

Authorization ID: #AUTH_ID#
Contact ID: #LESSEE_ID#
Expiration Date: #EXPIRATION_DATE#
Use Code: #USE_CODE#

FS-2700-10b (09/2020)
OMB No. 0596-0082

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

COMMUNICATIONS USE LEASE

AUTHORITY:

Title V of the Federal Land Policy and Management Act, 43 U.S.C. 1761-1772

<Delete all user notes before printing.>

#LESSEE_NAME# of #LESSEE_ADD_LINE_1#, #LESSEE_ADD_LINE_2#, #LESSEE_ADD_LINE_3#,
#LESSEE_CITY#, #LESSEE_STATE#, #LESSEE_ZIP#.

This communications use lease (lease) is issued by the United States of America, acting through the United States Department of Agriculture, Forest Service (hereinafter the "United States" or "Forest Service"), to #LESSEE_NAME# (the lessee).

The United States, in consideration of the following terms, including advance payment to the United States of the specified rent by the lessee, and subject to all valid existing rights, issues this non-exclusive

lease to the lessee for a #NAME# communications facility in the County of , State of

, #TOWNSHIP_SECT_RANGE# #FIRST_DIVISION# #FIRST_DIV_NAME_NUMBER#,
#SECOND_DIVISION# #SECOND_DIV_NAME_NUMBER#, #THIRD_DIVISION#

#THIRD_DIV_NAME_NUMBER#, in the National Forest (hereinafter the "lease area"). The communications facility and ancillary improvements authorized by this lease (hereinafter "authorized facilities") include:

<USER NOTES FOR AUTHORIZED FACILITIES>

<Insert the appropriate information in each field below. See FSH 2709.11, Chapter 90, for a definition of each type of facility.>

Equipment shelters: [specify type, dimensions, and material]

Antenna support structures: [specify type and height]

Ancillary improvements: [such as fuel tanks, generators, outbuildings, fences, and utilities in the lease area]

Access: [specify access route]

The location of the lease area is described or shown generally in the communications site management

plan or communications site map dated , for the #COMM_SITE_FCLTY_NAME#

Communications Site, which is incorporated as Appendix A of this lease.

I. GENERAL TERMS

A. AUTHORITY. This lease is issued pursuant to Title V of the Federal Land Policy and Management Act, 43 U.S.C. 1761-1772, and 36 CFR Part 251, Subpart B, as amended, and is subject to their provisions.

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

C. TERM. This lease shall expire at midnight on #EXPIRATION_DATE#. Expiration of this lease shall not require notice, a decision document, or any environmental analysis or other documentation.

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

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

F. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS. In exercising the rights and privileges granted by this lease, the lessee 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 lease 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. RESERVATIONS. All rights not specifically granted to the lessee are reserved to the Forest Service, including:

1. The right of access to the lease area, including a continuing right of physical entry to the lease area and the authorized facilities for inspection, monitoring, or any other purpose consistent with any right or obligation of the Forest Service under any law or regulation.
2. The right to use, administer, and dispose of all natural resources and improvements other than the authorized facilities, including the right to use roads and trails and authorize rights-of-way and other uses in the lease area in any way that is not inconsistent with the lessee's rights and privileges under this lease, after consultation with all parties involved. Except for any restrictions that the lessee and the Forest Service agree are necessary to protect public health and safety, property, and the installation and operation of the authorized facilities, the lease area shall remain open to the public for all lawful purposes.
3. The right to require common use of the lease area and to authorize use of the lease area, including the subsurface and air space, for compatible uses.

H. ASSIGNMENT. This lease is fully assignable, subject to the following conditions:

1. The lessee must be in compliance with all the terms of this lease.

2. Assignments must have prior written approval of the authorized officer.
3. The authorized officer may modify the terms of this lease, and the assignee must agree in writing to comply with the terms of the lease as modified.
4. Upon change in ownership of the authorized facilities, this lease may be assigned to the new owner, provided that the conditions in clause I.H.1 through I.H.3 are met. Any transfer of title to the authorized facilities without an approved assignment of this lease shall result in termination of this lease.

Renting of space in or on the authorized facilities does not constitute an assignment under this clause.

II. IMPROVEMENTS

A. LIMITATIONS ON USE. Nothing in this lease gives or implies permission to build or maintain any structure or facility or to conduct any activity unless specifically authorized by this lease. Any use not specifically authorized by this lease must be proposed in accordance with 36 CFR 251.54. Approval of such a proposal through issuance of a new lease or lease amendment is at the sole discretion of the authorized officer.

