



FS Agreement No. \_\_\_\_\_

Association Agreement No. \_\_\_\_\_

**PARTICIPATING AGREEMENT  
with an INTERPRETIVE ASSOCIATION  
Between The  
  
And The  
U.S. FOREST SERVICE**

This PARTICIPATING AGREEMENT, is hereby made and entered into by and between the \_\_\_\_\_, hereinafter referred to as “Association,” and the USDA, Forest Service, hereinafter referred to as the U.S. Forest Service, under the provisions of the Cooperative Funds and Deposits Act of December 12, 1975, Pub. L. 94-148, 16 U.S.C. 565a1 – a3, as amended by the Consolidated Appropriations Act of 2008, Pub. L. 110-161, and the Omnibus Public Lands Act, PL 111-1, Sec. 3001.

Background:

The cooperative relationship established between the Association and the U.S. Forest Service will assist the U.S. Forest Service in making available to Forest visitors interpretive, educational and informational materials that will add to the visitors’ enjoyment and understanding of the natural, cultural, historic, and recreational resources of the National Forests.

Such a relationship allows the U.S. Forest Service to provide high quality customer service by allowing select from the drop-down to sell items, such as guide books, visitor maps, conservation and forestry related books, textiles, handicrafts, interpretive and educational materials, and other theme-related products to the public at U.S. Forest Service facilities or those co-managed by the U.S. Forest Service (e.g., centers shared with the Bureau of Land Management and National Park Service).

Title:

**I. PURPOSE:**

The purpose of this agreement is to establish a formal arrangement with the Association to assist the U.S. Forest Service in furthering customer service, interpretation, and conservation of public lands on the \_\_\_\_\_ National Forest. This can be accomplished by producing appropriate interpretive or educational materials and by providing visitors with these, and other related materials through sales or free distribution in accordance with the following provisions, the



hereby incorporated Annual Operating Plan, attached as Exhibit , and Financial Plan, attached as Exhibit .

## II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

In consideration of the above premises, the parties agree as follows:

### III. SHALL:

- A. LEGAL AUTHORITY. The Association shall have the legal authority to enter into this agreement, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.
- B. USE OF GOVERNMENT OWNED VEHICLES. U.S. Forest Service vehicles may be used for official U.S. Forest Service business only in accordance with FSH 7109.19, ch. 60, the requirements established by the region in which performance of this agreement takes place, and the terms of this agreement.
- C. BUILDING AND COMPUTER ACCESS BY NON-FOREST SERVICE PERSONNEL. The Association may be granted access to U.S. Forest Service facilities and/or computer systems to accomplish work described in the Annual Operating Plan or Statement of Work. All non-government employees with unescorted access to U.S. Forest Service facilities and computer systems shall have background checks following the procedures established by USDA Directives 3800 series. Those granted computer access must fulfill all U.S. Forest Service requirements for mandatory security awareness and role-base advanced security training, and sign all applicable U.S. Forest Service statements of responsibilities
- D. Sales Items
  - 1. The Association may sell only interpretive and educational items, such as publications, maps, visual aids, handicrafts and other objects directly related to the interpretive and education theme of the Forest and U.S. Forest Service as outlined in the Scope of Sales that is part of the Annual Operating Plan.
  - 2. The Association shall not sell artifacts protected by the Antiquities Act of 1906 (P.L. 59-209), the Archeological Resources Protection Act of 1979 (P.L. 96-95), and the Alaska Historic Preservation Act of 1971, as amended.
  - 3. The Association is not by this Agreement granted the right to sell items, the sale of which infringes on applicable contract rights of a concessionaire.



4. The Association shall maintain a high standard of quality in all items produced or sold.
5. The Association shall not sell any item that has not been approved by the U.S. Forest Service. The Association shall allow publications to be reviewed by the U.S. Forest Service on editorial and design quality.
6. The Association shall sell items at fair market value, provided that such prices shall be approved in advance by the U.S. Forest Service at the Forest level.
7. The Association shall display the sale items in good taste and in keeping with the general design and décor of the U.S. Forest Service facilities at that location. The Association may provide furnishings necessary to support, store, or display sale items, such furnishing is to be approved by the U.S. Forest Service.
8. The Association and the U.S. Forest Service shall prepare an annual operating plan that will delineate hours of operation, rates and price, standards of service, merchandise to be sold, and other items needing clarification during the year.

#### E. Facilities

1. The Association may use facilities as stated in this Agreement for the sale of educational and interpretive items for the benefit of the visiting public. (See, U.S. Forest Service Responsibilities, A.2 Facilities).
2. The Association may remodel or renovate existing U.S. Forest Service owned sales facilities (Visitor Center, Ranger Stations, Supervisors' Offices and so forth) at its own expense, as necessary, including renovation of display structures, furnishings, equipment, signing, display lighting, and lighting in the immediate area of the facility, provided that all plans are approved in advance by the U.S. Forest Service. Any permanent redesigned and renovated property will remain in U.S. Forest Service ownership upon termination of this Agreement. The U.S. Forest Service reserves the right to design and construct any new facilities, and shall allow the Association to review and comment on any plans therefore. The U.S. Forest Service shall provide the Association with incidental utility services at each assigned facility, including water, electricity, heat, air conditioning (if available), to the extent these utilities are required for the operation of the building for Governmental purposes. The U.S. Forest Service shall provide all general maintenance and repair services for the Government-owned buildings.
3. The Association shall keep the sales facilities clean and presentable throughout the workday.

