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Contact ID: 873930010602
Expiration Date: 12/31/2041
Use Code: 133, 153, 215

FS-2700-5c (V.03/17)
OMB No. 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE**

**RESORT/MARINA
TERM SPECIAL USE PERMIT**

Authority: OCCUPANCY PERMITS, AS AMENDED March 4, 1915, ORGANIC
ADMINISTRATION ACT June 4, 1897

WYOMING HIGH COUNTRY, LLC, 1606 No. 1340 EAST, LOGAN, UT 83431.

WYOMING HIGH COUNTRY, LLC (the holder) is authorized to use and occupy National Forest System lands on the BIGHORN NATIONAL FOREST, subject to the terms and conditions of this term special use permit (the permit).

This permit covers 17.5 acres in NW1/4 Sec. 19, T. 56 N., R. 91 W., 6TH PRINCIPAL MERIDIAN (the permit area), as shown on the map attached as Appendix A. This permit is issued for the purpose of: Operation and maintenance of a resort dba Wyoming High Country Resort located off Forest Service Road 13.

The following improvements, whether on or off the site, are authorized:

Restroom and shower facility, fuel storage and sales facility, three 14'x16' log cabins, one 20'x30' tack/tool log cabin, one 10'x12' well house, well, buck and pole fencing, access road and pedestrian pathways, utilities and sanitary services, corral, sign at access road, storage facility constructed from cargo containers, resort center, two cabins 16'x32x, and one 22'x30' fourplex cabin.

Authorized Outfitting and Guiding activities listed in attached supplement FS-2700-5d.

Gross Fixed Assets are listed in Appendix B.

Services authorized in the permit are listed in Appendix C. These and any other appendices are hereby incorporated into this permit.

TERMS AND CONDITIONS

I. GENERAL TERMS

A. AUTHORITY. This permit is issued pursuant to the Act of March 4, 1915, the Term Permit Act, 16 U.S.C. 497, 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 or a subordinate officer with delegated authority.

C. TERM. This permit shall expire at midnight on **12/31/2041, 20 years** from the date of issuance. Expiration of this permit shall not require notice, a decision document, or any environmental analysis or other documentation.

D. CONTINUATION OF USE AND OCCUPANCY. This permit is not renewable. 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 one year prior to expiration of this permit. Issuance of 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 is 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 and conditions 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 may be required by law, regulation, the applicable land management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 2158.

2. At the sole discretion of the authorized officer, this permit may be amended to remove authorization to use any National Forest System 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 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 contemplated.

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

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 contemplated.

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. Approval

of such a proposal through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer.

B. PLANS. All plans for development, layout, construction, reconstruction, or alteration of improvements in the permit area, as well as revisions to those plans, must be prepared by a licensed engineer, architect, landscape architect, or other qualified professional acceptable to the authorized officer. These plans and plan revisions must have written approval from the authorized officer before they are implemented. The authorized officer may require the holder to furnish as-built plans, 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 operation 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 use measured in people-at-one time shall be established in the MDP. Upon acceptance by the authorized officer, the MDP shall become a part of this permit. Overall development at the resort or marina authorized by the permit shall not exceed the capacity established in the MDP, and additional construction beyond maintenance of existing improvements at the resort or marina 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 become part of this permit, 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, 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.K, the authorized officer may require a performance bond for improvements constructed under a site development schedule.

III. OPERATIONS

A. OPERATING PLAN. The holder shall prepare and annually revise by March 30 an operating plan. The operating plan 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 and conditions of this permit. The operating plan shall identify and schedule any inspections that the holder is required to conduct at the holder's expense. The operating plan shall be submitted by the holder and approved by the authorized officer or the authorized officer's designated representative prior to commencement of operations and shall be attached to this permit as an appendix. The authorized officer may require an annual meeting with the holder to discuss the terms and conditions of the permit or operating plan, update gross fixed assets (GFA) when the permit fee is calculated under the graduated rate fee system (GRFS), provide annual use reports, determine need for performance bond for construction projects and amount of bond or other concerns either party may have

B. PERIOD OF USE. The use and occupancy authorized by this permit shall be in normal operation at least 60 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. 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 and conditions of this permit.

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. The holder shall comply with inspection requirements deemed appropriate by the authorized officer.

F. MONITORING BY THE FOREST SERVICE. The Forest Service shall monitor the holder's operations and reserves the right to inspect the permitted facilities and improvements at any time for compliance with the terms of this permit. The obligations of the holder under this permit are not contingent upon any duty of the Forest Service to inspect the premises. A failure by the Forest Service or other governmental officials to inspect is not a defense to noncompliance with any of the terms and conditions of this permit.

