

Authorization ID: #AUTH\_ID#  
Contact ID: #HOLDER\_ID#  
Expiration Date: #EXPIRATION\_DATE#  
Use Code: #USE\_CODE#

FS-2700-10d (XX/202X)  
OMB No. 0596-0082

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

**COMMUNICATIONS USE PERMIT FOR USE AND OCCUPANCY OF  
STRUCTURES UNDER THE JURISDICTION OF THE FOREST SERVICE**

**AUTHORITY:**

**Title V of the Federal Land Policy and Management Act, 43 U.S.C. 1761-1772  
Section 7 of the Granger-Thye Act, 16 U.S.C. 580d**

**<Delete all user notes before printing.>**

**<USER NOTES FOR USE OF THIS FORM>**

**<This form is to be used ONLY for holders that will be in or on a communications facility or other structure that is under the jurisdiction of the Forest Service.>**

#HOLDER\_NAME# of #HOLDER\_ADD\_LINE\_1#, #HOLDER\_CITY#, #HOLDER\_STATE#  
#HOLDER\_ZIP# (hereinafter "the holder") is authorized to use or occupy National Forest System lands in the \_\_\_\_\_ National Forest or \_\_\_\_\_ unit of the National Forest System, subject to the terms of this communications use permit for use and occupancy of structures under the jurisdiction of the Forest Service (the permit).

This permit covers #USE\_ACRES# in the #TOWNSHIP\_SECT\_RANGE# #FIRST\_DIVISION#  
#FIRST\_DIV\_NAME\_NUMBER#, #SECOND\_DIVISION# #SECOND\_DIV\_NAME\_NUMBER#,  
#THIRD\_DIVISION# #THIRD\_DIV\_NAME\_NUMBER# ("the permit area"). The permit area is described or shown generally in the communications site management plan or on the map dated #DATE# for #COMM\_SITE\_NAME# Communications Site in Appendix A.

This permit is issued for the purpose of installation, operation, and maintenance of the following communications equipment and ancillary improvements (hereinafter "authorized equipment"):

**Radio equipment:** [specify type and dimensions]

**Antennas:** [specify location on tower (e.g., on south leg) type, and height]

**Ancillary Improvements:** [e.g., coaxial cables, backup battery banks, solar panels, and equipment racks]

**Access:** [specify access route]

in the following structures under the jurisdiction of the Forest Service (hereinafter "federally owned structures"):

[List the structures, e.g., towers and buildings, where the authorized equipment will be installed using the unique identifier for each structure entered in the Engineering module of the Natural Resource Manager database (NRM).]

The following appendices are incorporated into this permit:

**<USER NOTES FOR APPENDICES>**

**<Include the following list of appendices in permits issued to a federal entity, along with any additional appendices. Delete the remaining list of appendices.>**

APPENDIX A: Communications Site Management Plan or Map of the Permit Area

**<Include the following list of appendices in permits issued to a non-federal entity, along with any additional appendices. Delete the preceding list of appendices.>**

APPENDIX A: Communications Site Management Plan or Map of the Permit Area

APPENDIX B: Calculation of the Annual Land Use Fee

APPENDIX C: Granger-Thye Fee Offset Agreement

APPENDIX D: Granger-Thye Fee Offset Claim

**I. GENERAL TERMS**

**A. AUTHORITY.** This permit is issued pursuant to Title V of the Federal Land Policy and Management Act, 43 U.S.C. 1761-1772, Section 7 of the Granger-Thye (GT) Act, 16 U.S.C. 580d, 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 permit shall expire at midnight on #EXPIRATION\_DATE#. Expiration of this permit shall not require notice, a decision document, or any environmental analysis or other documentation.

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

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

**F. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS.** In exercising the rights and privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulation, or policy. The Forest Service assumes no responsibility for enforcing laws, regulations, and other legal requirements that fall under the jurisdiction of other governmental entities.

**G. NON-EXCLUSIVE USE.** The use or occupancy authorized by this permit is not exclusive. The Forest Service reserves the right of access to the permit area, including a continuing right of physical entry to the permit area for inspection, monitoring, or any other purpose consistent with any right or obligation of the United States under any law or regulation. The Forest Service reserves the right to allow others to use the permit area in any way that is not inconsistent with the holder's rights and privileges under this permit, after consultation with all parties involved. Except for any restrictions that the holder and the authorized officer agree are necessary to protect the installation and operation of authorized temporary improvements, the lands and waters covered by this permit shall remain open to the public for

all lawful purposes.

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

**I. TRANSFER OF TITLE TO THE IMPROVEMENTS**

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

2. Transfer of Title. Any transfer of title to the improvements covered by this permit shall result in termination of the permit upon issuance of a new permit to another party for the use and occupancy authorized by this permit. The party who acquires title to the improvements must submit an application for a permit. The Forest Service is not obligated to issue a new permit to the party who acquires title to the improvements. The authorized officer shall determine that the applicant meets requirements under applicable federal regulations.

**<USER NOTES FOR CLAUSE I.J>**

**<Delete this clause if the permit is not issued to a business entity.>**

**J. CHANGE IN CONTROL OF THE BUSINESS ENTITY**

1. Notification of Change in Control. The holder shall notify the authorized officer when a change in control of the business entity that holds this permit is planned.