#### F. Donation Boxes



1. Donation boxes are permitted in sales outlet areas provided the donated funds are used by the Interpretative Association's to support interpretive/educational activities at the unit.
2. Donation boxes will also be posted with a size-appropriate sign that states "Your kind contribution to the \_\_\_\_\_ Association will be used to support the interpretive and educational activities on the \_\_\_\_\_ National Forest."

#### G. Accounting Records

1. The Association will be solely responsible for the financial arrangements for work under this Agreement, including costs of obtaining and storing an inventory of Association sales materials and for the receipt and disposition of monies from sales, and will hold harmless the U.S. Forest Service or its officers responsible for loss of Association materials or money from sales, or for any other financial loss incurred as the result of this Agreement.
2. The Association will keep appropriate financial books, records, and accounts pertaining to this Agreement to standards acceptable to the U.S. Forest Service or generally acceptable accounting practices.
3. The Association will allow authorized officials or agents of the U.S. Forest Service, or any other Federal agency authorized to do so, such as the Comptroller General, to examine such financial books, records, and accounts of the Association, as deemed necessary by the U.S. Forest Service, or other authorized Federal agency, and that these records and accounts will be retained by the Association and kept available for 5 years after termination of this Agreement, unless disposition is otherwise authorized in writing by the U.S. Forest Service. Such books, records, and accounts may be examined at any reasonable and convenient time during such periods.
4. The Association shall provide an annual narrative, calendar year, accomplishment report and financial statement by April 15 each year to the Region and Washington Offices \_\_\_\_\_ .
5. Bill the U.S. Forest Service for their prorated share of actual costs incurred to date, less program income and other Federal and nonfederal cash contributions, excluding any previous U.S. Forest Service payment(s) made on this agreement to date of the invoice.

#### H. Personnel

1. The Association shall provide such personnel as is reasonably necessary to operate sales facilities as indicated by the level of gross sales, or any other personnel to carry out the activities and programs as described in the Annual Operating Plan. These personnel may include, as necessary, a central business



office staff, local facility managers, interpreters, volunteers, and sales clerks. U.S. Forest Service personnel may not act on behalf or as a representative of the Interpretive Association. However, as an incidental part of their duties U.S. Forest Service personnel may offer sales items to the public provided the proceeds are properly accounted for as Interpretive Association funds.

2. The Association shall designate an Association member or employee who is authorized to act as liaison with the U.S. Forest Service.
3. The Association employees involved in visitor contacts shall be oriented in the U.S. Forest Service administrative unit's Interpretive Services programs and shall be approved by a U.S. Forest Service designee before assuming such responsibilities.
4. A distinct separation, evident to the public, shall be maintained between the activities and management of the Association and those of the U.S. Forest Service.
5. Association personnel are not Government employees and are not authorized to undertake any Governmental function or activity on behalf of the U.S. Forest Service beyond routine visitor information services and participation in museums, living history, or like programs. Association employees shall not engage in activities that would reasonably lead to visiting public to conclude that they are Government employees. No Association employee shall wear a U.S. Forest Service or other Government uniform. All Association employees shall wear some easily observable and readily identifiable indication of Association affiliation while on the National Forests on Association business. At each sales outlet there will be posted a sign that gives the purpose for the Association and how sales funds are used.

#### I. Approvals

1. Hours of operation, rates and prices, standards of service, and merchandise to be sold shall be subject to the approval of the U.S. Forest Service and stated in the annual operating plan. Publications and sales items will adhere to the established scope of sales will be approved by the select from the drop-down.
2. The Association may at any time make a written request for such necessary approvals.

#### J. Interpretive Activities

1. Interpretive activities engaged in by the Association must meet U.S. Forest Service standards and be approved by the Forest Supervisor or delegated to another line officer, such as a District Ranger.



2. Association activities may be conducted by U.S. Forest Service personnel, such as sale of Association materials, if they are incidental to regular work. The Association personnel shall be available only for the purposes of the Association's interpretive activities.

#### **K. Indemnification and Insurance**

1. The Association shall indemnify, save and hold harmless, and defend the United States against all fines, claims, damages, losses, judgments, and expenses arising out of or from any omission or activity of the Association in connection with activities under this Agreement.
2. The Association shall procure public and employee liability insurance with a minimum coverage of \$100,000 for any number of claims from any one incident, with respect to the activities of the Association and its employees. The United States of America shall be named as an additional insured on all such policies. All such policies specify that the insurer shall not hold the United States liable or in any way responsible for payment of any premiums or deductibles thereunder and such insurance policies shall be assumed by, credited to the account of, and undertaken at the Association's sole risk.