G. REMOVAL AND PLANTING OF VEGETATION. This permit does not authorize the cutting of timber or other vegetation. Trees or shrubbery may be removed or destroyed only after the authorized officer or the authorized officer's designated representative has approved in writing and marked or otherwise identified what may be removed or destroyed. Timber cut or destroyed shall be paid for at current stumpage rates for similar timber in the National Forest. The Forest Service reserves the right to dispose of the merchantable timber to those other than the holder at no stumpage cost to the holder.

Unmerchantable material shall be disposed of as directed by the authorized officer. Trees, shrubs, and other plants may be planted within the permit area with prior written approval of the authorized officer.

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

I. 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.

J. 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.

K. 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.

L. LIQUOR SALES. The sale of liquor or other intoxicating beverages beer and wine is allowed in the permit area. However, if in the judgment of the authorized officer undesirable conditions develop as a result of this privilege, the sale of liquor or other intoxicating beverages beer and wine shall cease. The holder shall be informed in writing by the authorized officer if the sale of liquor or other intoxicating beverages beer and wine must cease.

M. GAMBLING. Gambling and gambling machines and devices are prohibited on National Forest System lands, regardless of whether they are lawful under state or local law.

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.

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 premises 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 insure 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 facilities or equipment authorized under this permit will be operated under a time-share or interval-ownership arrangement. All authorized facilities and equipment shall be made available to the general public on a short-term rental basis.

Q. HOLDER'S REPRESENTATIVE. The holder or the holder's designated representative shall be within the permit area at all times when the facilities are open to the public. The holder shall notify the authorized officer in writing who the holder's representative will be.

R. HOLDER'S AND USERS' CONDUCT. Disorderly or otherwise objectionable conduct by the holder or those occupying the permit area with the holder's permission shall be cause for revocation or suspension of this permit.

S. 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.

T. ADVERTISING. The holder, either orally or in advertisements, signs, circulars, brochures, letterheads, and like materials, shall not misrepresent in any way the accommodations provided, the status of the permit, or the ownership of the permit area or adjacent lands. The fact that the authorized facilities and services are located on the BIGHORN NATIONAL FOREST shall be explicitly stated in all the holder's brochures and print advertising regarding the operations authorized by this permit.

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 authorization are reviewable solely under the procedures set forth in 36 CFR Part 251, Subpart C, 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. SERVICES NOT PROVIDED. This permit is for the occupancy of land for the purposes stated in this permit and does not provide 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. Loss to the authorized improvements may result from but is not limited to theft, vandalism, fire and any fire-fighting activities (including prescribed burns), avalanches, rising waters, winds, falling limbs or trees, and other forces of nature. If 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, the permit shall terminate.

F. WATER FACILITIES AND WATER RIGHTS

1. Water Facilities. No ditch, reservoir, well, spring, seepage, or other facility to pump, divert, store, or convey water (hereinafter "water facilities") for which the point of diversion, storage, or withdrawal is on National Forest System (NFS) lands may be initiated, developed, certified, or adjudicated by the holder unless expressly authorized in this permit. The authorization of any water facilities in the permit area is granted to allow use of water only in connection with the resort authorized by this permit. If the use of any water facilities in connection with this resort ceases, the authorization to use any associated water facilities terminates. The United States may place conditions on installation, operation, maintenance, and removal of water facilities that are necessary to protect public property, public safety, and natural resources on NFS lands in compliance with applicable law. Any change in a water facility, including a change in the ownership or beneficial use of water or location of use of water from a water facility, that is not expressly authorized in this permit shall result in termination of the authorization for that water facility.

2. Water Rights. This permit does not confer any water rights on the holder. The term "water rights" includes all authorizations, such as certificates, reservations, decrees, or permits, for water use issued under state law. Any necessary water rights must be acquired and maintained by the holder in accordance with State law and the terms of this permit. After this permit is issued, all water rights obtained by the holder for facilities that divert or pump water from sources located on NFS lands for use on NFS lands, whether authorized or unauthorized, are for the benefit of the United States and shall be acquired in the name of the United States. Any expenses for acquiring and maintaining water rights shall be the responsibility of the holder and not the

responsibility of the United States. The United States reserves the right to take all actions necessary to maintain and protect any right to divert and use water on site.