B. DRAWINGS. All development, layout, construction, and alteration of improvements in the lease area shall be consistent with the applicable communications site management plan. All drawings for development, layout, construction, or alteration of improvements in the lease area, as well as revisions to those drawings, must be prepared by a professional engineer, architect, landscape architect, or other qualified professional acceptable to the authorized officer. These drawings and drawing revisions must have prior written approval from the authorized officer before they are implemented. After completion, as-built drawings, maps, surveys, or other similar information shall be provided to the authorized officer and appended to the communications site management plan.

<USER NOTES FOR CLAUSES II.C AND II.D>

<Include clauses II.C and II.D in a lease for communications facilities that have not been built. Otherwise, delete clauses II.C and II.D.>

C. SITE DEVELOPMENT SCHEDULE. The lessee and the Forest Service jointly shall prepare a site development schedule, which shall be incorporated as Appendix to this lease, before any construction occurs in the lease area. The site development schedule shall list authorized facilities to be built in order of priority, the starting date for their construction, and the due date for their completion. All required plans and specifications for authorized facilities 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 lessee may accelerate the scheduled date for completion of any improvement, as long as the other scheduled authorized facilities 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.J, the authorized officer may require a performance bond for authorized facilities constructed under a site development schedule.

D. INITIAL CONSTRUCTION AND COMMENCEMENT OF OPERATIONS. Operations under this lease shall commence on the date specified in the site development schedule. This lease shall terminate if operations under this lease do not commence by that date, unless the parties agree in writing, in advance, to an extension of the commencement date.

III. OPERATIONS

A. RENTAL OF SPACE. The lessee is authorized to rent space in or on the authorized facilities, as long as the use is consistent with the applicable communications site management plan and compatible

with all existing uses, and provide other services to occupants of the authorized facilities. The lessee is not authorized to rent the use and occupancy of National Forest System lands in the lease area. The lessee shall charge each occupant a reasonable rent without discrimination for the use and occupancy of the authorized facilities and services provided. The lessee shall not impose on occupants any unreasonable restrictions, including any restrictions restraining competition or trade. By October 15 each year, the lessee shall provide the authorized officer a completed Form FS-2700-10a, Facility Owner and Occupant Inventory of Communications Uses, listing the lessee and all occupants by category of use in or on the authorized facilities on September 30 that year. The lessee shall be responsible for ensuring compliance of the occupants' uses with all the terms of this lease. _

B. COMMUNICATIONS SITE MANAGEMENT PLAN. All operation and maintenance of improvements in the lease area and equipment installed in or on facilities in the lease area shall be consistent with the applicable communications site management plan and shall require prior written approval from the authorized officer. The Forest Service reserves the right to modify the communications site management plan as deemed necessary by the authorized officer.

C. COMPLIANCE WITH APPLICABLE COMMUNICATIONS REQUIREMENTS. Use of communications equipment under this lease is contingent upon possession of a valid Federal Communications Commission (FCC) license or National Telecommunications and Information Administration (NTIA) authorization, as applicable, and must be in strict compliance with the requirements of the FCC or NTIA. A copy of each FCC license or NTIA authorization shall at all times be maintained by the lessee for each transmitter being operated in or on the facilities. Upon request, the lessee shall provide the authorized officer with a current copy of all FCC licenses and NTIA authorizations for communications equipment in or on the authorized facilities covered by this lease.

D. OPERATION OF COMMUNICATIONS EQUIPMENT. The lessee shall ensure that all equipment operated by the lessee and the lessee's occupants in or on the authorized facilities covered by this lease operates in a manner that will not cause harmful interference with the operation of existing communications equipment in or on the authorized facilities or in the vicinity of the #COMM_SITE_FCLTY_NAME# Communications Site. If the authorized officer or authorized FCC official determines that use of any equipment installed in or on the authorized facilities interferes with existing communications equipment, the lessee shall promptly take the necessary steps to eliminate or reduce the harmful interference to the satisfaction of the authorized officer or authorized FCC official.

E. TECHNICAL INFORMATION. Upon request, the lessee shall furnish the authorized officer with technical information concerning the communications equipment located in or on the authorized facilities covered by this lease. Both the authorized officer and the lessee shall follow federal guidelines when dealing with classified or sensitive security information.

F. CONDITION OF OPERATIONS. The lessee shall maintain the authorized facilities and lease area to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer and consistent with other provisions of this lease. Standards are subject to periodic change by the authorized officer when deemed necessary to meet statutory, regulatory, or policy requirements or to protect National Forest System resources.