#### **L. Association Organization**

1. The Association's Articles of Incorporation and the Association's By-Laws shall comply with requirements of the state in which the Association is incorporated. Non-profit status 501(c)(3) must be maintained in accordance with Federal and state laws, and the Association will make available for inspection, at the request of the U.S. Forest Service, documents demonstrating non-profit status. This Interpretive Association Agreement will automatically terminate if non-profit status is lost.
2. The Association recognizes that U.S. Forest Service employees may be members of the Association, but they shall not be Association officers, employees, or members of the Board of Directors.
3. The Association shall not allow U.S. Forest Service Employees to represent the Association in any matter between the Association and the U.S. Forest Service. The Association shall make all decisions concerning the relationship of the Association and the U.S. Forest Service, including, but not limited to, executing or negotiating contracts, signing checks, or hiring or firing Association employees.

#### **IV. THE U.S. FOREST SERVICE SHALL:**



- A.** The U.S. Forest Service agrees to allow the Association to use those facilities that are designated in Section II.A. of the Annual Operating Plan for the sale of education and interpretive items for the benefit of the visiting public.

**1. Sales Items**

The U.S. Forest Service shall cooperate with the Association in the planning and design of merchandise appropriate for sale by the Association at the U.S. Forest Service facilities.

**2. Facilities**

The U.S. Forest Service shall provide the Association with such sales and other facilities as may hereafter be deemed necessary or desirable by the U.S. Forest Service, provided that the U.S. Forest Service reserves the right to relocate or withdraw any such facilities in order to meet needs of the U.S. Forest Service upon reasonable notice. The U.S. Forest Service shall have emergency access to all facilities, and may make such surveys and inspections as the U.S. Forest Service deems necessary.

**3. Personnel**

The U.S. Forest Service shall designate an employee as Interpretive Association Coordinator. This person will serve as a liaison to the Association. The role of the Interpretive Association Coordinator (Liaison) is to represent the interests of the U.S. Forest Service and to provide assistance to the Association; hence, he or she shall not be an officer, board member or trustee of the Association. His or her scope of Association responsibility shall be limited to ensuring that the spirit and intent of this Agreement are fulfilled and to provide expertise on Associations.

- B. PAYMENT/REIMBURSEMENT.** The U.S. Forest Service shall reimburse the Association for the U.S. Forest Service's share of actual expenses incurred, not to exceed \$ \_\_\_\_\_, as shown in the Financial Plan. In order to approve a Request for Reimbursement, the Forest Service shall review such requests to ensure payments for reimbursement are in compliance and otherwise consistent with the terms of the agreement. The U.S. Forest Service shall make payment upon receipt of the Association's \_\_\_\_\_ invoice. Each invoice from the Association shall display the total project costs for the billing period, separated by U.S. Forest Service and Association share. In-kind contributions must be displayed as a separate line item and must not be included in the total project costs available for reimbursement. The final invoice must display the Association's full match towards the project, as shown in the financial plan, and be submitted no later than 90 days from the expiration date.

Each invoice must include, at a minimum:

- 1)** Association name, address, and telephone number
- 2)** U.S. Forest Service agreement number



- 3) Invoice date
- 4) Performance dates of the work completed (start & end)
- 5) Total invoice amount for the billing period, separated by U.S. Forest Service and the Association share with in-kind contributions displayed as a separate line item.
- 6) Display all costs, both cumulative and for the billing period, by separate cost element as shown on the financial plan.
- 7) Cumulative amount of U.S. Forest Service payments to date.
- 8) Statement that the invoice is a request for payment by “reimbursement”
- 9) If using SF-270, a signature is required.
- 10) Invoice Number, if applicable

The invoice must be sent by one of three methods (email is preferred):

EMAIL: [asc\\_ga@fs.fed.us](mailto:asc_ga@fs.fed.us)

FAX: 877-687-4894

POSTAL: USDA Forest Service  
Albuquerque Service Center  
Payments – Grants & Agreements  
101B Sun Ave NE  
Albuquerque, NM 87109

Send a copy to:

- C. ADVANCE PAYMENT. The U.S. Forest Service shall make advance payment upon receipt of an invoice from the Association. The invoice must be submitted no more than monthly and the total must not exceed the U.S. Forest Service’s share of anticipated expenses as identified on the financial plan. The first invoice may request an advance based on an estimated cost not to exceed 30 days expenditures. Each subsequent invoice must display any additional advance funding for a 30 day period, if needed, as well as the total project costs to date of the invoice, separated by U.S. Forest Service and Association share. In-kind contributions must be displayed as a separate line item and must not be included in the total project costs. If the Association receives an advance payment and subsequently requests an advance or reimbursement payment, then the request must clearly demonstrate that the previously advanced funds have been fully expended before the U.S. Forest Service can approve the request for payment. Any funds advanced, but not spent, must be returned to the U.S. Forest Service upon expiration of this agreement. The final invoice from the Association must be submitted no later than 90 days from the expiration date.

