the holder to remove or relocate the authorized improvements or purchases them, the Forest Service shall be obligated to pay the

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lesser of (1) the cost of removal or relocation of the authorized improvements or (2) the value of the authorized improvements as determined by the Forest Service through an appraisal of their replacement cost, less an allowance for depreciation of all types. If that amount is fixed by agreement between the authorized officer and the holder, that amount shall be accepted by the holder in full satisfaction of all claims against the United States under this clause. If agreement is not reached, the authorized officer shall determine the amount to be paid, which shall be set forth in the revocation decision. A payment made pursuant to this clause is subject to the availability of appropriations. Nothing in this permit implies that Congress will appropriate funds to cover a deficiency in appropriations.

C. 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 on-site review, the authorized officer's superior shall promptly affirm, modify, or cancel the suspension.

D. APPEALS AND REMEDIES. Written decisions made by the authorized officer relating to administration of this permit are subject to administrative appeal pursuant to 36 CFR Part 214. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service, other than as provided in clause VII.B.

E. 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.

F. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT ISSUANCE OF A NEW PERMIT. Except as provided in clause VII.B, upon revocation of this permit or termination of this permit without issuance of a new permit, the authorized officer has the discretion to require the holder to sell or remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and to restore the site to the satisfaction of the authorized officer. If the holder fails to sell or remove all structures or improvements 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.

G. CONTINUATION OF OBLIGATIONS AND LIABILITIES BEYOND EXPIRATION OR REVOCATION. Notwithstanding the termination or revocation of this permit, its terms shall remain in effect and shall be binding on the holder and the holder's 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.

<USER NOTES FOR CLAUSE VII.H>
<Include clause VII.H when the lands authorized for use are withdrawn for hydroelectric power or reclamation purposes. Otherwise delete it.>

H. TERMINATION FOR THE DEVELOPMENT OF HYDROELECTRIC POWER OR RECLAMATION PURPOSES. Any lands covered by this permit which have been withdrawn for hydroelectric power under the act of March 3, 1879, or the act of June 25, 1910, or are covered by an application or license governed by the Federal Power Act of June 10, 1920, are subject at any time to use for the development of hydroelectric power. Any lands covered by this permit which have been withdrawn under the Reclamation Act of June 17, 1902, are subject at any time to use for reclamation purposes. This permit is issued with the specific understanding that (1) the use and occupancy authorized by this permit shall not

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interfere with such development of hydroelectric power or reclamation and that (2) the permit shall terminate after 90 days written notice when, in the judgment of the Federal Power Commission, the lands in question are needed for the development of hydroelectric power or, in the judgment of the Bureau of Reclamation, the lands in question are needed for reclamation purposes. The holder shall have 90 days to remove the authorized improvements. Termination under this clause does not constitute revocation for specific and compelling reasons in the public interest under clause VII.B and shall not give rise to any claim by the holder against the Federal Power Commission, the Bureau of Reclamation, the Forest Service, or hydroelectric power licensees for damages, including lost profits and damage to improvements, due to such development of hydroelectric power or reclamation.

VIII. 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. REGULATING SERVICES AND RATES. The authorized officer shall have the authority to regulate the adequacy and type of services provided the public under this permit and to require that these services conform to satisfactory standards. The holder may be required to furnish a schedule of prices for sales and services authorized by the permit. These prices may be regulated by the authorized officer, provided that the holder shall not be required to charge prices significantly different from those charged by comparable or competing enterprises.

C. CURRENT ADDRESSES. The holder and the authorized officer shall keep each other informed of current mailing addresses, including those necessary for billing and payment of land use fees.

D. SUPERSEDED PERMIT. This permit supersedes a special use permit designated #PREV_REISSUE_HOLDER#, #PREV_AUTH_ID#, dated #PREV_REIS_ISSUE_DATE#.

E. SUPERIOR CLAUSES. If there is a conflict between any of the preceding printed clauses and any of the following clauses, the preceding printed clauses shall control.

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, IF HOLDER IS AN ENTITY]
#HOLDER_NAME#

DATE

SAMPLE

<Select the following signature block when the operator is different from the owner of the authorized improvements. Otherwise delete this signature block.>

AGREED TO BY THE HOLDER'S LESSEE, [NAME OF LESSEE], FOR THE LIMITED PURPOSES OF OBLIGATING [NAME OF LESSEE] TO OPERATE THE AUTHORIZED IMPROVEMENTS IN COMPLIANCE WITH SECTIONS III, IV, V, AND VI AND CLAUSES VII.A.1, VII.A.2, VII.C, AND VII.G OF THIS PERMIT AND ENABLING THE FOREST SERVICE TO ENFORCE THOSE OBLIGATIONS DIRECTLY AGAINST [NAME OF LESSEE].

[NAME AND TITLE OF PERSON SIGNING ON BEHALF OF LESSEE, IF LESSEE IS AN ENTITY]
[LESSEE NAME]

DATE

APPROVED:

#AUTHORIZED OFFICER NAME#
Forest Supervisor
[ ] National Forest
USDA Forest Service

DATE

SAMPLE

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 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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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.

APPENDIX A

MAP OF THE PERMIT AREA

SAMPLE

APPENDIX B

MASTER DEVELOPMENT PLAN

SAMPLE

APPENDIX C

OPERATING PLAN

SAMPLE

APPENDIX D

AUTHORIZED IMPROVEMENTS

The following facilities are authorized by this permit:

A. On Land

B. On Water

SAMPLE

APPENDIX E

AUTHORIZED SERVICES

The services authorized under this permit are:

SAMPLE

<USER NOTES FOR APPENDIX F>
<Read the instructions for clause D-30 in FSH 2709.11, Chapter 50, section 52.4, on use of the following Appendix F. Include the following Appendix F if the ski area authorized by this permit is in a prior appropriation doctrine state. Delete the remaining Appendix F.>

APPENDIX F

INVENTORY OF SKI AREA WATER FACILITIES AND ORIGINAL WATER RIGHTS

<List only ski area water facilities authorized by this permit and original water rights.>

SKI AREA WATER FACILITIES (if none, so state)

Facility Name	Facility Location	Type of Facility	Capacity	Purpose of Use

ORIGINAL WATER RIGHTS (if none, so state)

State ID #	Owner	Purpose of Use	Decree, License, or Certificate #	Point of Diversion	State Approved Place of Use

<Read the instructions for clause D-31 in FSH 2709.11, Chapter 50, section 52.4, on use of the following Appendix F. Include the following Appendix F if the ski area authorized by this permit is in a riparian doctrine state. Delete the preceding Appendix F.>

APPENDIX F

INVENTORY OF SKI AREA WATER FACILITIES

<List only ski area water facilities authorized by this permit.>

SKI AREA WATER FACILITIES (if none, so state)

Facility Name	Facility Location	Facility Type	Capacity	Purpose of Use

SAMPLE

APPENDIX G

INITIAL AND FOLLOW-UP ENVIRONMENTAL SITE ASSESSMENTS

SAMPLE