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

H. MONITORING BY THE FOREST SERVICE. The Forest Service shall monitor the lessee's operations and reserves the right to inspect the lease area and authorized facilities at any time for compliance with the terms of this lease. The lessee shall comply with inspection requirements deemed

appropriate by the authorized officer. The lessee's obligations under this lease are not contingent upon any duty of the Forest Service to inspect the lease area or authorized facilities. A failure by the Forest Service or other governmental officials to inspect is not a justification for noncompliance with any of the terms of this lease.

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

J. SIGNAGE. Signage posted on National Forest System lands must have prior written approval from the authorized officer, unless the signage is required by the FCC or the Occupational Safety and Health Administration.

K. REFUSE DISPOSAL. The lessee 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 lease. -

IV. RIGHTS AND LIABILITIES

A. LEGAL EFFECT OF THIS LEASE. This lease is revocable and terminable, does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601, and may not be used as collateral for a loan. -

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

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

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

E. RISK OF LOSS. The lessee assumes all risk of loss to the authorized facilities and all risk of loss of use and occupancy of the lease area, in whole or in part, due to public health and safety or environmental hazards. Loss to the authorized facilities and of use and occupancy of the lease area 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 any of the authorized facilities are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the authorized facilities can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, this lease shall terminate. If the authorized officer determines that the lease area cannot be safely occupied due to a public health or safety or environmental hazard, this lease shall terminate. Termination under this clause shall not give rise to any claim for damages, including lost profits and the value of the improvements, by the lessee against the Forest Service.

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

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

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

G. HEALTH AND SAFETY. The lessee shall take all measures necessary to protect the health and safety of all persons affected by the use and occupancy authorized by this lease. The lessee 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 lease that causes or threatens to cause a hazard to the health or safety of the public or the lessee's agents, employees, contractors, or occupants. The lessee 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 lease to inspect the lease area or operations of the lessee for hazardous conditions or compliance with health and safety standards.

H. ENVIRONMENTAL PROTECTION

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

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

3. Oil Discharges and Release of Hazardous Materials. The lessee shall immediately notify all appropriate response authorities, including the National Response Center and the authorized officer or the authorized officer's designated representative, of any oil discharge or of the release of a hazardous material in the lease area in an amount greater than or equal to its reportable quantity, in accordance with 33 CFR Part 153 and 40 CFR Part 302. For the purposes of this requirement, "oil" is as defined by section 311(a)(1) of the Clean Water Act, 33 U.S.C. 1321(a)(1). The lessee 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 lease area which may be harmful to public health or welfare or which may adversely affect natural resources on federal lands.

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

I. INDEMNIFICATION OF THE UNITED STATES. The lessee 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 lessee in connection with the use and occupancy authorized by this lease. This indemnification provision includes but is not limited to acts and omissions of the lessee or the lessee's heirs, assignees, agents, employees, contractors, or occupants in connection with the use and occupancy authorized by this lease 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 lessee to replace, repair, restore, or otherwise undertake necessary curative actions to mitigate damages in combination with or as an alternative to monetary indemnification.

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

**<USER NOTES FOR CLAUSES IV.J.1 THROUGH IV.J.3>
<Delete clauses IV.J.1 through IV.J.3 when a bond is not required.>**

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

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

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

<USER NOTES FOR STATES>

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

V. RESOURCE PROTECTION

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

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

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

D. PESTICIDE USE

1. Authorized Officer Concurrence. Pesticides may not be used outside of buildings in the lease 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 lessee shall, on the due date established by the authorized officer, submit requests for any new, or continued, pesticide usage. The Pesticide-Use Proposal shall cover a 12-month period of planned use. The Pesticide-Use Proposal shall be submitted at least 60 days in advance of pesticide application. Information essential for review shall be provided in the form specified. Exceptions to this schedule may be allowed, subject to emergency request and approval, only when unexpected outbreaks of pests require control measures which were not anticipated at the time a Pesticide-Use Proposal was submitted.

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

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

5. Labeling, Laws, and Regulations. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers. No

pesticide waste, excess materials, or containers shall be disposed of in any area administered by the Forest Service.

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

F. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION (NAGPRA). In accordance with 25 U.S.C. 3002(d) and 43 CFR 10.4, if the lessee inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on National Forest System lands, the lessee shall immediately cease work in the area of the discovery and shall leave the discoveries intact and in place. The lessee 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 lessee shall as soon as practicable notify the authorized officer of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the authorized officer certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, or at any time if a NAGPRA plan of action has been executed by the Forest Service following tribal consultation and any preconditions have been met.