Each invoice must include, at a minimum:

- 1) Association name, address, and telephone number
- 2) U.S. Forest Service agreement number
- 3) Invoice date





- 4) Performance dates of the work completed (start & end)
- 5) Total invoice amount for the billing period
- 6) Statement that the invoice is a request for payment by “advance”
- 7) If using SF-270, a signature is required.
- 8) Invoice Number, if applicable

The invoice must be forwarded to:

EMAIL: [asc\\_ga@fs.fed.us](mailto:asc_ga@fs.fed.us)

FAX: 877-687-4894

POSTAL: USDA Forest Service  
 Albuquerque Service Center  
 Payments – Grants & Agreements  
 101B Sun Ave NE  
 Albuquerque, NM 87109

Send a copy to:

**D.**

**V. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:**

- A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this agreement.

**Principal Association Contacts:**

<b>Association Program Contact</b>	<b>Association Administrative Contact</b>
Name:	Name:
Address:	Address:
City, State, Zip:	City, State, Zip:
Telephone:	Telephone:
FAX:	FAX:
Email:	Email:

**Principal U.S. Forest Service Contacts:**

<b>U.S. Forest Service Program Manager Contact</b>	<b>U.S. Forest Service Administrative Contact</b>
Name:	Name:
Address:	Address:
City, State, Zip:	City, State, Zip:
Telephone:	Telephone:



FAX:  
Email:

FAX:  
Email:

**B. ASSURANCE REGARDING FELONY CONVICTION OR TAX DELINQUENCY**

**STATUS FOR CORPORATE ENTITIES.** This agreement is subject to the provisions contained in the Department of Interior, Environment, and Related Agencies Appropriations Act, 2012, P.L. No. 112-74, Division E, Section 433 and 434 as continued by Consolidated and Further Continuing Appropriations Act, 2013, P.L. No. 113-6, Division F, Title I, Section 1101(a)(3) regarding corporate felony convictions and corporate federal tax delinquencies. Accordingly, by entering into this agreement the Association acknowledges that it: 1) does not have a tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) has not been convicted (or had an officer or agent acting on its behalf convicted) of a felony criminal violation under any Federal law within 24 months preceding the agreement, unless a suspending and debaring official of the United States Department of Agriculture has considered suspension or debarment is not necessary to protect the interests of the Government. If the Association fails to comply with these provisions, the U.S. Forest Service will annul this agreement and may recover any funds the Association has expended in violation of sections 433 and 434.

**C. ANNUAL OPERATING PLAN.** The parties will make themselves available annually by \_\_\_\_\_, to discuss the conditions covered by this agreement, and to coordinate any activities pursuant to this agreement including preparing an updated Annual Operating Plan in accordance with Provision \_\_\_\_\_.

**D. NOTICES.** Any communications affecting the operations covered by this agreement given by U.S. Forest Service or the Association are sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the U.S. Forest Service Program Manager, at the address specified in the agreement.

To Association, at the Association’s address shown in the agreement or such other address designated within the agreement.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

**E. PARTICIPATION IN SIMILAR ACTIVITIES.** This agreement in no way restricts the U.S. Forest Service or the Association(s) from participating in similar activities with other public or private agencies, organizations, and individuals.



- F. ENDORSEMENT. Any Association contributions made under this agreement do not by direct reference or implication convey U.S. Forest Service endorsement of the Association's products or activities.
- G. USE OF U.S. FOREST SERVICE INSIGNIA. In order for the Association to use the U.S. Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the U.S. Forest Service's Office of Communications (Washington Office). A written request must be submitted by \_\_\_\_\_ to the Office of Communications Assistant Director, Visual Information and Publishing Services prior to use of the insignia. The \_\_\_\_\_ will notify the Association when permission is granted.
- H. AVAILABILITY FOR CONSULTATION. Both parties will make themselves available at mutually agreeable times, for continuing consultation to discuss the conditions covered by this agreement and agree to actions essential to fulfill its purposes.
- I. NON-FEDERAL STATUS FOR ASSOCIATION PARTICIPANT. The Association agrees that any Association employees, volunteers, and program participants shall not be deemed to be Federal employees for any purposes including Chapter 171 of Title 28, United States Code (Federal Tort Claims Act) and Chapter 81 of Title 5, United States Code (OWCP), as the Association has hereby willingly agreed to assume these responsibilities.
- Further, the Association shall provide any necessary training to Association employees, volunteers, and program participants to ensure that such personnel are capable of performing tasks to be completed. The Association shall also supervise and direct the work of its employees, volunteers, and participants performing under this agreement.
- J. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no member of, or delegate to, Congress shall be admitted to any share or part of this agreement, or benefits that may arise therefrom, either directly or indirectly.
- K. NONDISCRIMINATION. The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, and so forth) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.