WATER RIGHTS HELD IN THE NAME OF THE UNITED STATES (if none, so state)

State ID #	Owner	Purpose of Use	Decree, License, or Certificate #	Point of Diversion	Point of Use
U.W. 193278	USDA Forest Service	Drinking and sanitation water to lodge known as Wyoming High Country. Provides services to the public.	U.W. 07127	SW 1/4 NW 1/4, Sec. 19, T. 56 N., R. 91 W., 6th Principal Meridian	SW 1/4 NW 1/4, Sec. 19, T. 56 N., R. 91 W., 6th Principal Meridian
U.W. 203676	USDA Forest Service	Additional POU and expanded use (stock watering and 4 cabins) of High Country #2	U.W. 07127	SW 1/4 NW 1/4, Sec. 19, T. 56 N., R. 91 W., 6th Principal Meridian	SW 1/4 NW 1/4, Sec. 19, T. 56 N., R. 91 W., 6th Principal Meridian

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

1. The holder shall be liable for all injury, loss, or damage, including fire suppression, or other costs resulting from rehabilitation or restoration of natural resources associated with the use and occupancy authorized by this permit. 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 in connection therewith.

2. The holder shall be liable for damage to all roads and trails of the United States open to public use caused by use of the holder or the holder's heirs, assigns, 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 measures necessary 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 occurring 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 or agents. 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 permit to inspect the permit area or operations of the holder for hazardous conditions or compliance with health and safety standards.

I. ENVIRONMENTAL PROTECTION

1. For purposes of clauses IV.1 and section V, "hazardous material" shall mean (a) any hazardous substance under section 101(14) of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601(14); (b) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. 9601(33); (c) any petroleum product or its derivative, including fuel oil, and waste oils; and (d) any hazardous substance, extremely hazardous substance, toxic substance, hazardous waste, ignitable, reactive or corrosive materials, pollutant, contaminant, element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment under any applicable environmental laws.

2. Environmental Site Assessments (SAs). Except as provided in clause IV.2.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.

(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.

(b) Standard. All SAs must be conducted by the holder's qualified engineer 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 with the consent 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 transfer of title to the improvements or 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.

3. The holder shall avoid damaging or contaminating the environment, including but not limited to the soil, vegetation (such as trees, shrubs, and grass), surface water, and groundwater, during the holder's use and occupancy of the permit area. Environmental damage includes but is not limited to all costs and damages associated with or resulting from the release or threatened release of a hazardous material occurring during or as a result of activities of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees on, or related to, the lands, property, and other interests covered by this permit. If the environment or any government property covered by this permit becomes damaged in connection with the holder's use and occupancy, the holder shall as soon as practicable repair the damage or replace the damaged items to the satisfaction of the authorized officer and at no expense to the United States.

4. The holder shall as soon as practicable, as completely as possible, and in compliance with all applicable laws and regulations abate any physical or mechanical procedure, activity, event or condition existing or occurring in connection with the authorized use and occupancy during or after the term of this permit that causes or threatens to cause harm to the environment, including areas of vegetation or timber, fish or other wildlife populations, their habitats, or any other natural resources.

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, assigns, 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 addition or as an alternative to monetary indemnification.

K. INSURANCE. The holder shall furnish proof of insurance, such as a certificate of insurance, to the authorized officer prior to issuance of this permit and each year thereafter that this permit is in effect. The Forest Service reserves the right to review the insurance policy and require any changes needed to ensure adequate coverage the United States in connection with the authorized use and occupancy. The holder shall send an authenticated copy of any insurance policy obtained pursuant to this clause to the authorized officer immediately upon issuance of the policy. Any insurance policies obtained by the holder pursuant to this clause shall name the United States as an additional insured, and the additional insured provision shall provide for insurance coverage for the United States as required under this clause and to the extent of the full limits of insurance available to the holder. The holder shall give 30 days prior written notice to the authorized officer of cancellation of or any modification to the insurance policy. The certificate of insurance, the authenticated copy of the insurance policy, and written notice of cancellation or modification of insurance policies should be sent to **Bighorn National Forest, 2013**

Eastside 2nd Street, Sheridan, WY 82801. Minimum amounts of coverage and other insurance requirements are subject to change at the sole discretion of the authorized officer on the anniversary date of this permit.

1. 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 **\$500,000** as a combined single limit per occurrence.
2. Depending on the holder's operations, the Forest Service may require the holder to demonstrate the availability of funds to address any release or threatened release of hazardous materials that may occur in connection with the holder's use and occupancy. Any requirements imposed would be established 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 and conditions of this permit or any applicable law, regulation, or order.

V. RESOURCE PROTECTION

A. 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 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.*, CERCLA, as amended, 42 U.S.C. 9601 *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.*

B. WATER POLLUTION. No waste or by-product shall be discharged into water if it contains any substance in concentrations which will result in harm to fish and wildlife, or to human water supplies. 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 that would result in harm to fish and wildlife or to human water supplies.

