FS-2700-40 (09/2020)

 OMB 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE**

**FOREST SERVICE**

**ASSUMPTION OF RISK, WAIVER OF LIABILITY, AND INDEMNITY AGREEMENT**

**FOR GOOD SAMARITAN SEARCH AND RECOVERY MISSIONS**

**<USER NOTES FOR FORM FS-2700-40>**

**<Do not make any modifications, additions or deletions to this form.>**

**<Delete user notes prior to printing.>**

**AUTHORITY:**

**Section 9002 of the John D. Dingell, Jr. Conservation, Management, and Recreation Act, Pub. L. No. 116-9, 43 U.S.C. 1742a**

The undersigned good Samaritan, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, has made a voluntary request to conduct a search on National Forest System (NFS) lands for one or more missing individuals believed to be deceased (hereinafter “search and recovery mission”).

Name of Missing Person or Persons: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Starting Date of Search and Recovery Mission: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Anticipated Ending Date of Search and Recovery Mission: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Assumption of Risk**

The undersigned is aware that a search and recovery mission is inherently dangerous and that the undersigned may be subjected to the risk of death, personal injury, or damage to the undersigned’s property by undertaking such a mission on NFS lands. The undersigned voluntarily assumes the risk of death, personal injury, and property damage arising from or in any way connected with the undersigned’s search and recovery mission on NFS lands, including but not limited to death, personal injury, and property damage caused by uneven terrain, exposure, heat stroke, rockslides, avalanches, encounters with wildlife, or wildfire. The undersigned acknowledges that the undersigned possesses the requisite knowledge, skills, and training to successfully execute a search and recovery mission on NFS lands despite its inherent risks.

**Waiver of Liability**

The undersigned hereby agrees that the United States and its officers, agents, and employees shall not be liable to the undersigned or the undersigned’s estate, heirs, or assignees for the death of, personal injury to, or property damage sustained by the undersigned as a result of negligence of an officer, agent, or employee of the United States in connection with conducting a search and recovery mission on NFS lands. The undersigned hereby waives any negligence claims the undersigned or the undersigned’s estate, heirs, or assignees may have against the United States and its officers, agents, and employees for the death of, personal injury to, or property damage sustained by the undersigned in connection with conducting a search and recovery mission on NFS lands.

**Indemnification, Hold Harmless, and Duty to Defend**

The undersigned and the undersigned’s estate, heirs, and assignees shall indemnify, hold harmless, and defend the United States and its officers, agents, and employees for any injury, loss, or damage the United States may suffer as a result of claims, demands, losses, or judgments, other than those caused by the negligence of the United States or its officers, agents, or employees, arising in connection with the undersigned’s search and recovery mission conducted on NFS lands.

**Legal Status of the Undersigned**

The undersigned agrees that (1) the undersigned is acting for private purposes and shall not be considered to be a USDA Forest Service volunteer; (2) the undersigned shall not be considered to be a volunteer under 54 U.S.C. 102301(c); (3) the Federal Tort Claims Act, 28 U.S.C. chapter 171, shall not apply to the undersigned in connection with the undersigned’s search and recovery mission on NFS lands; and (4) the Federal Employees Compensation Act, 5 U.S.C. chapter 81, shall not apply to the undersigned in connection with the undersigned’s search and recovery mission on NFS lands, nor shall the conduct of the undersigned’s search and recovery mission constitute civilian employment.

**THE UNDERSIGNED MUST COMPLETE THE FOLLOWING IN THE UNDERSIGNED’S OWN HANDWRITING:**

|  |
| --- |
| Have you read this form in its entirety? [ ]  Yes [ ]  No |
| Are you or your organization acting in a not-for-profit capacity? [ ]  Yes [ ]  No |
| Have you attained the age of majority under the law in the State where the search and recovery mission is to take place? [ ]  Yes [ ]  No |
| Are you aware that by signing this form you are agreeing (1) to assume all risk of death, personal injury, and property damage, (2) to waive all claims against the United States for negligence, and (3) to pay the cost of defending the United States in any lawsuit and to pay any damages incurred by the United States in any lawsuit, other than those caused by the negligence of the United States, arising in connection with your conducting a search and recovery mission on NFS lands? [ ]  Yes [ ]  No |

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[name of good Samaritan] Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_**

[name and title of Forest Service witness] Date

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. Response to this collection of information is mandatory. The authority to collect the information is the Organic Administration Act, 16 U.S.C. 551. The time required to complete this information collection is estimated to average .25 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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