L. ELIGIBLE WORKERS. The Association shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). The Association shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract awarded under this agreement.

M. SYSTEM FOR AWARD MANAGEMENT REGISTRATION REQUIREMENT (SAM). The Association shall maintain current information in the System for Award Management (SAM) until receipt of final payment. This requires review and update to the information at least annually after the initial registration, and more frequently if required by changes in information or agreement term(s). For purposes of this agreement, System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a Cooperative. Additional information about registration procedures may be found at the SAM Internet site at [www.sam.gov](http://www.sam.gov).

N. STANDARDS FOR FINANCIAL MANAGEMENT.

**1. Financial Reporting**

The Association shall provide complete, accurate, and current financial disclosures of the project or program in accordance with any financial reporting requirements, as set forth in the financial provisions.

**2. Accounting Records**

The Association shall continuously maintain and update records identifying the source and use of funds. The records shall contain information pertaining to the agreement, authorizations, obligations, unobligated balances, assets, outlays, and income.

**3. Internal Control**

The Association shall maintain effective control over and accountability for all U.S. Forest Service funds, real property, and personal property assets. The Association shall keep effective internal controls to ensure that all United States Federal funds received are separately and properly allocated to the activities described in the agreement. The Association shall adequately safeguard all such property and shall ensure that it is used solely for authorized purposes.

**4. Source Documentation**

The Association shall support all accounting records with source documentation. These documentations include, but are not limited to, cancelled checks, paid bills, payrolls, contract and contract documents. These documents must be made available to the U.S. Forest Service upon request.



## 5. Advance Payments

When applicable, the Association shall establish and maintain specific procedures to minimize the time elapsing between the advance of Federal funds and their subsequent disbursement. Any advance requested by the Association must be expended within 30 days of receipt.

O. AVAILABILITY OF FUNDS. U.S. Forest Service funds in the amount of \$ \_\_\_\_\_ are currently available for performance of this agreement through \_\_\_\_\_. The U.S. Forest Service's obligation for performance of this agreement beyond this date is contingent upon the availability of appropriated funds from which payment can be made. There is no legal liability on the part of the Forest Service for any payment above this amount until the Cooperator receives notice of availability confirmed in a written modification by the Forest Service.

P. PROGRAM INCOME – PARTNERSHIP AGREEMENTS.

1. The Association shall apply the standards set forth in this Provision to account for program income earned under the agreement.
2. If any program income is generated as a result of this agreement, the income must be applied using the deduction alternative. The deduction alternative means that program income must be deducted from total allowable costs to determine the net allowable costs, unless otherwise approved by the signatory official. Program income must be used for current costs unless the Federal agency authorizes otherwise. Program income which the Association did not anticipate at the time of the award must be used to reduce the Federal agency and Association contributions rather than to increase the funds committed to the project.
3. Unless the terms and conditions of the agreement provide otherwise, the Association shall have no obligation to the U.S. Government regarding program income earned after the end of the project period.
4. Costs incident to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the agreement, and they comply with the Cost Principles, if applicable.
5. Unless the terms and conditions of the agreement provide otherwise, Associations shall have no obligation to the U.S. Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research awards.



Q. HEALTH & HUMAN SERVICES PAYMENT MANAGEMENT SYSTEM (HHS PMS). The Association identified for use of this payment system shall designate a financial institution or an authorized payment agent through which a direct deposit may be made in accordance with current HHS PMS system requirements. The Albuquerque Service Center is responsible for soliciting initial enrollment in the HHS PMS. **Any questions concerning payments should be addressed to the Albuquerque Service Center at (877) 372-7248.** Please ask for the Grants and Agreements Payments section. Any subsequent changes to banking information are made by the Association through the HHS PMS. The HHS sub-account number(s) for this Agreement is/are:

PROGRAM	HHS SUB-ACCOUNT	AMOUNT
	G	\$
	G	\$

R. OVERPAYMENT. Any funds paid to the Association in excess of the amount entitled under the terms and conditions of this agreement constitute a debt to the Federal government. The following must also be considered as a debt or debts owed by the Association to the U.S. Forest Service:

- Any interest or other investment income earned on advances of agreement funds;  
or
- Any royalties or other special classes of program income which, under the provisions of the agreement, are required to be returned;

If this debt is not paid according to the terms of the bill for collection issued for the overpayment, the U.S. Forest Service may reduce the debt by:

1. Making an administrative offset against other requests for reimbursement.
2. Withholding advance payments otherwise due to the Association.
3. Taking other action permitted by statute (31 U.S.C. 3716 and 7 CFR, Part 3, Subpart B).

Except as otherwise provided by law, the U.S. Forest Service may charge interest on an overdue debt.

S. PROGRAM MONITORING AND PROGRAM PERFORMANCE REPORTS. The parties shall monitor the performance of the agreement activities to ensure that performance goals are being achieved.