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

D. 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.

E. PESTICIDE USE.

1. Authorized Officer Concurrence. Pesticides may not be used outside of buildings in the permit area to control pests, including undesirable woody and herbaceous vegetation, (including aquatic plants), insects, birds, rodents, or fish without prior written concurrence of the authorized officer. Only those products registered or otherwise authorized by the U.S. Environmental Protection Agency and appropriate State authority for the specific purpose planned shall be authorized for use within areas on National Forest System lands.

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

3. 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.

F. ARCHAEOLOGICAL AND PALEONTOLOGICAL DISCOVERIES. The holder shall immediately notify the authorized officer of all 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 follow the applicable inadvertent discovery protocols for the undertaking provided in an agreement executed pursuant to section 106 of the National Historic Preservation Act, 54 U.S.C. 306108; if there are no such agreed-upon protocols, the holder shall leave these discoveries intact and in place until consultation has occurred, as informed, if applicable, by any programmatic agreement with tribes. Protective and mitigation measures developed under this clause shall be the responsibility of the holder. However, the holder shall give the authorized officer written notice before implementing these measures and shall coordinate with the authorized officer for proximate and contextual discoveries extending beyond the permit area.

G. 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 National Forest System lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. 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 forest archaeologist certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, or at any time if a binding written agreement has been executed between the Forest Service and the affiliated Indian tribes that adopts a recovery plan for the human remains and objects.

H. 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 as species of conservation concern pursuant to FSM 2670 shall be shown on a map in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on sensitive species or species of conservation concern or their habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing sensitive species or species of conservation concern or their habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

I. 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 plan. Such terms shall be proposed by the holder and are subject to approval by the authorized officer.

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.

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 as defined in clause IV.I onto land or into rivers, streams, impoundments, or natural or man-made 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 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.

J. CLEANUP AND REMEDIATION

1. The holder shall immediately notify all appropriate response authorities, including the National Response Center and the Forest Service 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, Subpart B, and 40 CFR Part 302. For the purposes of this requirement, "oil" is 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.

2. Except with respect to any federally permitted release as that term is defined under section 101(10) of CERCLA, 42 U.S.C. 9601(10), the holder shall clean up or otherwise remediate any release, threat of release, or discharge of hazardous materials that occurs either in the permit area or in connection with the holder's activities in the permit area, regardless of whether those activities are authorized under this permit. The holder shall perform cleanup or remediation immediately upon discovery of the release, threat of release, or discharge of hazardous materials. The holder shall perform the cleanup or 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 permit area to the Forest Service free and clear of contamination.

K. WATER WELLS AND ASSOCIATED PIPELINES

1. Other Jurisdictional Requirements. Clause IV.F governs water rights and water facilities. The holder shall obtain all required state 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 National Forest System 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, 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. Water Conservation Plan. The holder shall prepare and submit for written approval by the authorized officer a water conservation plan utilizing appropriate strategies to limit the amount of water removed from National Forest System lands.

4. 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 FEE AND DEBT COLLECTION

A. HOLDER TO PAY MARKET VALUE FOR THE PERMITTED USE. The holder shall pay market value for the use of National Forest System lands for operation of the authorized facilities as determined by the Graduated Rate Fee System (GRFS). The land use fee may be readjusted every 5 years to ensure that the fee is commensurate with the market value of the use and occupancy authorized by this permit.

1. The provisions of GRFS identified under this permit may be revised by the Forest Service to reflect changed times and conditions. Changes shall become effective when:

- (a) mutually agreed;
- (b) the permit is amended for other purposes; or
- (c) a new permit is issued (including after termination of this permit).

2. GRFS may be replaced in its entirety by the Chief of the Forest Service if a new generally applicable fee system is imposed affecting all holders of authorizations under 16 U.S.C. 497. Replacement shall become effective on the beginning of the holder's business year.