G. PROTECTION OF HABITAT 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 lease 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. 1531 *et seq.*, as amended, or within designated critical habitat shall be shown in the communications site management plan or on a map in an appendix to this lease and may be shown on the ground. The lessee 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 lessee or the Forest Service of other sites within the lease area containing threatened or endangered species or designated critical habitat not shown in the communications site management plan or on a map in an appendix to this lease shall be promptly reported to the other party and shall be added to the communications site management plan or to the map.

2. Sensitive Species and Species of Conservation Concern and Their Habitat. The location of sites within the lease 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 Forest Service Manual 2670 shall be shown in the communications site management plan or on a map in an appendix to this lease and may be shown on the ground. The lessee 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 lessee or the Forest Service of other sites within the lease area containing sensitive species or species of conservation concern or their habitat not shown in the communications site management plan or on a map in an appendix to this lease shall be promptly reported to the other party and shall be added to the communications site management plan or to the map.

H. CONSENT TO STORE HAZARDOUS MATERIALS. The lessee 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 lease shall include, or in the case of approval provided after this lease is issued, shall be amended to include specific terms addressing the storage of hazardous materials, including the specific type of materials to be stored, the volume, the type of storage, and a spill or release prevention and control plan. Such terms shall be proposed by the lessee and are subject to approval by the authorized officer.

<USER NOTES FOR CLAUSES V.H.1 THROUGH V.H.4>

<Include clauses V.H.1 through V.H.4 when consenting to store hazardous materials. Otherwise, delete them.>

1. If the lessee receives consent to store hazardous material, the lessee shall identify to the Forest Service any hazardous material to be stored at the site. This identifying information shall be consistent with column (1) of the table of hazardous materials and special provisions enumerated at 49 CFR 172.101 whenever the hazardous material appears in that table. For hazard communication purposes, the lessee 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 lessee shall be used, labeled, stored, transported, and disposed of in accordance with all applicable federal, state, and local laws and regulations. Any hazardous material transportation and disposal manifests shall clearly identify the holder as the generator of the hazardous waste.
2. If hazardous materials are used or stored at the site, the authorized officer may require the lessee to deliver and maintain a surety bond in accordance with clause IV.J.
3. The lessee shall not release any hazardous material onto land or into rivers, streams, impoundments, or natural or artificial channels leading to them. All prudent and safe attempts must be made to contain any release of these materials. The authorized officer may specify specific 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 lessee uses or stores hazardous materials at the site, upon revocation or termination of this lease the lessee shall provide the Forest Service with a report certified by a professional or professionals acceptable to the Forest Service that the lease area is uncontaminated by the presence of hazardous materials and that there has not been a release or discharge of hazardous materials upon the lease area, into surface water at or near the lease area, or into groundwater below the lease area during the term of the lease. 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 lease area is in compliance with all applicable federal, state, and local laws and regulations.

VI. FEES AND DEBT COLLECTION

A. RENT. The lessee shall pay in advance an annual rent determined by the authorized officer in accordance with applicable law and Forest Service directives.

B. MODIFICATION OF RENT. The annual rent shall be adjusted by the authorized officer to reflect changes in fair market value.

C. PAYMENTS

1. Due Date and Crediting of Payments. Rent is due January 1 of each year. Payments in the form of a check, draft, money order, or credit card shall be made payable to USDA, Forest Service. 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 Rent. Rent is due and payable by the due date. Disputed rent, other than rent recalculated pursuant to an audit, must be paid in full. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlement terms.

3. Late Payments

(a) Interest. Pursuant to 31 U.S.C. 3717 *et seq.*, interest shall be charged on any rent fee not paid within 30 days from the date it became due. The rate of interest assessed shall be the higher of the rate of the

current value of funds to the Treasury (i.e., Treasury tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the *Federal Register* and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly or at the Prompt Payment Act rate. Interest on the principal shall accrue from the date the rent fee is due.

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

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

4. Administrative Offset and Credit Reporting. Delinquent rent and other charges associated with the lease 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 lessee from the Forest Service.

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

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

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

D. NONPAYMENT. This lease shall terminate if the lessee fails to pay rent, interest, or any other charges within 90 calendar days of the due date. The holder shall remain responsible for the delinquent charges.

VII. REVOCATION, SUSPENSION, AND TERMINATION

A. REVOCATION AND SUSPENSION

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

(a) For noncompliance with federal, state, or local law;

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

(c) For failure of the lessee to operate the authorized facilities for a period of 1 year; or

(d) At the discretion of the authorized officer, for specific and compelling reasons in the public interest.