Performance reports must contain information on the following:

- A comparison of actual accomplishments to the goals established for the period. Whenever the output of the project can be readily expressed in numbers, a computation of the cost per unit of output, if applicable.



- Reason(s) for delay if established goals were not met.
- Additional pertinent information .

The Association shall submit select from drop-down performance reports. These reports are due 30 days after the reporting period. The final performance report must be submitted either with the Association's final payment request, or separately, but not later than 90 days from the expiration date of the agreement.

- T. RETENTION AND ACCESS REQUIREMENTS FOR RECORDS. The Association shall retain all records pertinent to this agreement for a period of no less than 3 years from the expiration or termination date. As used in this provision, records includes books, documents, accounting procedures and practice, and other data, regardless of the type or format. The Association shall provide access and the right to examine all records related to this agreement to the U.S. Forest Service Inspector General, or Comptroller General or their authorized representative. The rights of access in this section must not be limited to the required retention period but must last as long as the records are kept.

If any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the 3-year period, the records must be kept until all issues are resolved, or until the end of the regular 3-year period, whichever is later.

Records for nonexpendable property acquired in whole or in part, with United States Federal funds must be retained for 3 years after its final disposition.

- U. FREEDOM OF INFORMATION ACT (FOIA). Public access to agreement records must not be limited, except when such records must be kept confidential and would have been excepted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552). Requests for research data are subject to 2 CFR 215.36.

Public access to culturally sensitive data and information Federally-recognized Tribes may also be explicitly limited by P.L. 110-234, Title VIII Subtitle B §8106 (2009 Farm Bill)

- V. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All Cooperatives, their Employees, Volunteers, and Contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.



W. PUBLIC NOTICES. It is U.S. Forest Service's policy to inform the public as fully as possible of its programs and activities. The Association is encouraged to give public notice of the receipt of this agreement and, from time to time, to announce progress and accomplishments. Press releases or other public notices should reference the Agency as follows:

" of the USDA Forest Service, U.S. Department of Agriculture."

The Association may call on the U.S. Forest Service's Office of Communication for advice regarding public notices. The Association is requested to provide copies of notices or announcements to the U.S. Forest Service Program Manager and to the U.S. Forest Service's Office of Communications as far in advance of release as possible.

- X. PURCHASE OF EQUIPMENT. U.S. Forest Service funds may be used by the Association to purchase equipment necessary to accomplish activities described in this agreement. The available funding is displayed in the financial plan. Title to the equipment rests with the U.S. Forest Service, but may be transferred to the Association on completion of the project, if appropriate.
- Y. FUNDING \_\_\_\_\_. Federal funding under this agreement is not available for reimbursement of the Association's purchase of \_\_\_\_\_ Equipment is defined as having a fair market value of over \$5,000 per unit and a useful life of over one year.
- Z. PROPERTY IMPROVEMENTS. Improvements placed by the Association on National Forest System land at the direction or with the approval of the U.S. Forest Service becomes property of the United States. These improvements are subject to the same regulations and administration of the U.S. Forest Service as would other National Forest improvements of a similar nature. No part of this agreement entitles the Association to any interest in the improvements, other than the right to use them under applicable U.S. Forest Service Regulations.
- AA. CONTRACT REQUIREMENTS. Any contract under this agreement must be awarded following the Association's established procurement procedures, to ensure free and open competition, and avoid any conflict of interest (or appearance of conflict). The Association shall maintain cost and price analysis documentation for potential U.S. Forest Service review. The Association is encouraged to utilize small businesses, minority-owned firms, and women's business enterprises
- BB. TRIBAL EMPLOYMENT RIGHTS ORDINANCE (TERO). The U.S. Forest Service recognizes and honors the applicability of the Tribal laws and ordinances developed under the authority of the Indian Self-Determination and Educational Assistance Act of 1975 (PL 93-638).
- CC. FLY AMERICA ACT. The Fly America Act of 1974 (49 U.S.C. 40118) requires that all air travel and shipments under this award must be made on U.S. flag air carriers to the extent service by such carriers is available and when no Federal, statutory





exceptions apply. The Administrator of General Services Administration (GSA) is authorized to issue regulations for purposes of implementation. Those regulations may be found at 41 CFR part 301, and are hereby incorporated by reference into this award

**DD. GOVERNMENT-FURNISHED PROPERTY.** The Association may only use U.S. Forest Service property furnished under this agreement for performing tasks assigned in this agreement. The Association shall not modify, cannibalize, or make alterations to U.S. Forest Service property. A separate document, Form AD-107, must be completed to document the loan of U.S. Forest Service property. The U.S. Forest Service shall retain title to all U.S. Forest Service-furnished property. Title to U.S. Forest Service property must not be affected by its incorporation into or attachment to any property not owned by the U.S. Forest Service, nor must the property become a fixture or lose its identity as personal property by being attached to any real property.