B. LAND USE FEES - UNDER GRFS. The annual land use fees due the United States for those activities authorized by this permit shall be calculated on sales according to the following schedule:

Kind of Business	Break-even point (Sales to GFA) (Percentage)	Rate Base (Percentage)	Balance of Sales Rate (Percentage)
Grocery	70	.75	1.13
Service, Food	70	1.25	1.88
Service, Car	70	1.30	1.95
Merchandise	70	1.50	2.25
Service, Liquor	60	1.80	2.70
Outfitting/Guiding	50	2.00	3.00
Rental and Services	30	4.50	6.75
Lodging	40	4.00	6.00
Lifts, Tows, Ski Schools	20	2.00	5.00

1. A weighted-average break-even point (called the break-even point) and a weighted-average rate base (called the rate base) shall be calculated and used when applying the schedule to mixed business. If the holder's business records do not clearly segregate the sales into the business categories authorized by this permit, they shall be placed in the most logical category. If sales with a different rate base are grouped, place them all in the rate category that shall yield the highest fee. Calculate the fee on sales below the break-even point using 50 per cent of the rate base. Calculate the fee on sales between the break-even point and twice the break-even point using 150 percent of the rate base. Calculate the fee on sales above twice the break-even point using the balance of sales rate.

2. The minimum annual fee for this use, which is due in advance and is not subject to refund, shall be equal to the fee that would result when sales are 40 percent of the break-even point. This fee shall be calculated and billed by the Forest Service during the final quarter of the holder's fiscal year, using the most recent GFA figure and previously reported sales data for the current year, plus, if the operating season is still active, estimated sales for the remainder of the year.

C. DEFINITIONS OF SALES CATEGORIES AND GFA.

1. Sales Categories. For purposes of recording and reporting sales, and sales-related information including the cost of sales, the activities of the concessionaire are divided into:

Grocery. Includes the sale of items usually associated with grocery stores such as staple foods, meats, produce, household supplies. Includes the sale of bottled soft drinks, beer and wine, when included in the grocery operation.

Service, Food. Includes the serving of meals, sandwiches, and other items either consumed on the premises or prepared for carry out. Snack bars are included.

Service, Cars. Includes servicing and the sale of fuels, lubricants, and all kinds of articles used in servicing and repairing autos, boats, jet skis, aircraft.

Merchandise. Includes the sale of clothing, souvenirs, gifts, ski and other sporting equipment. Where a "Service, Cars" category of business is not established by this permit, the sale of auto accessories is included in this category.

Service, Liquor. Includes the sale of alcoholic drinks for consumption on the premises and other sales ordinarily a part of a bar or cocktail lounge business. Where a bar is operated in conjunction with a restaurant or overnight accommodations, liquor, beer and wine sales shall be accounted for consistent with holder's normal business practice. The sale of alcoholic beverages for consumption off the premises is also included in this item, except as indicated in "Grocery."

Outfitting/Guiding. Includes all activities or commercial guiding services regardless of mode of travel, when associated with a resort or marina with a mixture of business. All fees charged are considered sales.

Lodging. Includes lodging where daily maid service is furnished.

Rentals and Services. Includes lodging where daily maid service is not furnished by the holder; the rental of camping space, ski equipment and other equipment rentals and services. Also included are services such as barbershops, and amusements including video games.

Lifts, Tows, and Ski Schools. Include charges for use of all types of uphill transportation facilities and for sports lessons and training not covered by 16 U.S.C. 497c.

2. GFA. The capitalized cost of improvements, equipment, and fixtures necessary and used to generate sales and other revenue during the permit year on the permitted area or within the development boundary shown in this permit. GFA shall be established by and changed at the sole discretion of the authorized officer based on the current interpretation of guidelines supporting GRFS.

(a) Valuing GFA. The value of GFA shall be the cost of each qualifying asset as reflected in the financial statements of the current holder. This is the same amount as shown on the holder's fixed asset depreciation schedule which supports the general ledger prepared in accordance with generally accepted accounting principles (GAAP). Include in GFA, when identified by the holder and approved by the authorized officer, costs which are expensed by the holder as payment to utility companies for constructing and installing utilities to the area to the extent they are necessary for the generation of sales. Costs for user surcharge or demand rates are not included as GFA. If fixed assets have not been assigned a value by the holder at the time a permit is issued, the value for GFA must be determined by the holder and provided to the authorized officer no later than the end of the new holder's first financial reporting period.

(b) Revaluing GFA. Revalue GFA when events result in a change or restatement of fixed assets on the holder's official accounting records, prepared in accordance with GAAP. Examples of events that may cause the holder to restate the value of fixed assets include, but are not limited to:

(1) Sale of assets or common stock which results in a change in ownership, or controlling interest;

(2) Mergers or other business combinations;

(3) Leveraged buy outs, and acquisitions; or

(4) Other events, either voluntary or involuntary, which trigger a revaluation of capitalized assets associated with the authorized use.

When the holder reports a change in the value of assets due to a restatement of the value of those assets, an audit may be necessary to validate the new GFA. Any adjustment in fees shall be retroactive to the time the change in asset value occurred.