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

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

B. REVOCAION FOR SPECIFIC AND COMPELLING REASONS IN THE PUBLIC INTEREST. The authorized officer may revoke this lease during its term if the Forest Service determines based on a land management planning decision that the use and occupancy authorized by this lease should be changed for specific and compelling reasons in the public interest, other than a determination under clause IV.E that the authorized facilities or the lease area cannot be safely occupied. Prior to revoking the lease under this clause, the authorized officer shall give the lessee 90 days written notice, provided that the authorized officer may prescribe a shorter notice period if justified by the public interest. The Forest Service shall then have the right to remove or relocate the lessee's authorized facilities, to require the lessee to remove or relocate them, or to purchase them. Removal or relocation by the Forest Service of the lessee's authorized facilities shall be accepted by the lessee in full satisfaction of all claims against the United States under this clause. If the Forest Service requires the lessee remove or relocate the authorized facilities or purchases them, the Forest Service shall be obligated to pay the lesser of (1) the cost of removal or relocation of the authorized facilities or (2) the value of the authorized facilities as determined by the Forest Service through an appraisal of their replacement cost, less an allowance for depreciation of all types. If that amount is fixed by agreement between the authorized officer and the lessee, that amount shall be accepted by the lessee in full satisfaction of all claims against the United States under this clause. If agreement is not reached, the authorized officer shall determine the amount to be paid, which shall be set forth in the revocation decision. A payment made pursuant to this clause is subject to the availability of appropriations. Nothing in this lease implies that Congress will appropriate funds to cover a deficiency in appropriations.

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

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

E. TERMINATION. This lease shall terminate when by its terms, a fixed or agreed upon condition, event, or time occurs without any action by the authorized officer. For example, this lease terminates upon expiration of the lease by its terms on a specified date. Termination of this lease, which includes the removal of all structures and improvements and restoration of the lease area, does not require notice, a decision document, or any environmental analysis or other documentation. Termination of this lease is not subject to administrative appeal and shall not give rise to any claim for damages by the lessee against the Forest Service.

F. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT ISSUANCE OF A NEW LEASE. Except as provided in clause VII.B, upon revocation of this lease or termination of this lease without issuance of a new lease, the authorized officer has the discretion to require the lessee to sell or remove all structures and improvements in the lease area, except those owned by the United States, within 90 days, unless otherwise agreed to in writing by the authorized officer, and to restore the site to the satisfaction of the authorized officer. Prior to conducting any removal or restoration activities, the lessee shall prepare a removal and restoration plan for the lease area, which must be approved in writing by the authorized officer. If the lessee fails to sell or remove all the 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 lessee 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 TERMINATION OR REVOCATION. Notwithstanding the termination or revocation of this lease, its terms shall remain in

effect and shall be binding on the lessee and the lessee's personal representative, successors, and assignees until all the lessee's obligations and liabilities accruing before or as a result of termination or revocation of this lease have been satisfied.

<USER NOTES FOR CLAUSE VII.H>

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

H. TERMINATION FOR THE DEVELOPMENT OF HYDROELECTRIC POWER OR RECLAMATION PURPOSES. Any lands covered by this lease which have been withdrawn for hydroelectric power under the act of March 3, 1879, or the act of June 25, 1910, or are covered by an application or license governed by the Federal Power Act of June 10, 1920, are subject at any time to use for the development of hydroelectric power. Any lands covered by this lease which have been withdrawn under the Reclamation Act of June 17, 1902, are subject at any time to use for reclamation purposes. This lease is issued with the specific understanding that (1) the use and occupancy authorized by this lease shall not interfere with such development of hydroelectric power or reclamation and that (2) the lease shall terminate after 90 days written notice when, in the judgment of the Federal Power Commission, the lands in question are needed for the development of hydroelectric power or, in the judgment of the Bureau of Reclamation, the lands in question are needed for reclamation purposes. The lessee shall have 90 days to remove the authorized facilities. Termination under this clause does not constitute revocation for specific and compelling reasons in the public interest under clause VII.B and shall not give rise to any claim by the lessee against the Federal Power Commission, the Bureau of Reclamation, the Forest Service, or hydroelectric power licensees for damages, including lost profits and damage to authorized facilities, due to such development of hydroelectric power or reclamation.

VIII. MISCELLANEOUS PROVISIONS

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

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

C. SUPERSEDED AUTHORIZATION. This lease supersedes a special use authorization designated: #PREV_REISSUE_LESSEE#, #PREV_AUTH_ID#, dated #PREV_REIS_ISSUE_DATE#.

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

THIS LEASE IS ACCEPTED SUBJECT TO ALL ITS TERMS.

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

ACCEPTED:

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

DATE

APPROVED:

#AUTHORIZED OFFICER NAME#
#TITLE#

DATE

National Forest
USDA Forest Service

<Attach maps and other appendices.>

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