*Association Liability for Government Property.*

1. Unless otherwise provided for in the agreement, the Association shall not be liable for loss, damage, destruction, or theft to the Government property furnished or acquired under this contract, except when any one of the following applies:
  - a. The risk is covered by insurance or the Association is otherwise reimbursed (to the extent of such insurance or reimbursement).
  - b. The loss, damage, destruction, or theft is the result of willful misconduct or lack of good faith on the part of the Association's managerial personnel. Association's managerial personnel, in this clause, means the Association's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of the Association's business; all or substantially all of the Association's operation at any one plant or separate location; or a separate and complete major industrial operation.
2. The Association shall take all reasonable actions necessary to protect the Government property from further loss, damage, destruction, or theft. The Association shall separate the damaged and undamaged Government property, place all the affected Government property in the best possible order, and take such other action as the Property Administrator directs.
3. The Association shall do nothing to prejudice the Government's rights to recover against third parties for any loss, damage, destruction, or theft of Government property.
4. Upon the request of the Grants & Agreements Specialist, the Association shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation, including the prosecution of suit and the execution of agreements of assignment in favor of the Government in obtaining recovery.

**EE. U.S. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS AND ELECTRONIC MEDIA.** The Association shall acknowledge U.S. Forest Service



support in any publications, audiovisuals, and electronic media developed as a result of this agreement.

**FF. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR**

**AUDIOVISUAL MATERIAL.** The Association shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any federal funding.

***"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)"***

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free voice (866) 632-9992, TDD (800) 877-8339, or voice relay (866) 377-8642. USDA is an equal opportunity provider and employer."

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text:

***"This institution is an equal opportunity provider."***

**GG. REMEDIES FOR COMPLIANCE RELATED ISSUES.** If the Association materially fails to comply with any term of the agreement, whether stated in a Federal statute or regulation, an assurance, or the agreement, the U.S. Forest Service may take one or more of the following actions:

1. Temporarily withhold cash payments pending correction of the deficiency by the Association or more severe enforcement action by the U.S. Forest Service;
2. Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;
3. Wholly or partly suspend or terminate the current agreement for the Association's program;
4. Withhold further awards for the program, or
5. Take other remedies that may be legally available, including debarment procedures under 2 CFR Part 417.

**HH. TERMINATION BY MUTUAL AGREEMENT.** This agreement may be terminated, in whole or part, as follows:



1. When the U.S. Forest Service and Association agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
2. By 30 days written notification from either party to the other setting forth the reasons for termination, effective date, and in the case of partial termination, the portion to be terminated. If the U.S. Forest Service determines that the remaining portion of the agreement will not accomplish the purposes for which the agreement was made, the U.S. Forest Service may terminate the agreement in its entirety.

Upon termination of an agreement, the Association shall not incur any new obligations for the terminated portion of the agreement after the effective date, and shall cancel as many outstanding obligations as possible. The U.S. Forest Service shall allow full credit to the Association for the United States Federal share of the non-cancelable obligations properly incurred by the Association up to the effective date, except when terminated solely by the Association. Excess funds must be refunded within 60 days after the effective date of termination.

- II. AGREEMENT CLOSEOUT. The Association shall close out the agreement within 90 days after expiration or notice of termination.

Any unobligated balance of cash advanced to the Association shall be immediately refunded to the U.S. Forest Service, including any interest earned in accordance with 7CFR3016.21/2CFR 215.22.

Within a maximum of 90 days following the date of expiration or termination of this agreement, all financial performance and related reports required by the terms of the agreement shall be submitted to the U.S. Forest Service by the Association.

If this agreement is closed out without audit, the U.S. Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

- JJ. ALTERNATE DISPUTE RESOLUTION – PARTNERSHIP AGREEMENT. In the event of any issue of controversy under this agreement, the parties may pursue Alternate Dispute Resolution procedures to voluntarily resolve those issues. These procedures may include, but are not limited to conciliation, facilitation, mediation, and fact finding.

- KK. DEBARMENT AND SUSPENSION. The Association shall immediately inform the U.S. Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the Federal Government according to the terms of 2 CFR Part 180. Additionally, should the Association or any of their principals receive a transmittal letter or other official federal notice of debarment or suspension, then they shall notify the U.S. Forest Service without undue



delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.

LL. INTERNATIONAL TRAVEL. When U.S. Forest Service funds are used, the Association shall ensure that any air transportation of passengers and property is provided by a carrier holding a United States Government issued certificate in compliance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. 40118 (Fly American Act).

MM. COPYRIGHTING. The Association is granted sole and exclusive right to copyright any publications developed as a result of this agreement. This includes the right to publish and vend throughout the world in any language and in all media and forms, in whole or in part, for the full term of copyright and all renewals thereof in accordance with this agreement. However, the Association shall not sell, or grant copyrights to a third-party designee who intends to sell the document as a profit making venture.

No original text or graphics produced and submitted by the U.S. Forest Service shall be copyrighted. The U.S. Forest Service reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for Federal Government purposes. This right must be transferred to any sub-agreements or subcontracts.