(c) The following, and similar items, are not part of GFA:

(1) Assets that ordinarily qualify for inclusion in GFA, but which are out of service for the full operating year for which fees are being determined.

(2) Land.

(3) Expendable or consumable supplies.

(4) Intangible assets, such as goodwill, permit value, organization expenses, and liquor licenses.

(5) Improvements not related to the operation.

(6) Luxury assets, to the extent their design and cost exceed functional need.

(7) The pro rata share of GFA assets in off-site activities not directly associated with the authorized use.

(8) Expensed assets.

(9) Operating leases.

(d) Initial GFA. As of the date of this permit, **01/01/2022** the initial GFA under this ownership has been determined to be **\$1,942,245.00** as shown in detail on Schedule A attached to this permit. If an error is found in the GFA amount, it shall be changed to the correct amount retroactive to the date the error occurred and fees adjusted accordingly.

D. CHANGE OF GFA UPON SALE OR CHANGE IN CONTROLLING INTEREST. Upon change of ownership, effective dominion or controlling interest or upon sale of assets or common stock which results in a change of ownership, effective dominion, or controlling interest, the value of GFA shall be established applying GAAP.

E. DETERMINING SALES AND OTHER REVENUE. Sales and GFA shall be derived from all improvements and facilities, including those of applicable third parties, which constitute a logical single overall integrated business operation regardless of the land ownership. A map shall be prepared

designating the development boundary and may be augmented by narrative or table and shall become a part of this permit.

1. Sales. Fees shall be assessed against all receipts from sales unless specifically exempted. Sales for the purpose of fee calculation include; (1) all revenue derived from goods and services sold which are related to operations under this permit and all revenue derived within the development boundary, unless otherwise excluded; (2) the value of goods and services traded-off for goods and services received (bartering); and (3) the value of gratuities.

(a) Definitions.

(1) Gratuities. Goods, services or privileges that are provided without charge or at deep discount to such individuals as employees, owners, and officers, or immediate families of employees, owners and officers, and not available to the general public.

(2) Acceptable Discounts. Transactions for goods or services below stated, listed or otherwise presented prices to the public at large. Included are such things as group sales and organized programs. These are included in sales at the actual transaction price.

(3) Discriminatory Pricing. Rates based solely on residence, race, color or religion. Discounts based on age or disability are not discriminatory pricing.

(4) Preferential Discounts. Discounts offered to certain classes or individuals based on their status, such as members of boards of directors, contractors, advertisers, doctors, and VIPs.

(5) Market Price. The price generally available to an informed public excluding special promotions. It may not be the "window price."

(6) Bartering or Trade Offs. The practice of exchanging goods or services between individuals or companies.

(7) Commissions. Commissions are payments received by the holder for collecting revenue on behalf of others as an agent or providing services not directly associated with the operations, such as selling hunting and fishing licenses, bus or sight-seeing tickets for trips off or predominantly off the permitted area, accommodating telephone toll calls, etc.

(8) Franchise Receipts. These are payments made to specific holders by third parties solely for the opportunity to do business at a specific location. The holder provides little, if anything, in the way of facilities or services. They may be the only fee paid to the holder or, if some facilities or services are provided by the holder, they may be made in addition to a rental fee. The franchise receipts may be in the form of fixed amounts of money or in reduced prices for the franchiser's product or service.

(b) Inclusions. The following items shall be included as gross receipts to arrive at sales:

(1) Gratuities. Daily and season passes are valued at market price unless the permit holder has sufficient records of daily individual use to substantiate a "value of use". Value of Use is the

number of days the pass is used times the market price. Does not include employees. See (4) below).

(2) Preferential Discounts. Includes the amount that would have been received had the transaction been made at the market price.

(3) Value of Discriminatory Pricing. Discriminatory pricing is disallowed. Include the amount that would have been received had the transaction been made at the market price.

(4) Employee Discounts in Excess of 30 Percent of Market Price. These discounts are exclusively given or provided to employees, owners, officers or immediate families of employees, owners or officers are gratuities and are included in sales at 70 percent of market price. Employee discounts less than 30 percent are recorded at transaction price.

(5) Value of Bartered Goods and Services (Trade-Offs)

(6) Gross Sales of Third Parties. Includes sales of State controlled liquor stores.

(7) Fifty Percent of Franchise Receipts.

(8) Other Revenue Items. All other revenue items not specifically excluded below shall be included as sales.

(c) Exclusions. The following items shall be excluded from gross receipts or revenue to arrive at sales:

(1) Value of goods and services provided to employees, agents, contractors or officials to facilitate the accomplishment of their assigned duties or work-related obligation or to others for educational or technical competence related to the type of permitted use such as boat operation, ski patrol, water safety, etc. Similarly, local, State and Federal government officials including Forest Service employees who in the course of their oversight responsibilities or otherwise on official business use goods or services. The holder is not required to report the value of such duty-related or official use as sales for fee calculation purposes.

(2) The value of meals and lodging furnished by an employer to an employee for the employer's convenience if, in the case of meals, they are furnished on the employer's business premises. The fact that the employer imposes a partial charge for or that the employee may accept or decline meals does not affect the exclusion if all other conditions are met. If employer imposes a charge for meals and lodging it shall be included at transaction price. The holder need not keep records of employee meals and lodging more detailed than those required by the Internal Revenue Service.

(3) Refunds from returned merchandise and receipts from sales of real and nonrental personal property used in the operation.

(4) Rents paid to the holder by third parties, even if based on sales.

(5) Taxes collected on site from customers, accounted for as such in the holder's accounting records, and that were paid or are payable to taxing authorities. Taxes included in the purchase price of gasoline, tobacco and other products, but paid to the taxing authority by the manufacturer or wholesaler are included in sales, and subject to the permit fee.

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

(7) Value of sales and commissions where the holder is serving as an agent for businesses not directly associated with the permitted operation. This includes such things as bus or sight-seeing-ticket sales for trips not related to activities on the permitted area, telephone-toll charges, and accident-insurance sales.

(8) Sales of operating equipment. Rental equipment, capitalized assets or other assets used in operations shall be excluded from gross receipts. Examples are such items as used rental skis, boats, and motors which are sold periodically and replaced.

F. PAYMENTS, REPORTING, AND RECONCILIATION. Payments required under GRFS shall be sent to the location identified on the bill for collection. Checks or money orders shall be payable to "USDA, Forest Service." Additionally, reports shall be sent to **Bighorn National Forest, 2013 Eastside 2nd Street, Sheridan, WY 82801**. The Forest Service may update these addresses as needed by sending written notice to the holder.

1. Periodic Reports. The holder shall report sales and calculate fees due each calendar year, 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 shall be made within 30 days of the end of each reportable period to **Bighorn National Forest, 2013 Eastside 2nd Street, Sheridan, WY 82801**. If the holder does not submit reports within the required timeframe, the Forest Service reserves the right to bill the holder based on historic sales data and to assess interest and late fees.

2. Tentative Fee Rate. Prior to **April 1** the authorized officer shall annually determine and furnish the holder with a tentative rate (as determined in paragraphs B.2 through F.1 of this clause) which shall be applied to sales in the fee calculation.

3. Initial Payment. The Forest Service shall bill the minimum fee (as determined in paragraph B.2 of this clause) 30 days prior to issuance of this permit and each year thereafter that this permit is in effect within 30 days of the final reporting period for the previous year. The holder shall submit payment in accordance with instructions in the bill to the lockbox address.

4. Subsequent Payments. The Forest Service shall bill the permit fee periodically based on the reportable period. The holder shall submit payments in accordance with instructions in the bill to the lockbox address.

5. End-of-Year Report. The holder must provide within three months after the close of each fiscal year under this permit a balance sheet representing the financial condition of the authorized operations at the close of the holder's fiscal year; an annual statement reporting the results of the

authorized operations, including year-end adjustments for the holder and each of the holder's lessees for the same period; and a schedule of GFA adjusted to comply with the terms of this permit in a format and manner prescribed by the authorized officer. If the authorized officer determines that additional permit fees are owed due to the holder's failure to report all sales in the period they were made or misreporting of GFA, the holder shall pay the additional fees, subject to the late payment provisions in clause G.3.

6. Reconciled Fee. The estimated permit fee shall be reconciled against the holder's actual sales at the end of the holder's fiscal year and shall be adjusted, if necessary. The Forest Service shall bill the holder for any additional fees owed, and the holder shall submit payment in accordance with the instructions in the bill to the lockbox address. The Forest Service shall credit any overpayment against the next payment due.

G. FEE PAYMENT ISSUES.

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

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

3. Late Payments

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

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

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

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

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

(b) If in excess of 60 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.

H. NONPAYMENT. Failure of the holder to make timely payments, pay interest charges, or any other charges when due shall be grounds for revocation of this permit.

I. 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. 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.

J. 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 financial results to the authorized officer. When requested by the authorized officer, the holder at its own expense, shall have annual accounting reports for the authorized operations 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 and lessees' accounting system shall include:

1. Systematic internal controls and 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 supported 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.