This provision includes:

- The copyright in any work developed by the Association under this agreement.
- Any right of copyright to which the Association purchases ownership with any federal contributions.

NN. PUBLICATION SALE. The Association may sell any publication developed as a result of this agreement. The publication may be sold at fair market value, which is initially defined in this agreement to cover the costs of development, production, marketing, and distribution. After the costs of development and production have been recovered, fair market value is defined in this agreement to cover the costs of marketing, printing, and distribution only. Fair market value must exclude any in-kind or Federal Government contributions from the total costs of the project.

OO. MODIFICATIONS. Modifications within the scope of this agreement must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change. The U.S. Forest Service is not obligated to fund any changes not properly approved in advance.

PP. COMMENCEMENT/EXPIRATION DATE. This agreement is executed as of the date of the last signature and is effective through \_\_\_\_\_ at which time it will expire. The



expiration date is the final date for completion of all work activities under this agreement.

QQ. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this agreement. In witness whereof, the parties hereto have executed this agreement as of the last date written below.

\_\_\_\_\_  
, Date

\_\_\_\_\_  
, Regional Forester Date  
U.S. Forest Service,

The authority and format of this agreement has been reviewed and approved for signature.

\_\_\_\_\_  
Date  
U.S. Forest Service Grants Management Specialist



## EXHIBIT A

### ANNUAL OPERATING PLAN

#### I. PURPOSE:

The purpose of this Annual Operating Plan (AOP) is to identify procedures of managing interpretive material sales on the National Forest.

#### II. INTERPRETIVE SALES OPERATING GUIDELINE:

A. The Association may conduct business on the U.S. Forest Service sites described below:

B. Hours and Season of Operation:

1. The Association sales area will be open at each location listed in Section II-A. Each sales location will operate with a full inventory of materials supplied by the Association.

C. Merchandise and Prices:

1. Sales items will be subject to the approval of the Forest Supervisor or their designee and the Association Executive Director, or their designee.
2. All sales items will be educational and interpretive in nature and fit into the theme(s) of the Association and the U.S. Forest Service. A scope of sales will be developed between the U.S. Forest Service and the Association to identify appropriate items and will be made part of this operating plan.
3. The Association and the U.S. Forest Service will have available a price list of the merchandise being sold at each sales location for use by Association and U.S. Forest Service personnel.
4. No artifacts protected by the Antiquities Act of 1906 (Pub. L. 59-209), the Archeological Resources Protection Act of 1979 (Pub. L. 96-95), and the Alaska Historic Preservation Act of 1971, as amended, will be sold.

D. Inventory Maintenance and Responsibilities:

1. The Association will coordinate with a publishing company(s) (e.g., Globe Pequot, Falcon, or others) to provide inventory and stocking services. The Association may special order specific titles and other products that will further the goals of the U.S. Forest Service promoting educational, interpretive, cultural, and scientific program needs.



2. U.S. Forest Service personnel will offer sales items to the public as a supplement to their regular duties and keep the sales area neat and well stocked throughout the work day.
3. U.S. Forest Service personnel will be responsible for contacting the Association when additional inventory is needed.
4. The Association will deliver and pick up inventory from U.S. Forest Service locations, unless other arrangements are made (i.e. mail delivery, delivery to one sales location for distribution at other locations).
5. The Association will provide a receiving report with each inventory shipment. The report will list the items delivered. The U.S. Forest Service will reconcile the report and inventory to ensure accuracy and provide it to the Association.
6. Association personnel will take inventory of sales stock when necessary throughout the year. U.S. Forest Service personnel shall allow Association personnel access to the inventory upon request.

#### E. Financial Reporting:

1. U.S. Forest Service personnel at each location will be provided with and assure proper management of a (make fillable or delete amt) Association cash-on-hand fund. The cash-on-hand fund is to be used to make change during sales transactions and be retained in the safe/box provided by Association. The cash-on-hand fund will be returned to Association upon termination of this agreement. The cash-on-hand is the property of Association and Association personnel shall be allowed access to these monies upon request.
2. U.S. Forest Service personnel who assist the Association with sales will maintain a daily sales report. It is the responsibility of U.S. Forest Service personnel to know the Association's procedures for sales transactions.
3. Periodically, or when inventory is delivered, Association personnel will pick-up sales income at each location, or make other arrangements for delivery of proceeds, and return them to the main Association office for deposit processing. The Association and the U.S. Forest Service will reconcile sales income and the daily sales reports upon transfer of sales income from the U.S. Forest Service to Association.

#### F. Contributions:

1. All proceeds from the sales authorized by this agreement shall be retained by the Association and used for mutually agreed upon interpretive project(s) either approved under this agreement when no exchange of funds is necessary; or in a



separate agreement(s) or Supplemental Project Agreement(s) (as applicable) when exchange of funds is necessary to complete mutually agreed upon Interpretive project(s).

G. Mutually agreed upon annual projects:

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 4 hours 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.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.