K. AUDIT. All fee calculations and records of sales and GFA are subject to periodic audit. Errors in calculation or payment shall be corrected as needed for conformance with those audits. Additional fees and interest due as a result of such audits shall be assessed in accordance with clause VI.G.3.

1. Correction of errors includes but is not limited to any action necessary to establish the cost of GFA to the current holder, including sales, or other data required to accurately assess and calculate land use fees. For land use fee calculation purposes, errors may include:

(a) Misreporting or misrepresentation of amounts;

(b) Arithmetic mistakes;

(c) Typographical mistakes; and

(d) Variation from GAAP, when such variations are inconsistent with the terms and conditions of this permit.

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

3. Changes effected by agency policy, including definition of assets included in GFA, shall only be made prospectively.

VII. REVOCATION, SUSPENSION, AND TERMINATION

A. REVOCATION AND SUSPENSION. The authorized officer may revoke or suspend this permit in whole or in part:

1. For noncompliance with federal, state, or local law.
2. For noncompliance with the terms and conditions of this permit.
3. For abandonment or other failure of the holder to exercise the privileges granted.
4. With the consent of the holder.
5. For specific and compelling reasons in the public interest.

Prior to revocation or suspension, other than immediate suspension under clause VII.C, the authorized officer shall give the holder written notice of the grounds for revocation or suspension and a reasonable period, not to exceed 90 days, to cure any noncompliance.

B. REVOCATION FOR SPECIFIC AND COMPELLING REASONS IN THE PUBLIC INTEREST.

1. If during the term of this permit the authorized officer determines that specific and compelling reasons in the public interest require revocation of this permit, this permit shall be revoked after 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 purchase the holder's authorized improvements, remove the holder's authorized improvements, or to require the holder to relocate or remove them. The Forest Service shall be obligated to pay the lesser of (1) the cost of relocation and damages resulting from their relocation that are caused by the Forest Service 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 physical depreciation. If that amount is fixed by mutual 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 mutual agreement is not reached, the authorized officer shall determine the amount to be paid, which shall become part of 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.

2. If revocation in the public interest occurs after the holder has received notification that a new permit will not be issued following expiration of this permit, the amount of damages shall be

adjusted as of the date of revocation by multiplying the replacement cost by a fraction which has as the numerator the number of full months remaining in the term of the permit as of the date of revocation (measured from the date of the revocation notice) and as the denominator the total number of months in the original term of this permit.

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 onsite review with the authorized officer's supervisor of the adverse conditions prompting the suspension. The authorized officer's supervisor shall grant this request within 48 hours. Following the onsite review, the authorized officer's supervisor 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, as amended. 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 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 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 and conditions 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.

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. 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.

C. SUPERSEDED PERMIT. This permit supersedes a special use permit designated **WYOMING HIGH COUNTRY, LLC MDW8** dated **07/23/2001**.

D. 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.

E. Dead Livestock (R2-X106). Livestock, owned or controlled by the Holder, that die on National Forest System lands, shall be removed or otherwise disposed of in a manner acceptable to the Authorized Officer.

F. Herbicide and Pesticide Use (D-18).

Herbicides and pesticides may not be used outside of buildings to control undesirable woody and herbaceous vegetation, aquatic plants, insects, rodents, or fish without the prior written approval of the Authorized Officer. A request for approval of planned uses of pesticides shall be submitted annually by the holder on the due date established by the Authorized Officer. The report shall cover a 12-month period of planned use beginning 3 months after the reporting date. 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 an annual report was submitted. Only those materials registered by the U.S. Environmental Protection Agency for the specific purpose planned shall be authorized for use on National Forest System lands. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers.

THIS PERMIT IS ACCEPTED SUBJECT TO ALL OF ITS TERMS AND CONDITIONS:

BEFORE ANY 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 AND CONDITIONS OF THE PERMIT.

ACCEPTED:

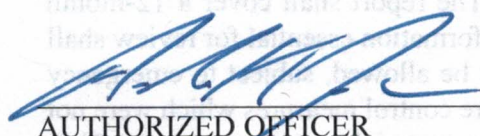
WYOMING HIGH COUNTRY, LLC

HOLDER NAME


SIGNATURE

23 Dec 21
DATE

APPROVED:



ANDREW JOHNSON
FOREST SUPERVISOR

26 January 2022

AUTHORIZED OFFICER
SIGNATURE

NAME AND TITLE

DATE

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

APPENDIX C AUTHORIZED SERVICES

The services authorized under this permit are:

A. On Land:

Lodging
Food Service
Fuel Storage and Sale

B. On Water: n/a