(a) In the case of a corporation, control is an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the business so as to permit the exercise of managerial authority over the actions and operations of the corporation or election of a majority of the board of directors of the corporation.

(b) In the case of a partnership, limited partnership, joint venture, or individual entrepreneurship, control is a beneficial ownership of or interest in the entity or its capital so as to permit the exercise of managerial authority over the actions and operations of the entity.

(c) In other circumstances, control is any arrangement under which a third party has the ability to exercise management authority over the actions or operations of the business.

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

**<USER NOTES FOR CLAUSE I.K>**

**<Use this clause only if the permit is issued to a federal entity. Otherwise delete this clause.>**

**K. CONVEYANCE OF LANDS OR TITLE OR JURISDICTION OF THE IMPROVEMENTS COVERED BY THIS PERMIT.** The authorized officer shall give the holder at least 90 days prior written notice of any pending conveyance of the lands or transfer of title or jurisdiction of the improvements covered by this permit. With the holder's consent, the Forest Service may convey the lands or transfer of title or jurisdiction of the improvements covered by this permit without reserving the right-of-way granted by this permit. If the holder does not consent to conveyance without reservation of the right-of-way, the Forest Service may convey the lands or transfer of title or jurisdiction of the improvements covered by this permit only if the lands are subject to the right-of-way granted by this permit.

## **II. IMPROVEMENTS**

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

**B. DRAWINGS.** All drawings for development, layout, construction, reconstruction, alteration, or installation of authorized equipment, 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 written approval from the authorized officer before they are implemented. The authorized officer may require the holder to furnish as-built drawings, maps, or surveys upon completion of the work.

**C. AUTHORIZED EQUIPMENT CONSTRUCTION AND INSTALLATION SCHEDULE.** The holder and the Forest Service jointly shall prepare an authorized equipment construction and installation schedule, which shall be incorporated as Appendix \_\_\_\_\_ to this permit, before any construction or installation occurs in the permit area. The authorized equipment construction and installation schedule shall list authorized equipment to be constructed and installed in order of priority, the starting date for its construction and installation, and the due date for its completion. All required plans and specifications for the authorized equipment included in the authorized equipment construction and installation schedule shall be properly certified and submitted to the authorized officer at least 45 days before the starting date for the construction and installation. The holder may accelerate the scheduled date for completion of any construction or installation, provided construction and installation of the other scheduled authorized equipment are completed on time and to the satisfaction of the authorized officer. Any other changes to the authorized equipment construction and installation 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 equipment constructed and installed under an authorized equipment construction and installation schedule.

**D. COMMENCEMENT OF OPERATIONS.** Operations under this permit shall commence on the date specified in the authorized equipment construction and installation schedule. This permit shall terminate if operations under this permit do not commence by that date, unless the parties agree in writing, in advance, to an extension of the commencement date.

**E. MODIFICATION, REPLACEMENT, DECOMMISSIONING, OR TRANSFER OF OWNERSHIP OF THE FEDERALLY OWNED STRUCTURES.** The authorized officer has sole discretion to determine whether to modify, replace, or decommission any of the federally owned structures to optimize the Forest Service's operations or to transfer ownership of any of the federally owned structures. If the authorized officer determines that any of the federally owned structures needs to be modified or replaced, the Forest Service has no obligation to design the modification or replacement of the federally owned structures beyond the Forest Service's operational needs, as determined by the Forest Service, to accommodate the holder's equipment. If the Forest Service in its sole discretion determines that the authorized equipment cannot be accommodated in or on the federally owned structures as modified or replaced, this permit shall terminate as to those federally owned structures as modified or replaced. If the authorized officer decides to decommission or transfer ownership of any of the federally owned structures, this permit shall terminate as to those federally owned structures.

## **III. OPERATIONS**

**A. COMMUNICATIONS SITE MANAGEMENT PLAN.** All operation and maintenance of authorized equipment installed in or on the federally owned structures 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.

**B. COMPLIANCE WITH APPLICABLE COMMUNICATIONS REQUIREMENTS.** Use of communications equipment under this permit 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 current copy of each FCC license or NTIA authorization shall be maintained by the holder for each transmitter being operated in or on the federally owned structures. Upon request, the holder shall provide the authorized officer with a current copy of all FCC licenses and NTIA authorizations for communications equipment in or on the federally owned structures.

**C. OPERATION OF COMMUNICATIONS EQUIPMENT.** The holder shall ensure that all authorized equipment in or on the federally owned structures operates in a manner that will not cause harmful interference with the operation of existing communications equipment in or on the federally owned structures 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 authorized equipment installed in or on the federally owned structures interferes with operation of existing communications equipment, the holder shall promptly take the necessary steps to eliminate or reduce the harmful interference to the satisfaction of the authorized officer or authorized FCC official.

**D. TECHNICAL INFORMATION.** Upon request, the holder shall furnish the authorized officer with technical information concerning the authorized equipment installed in or on the federally owned structures. Both the authorized officer and the holder shall follow applicable federal guidelines when dealing with classified or sensitive security information.

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

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

**G. MONITORING BY THE FOREST SERVICE.** The Forest Service shall monitor the holder's operations and reserves the right to inspect the permit area and authorized equipment at any time for compliance with the terms of this permit. The holder shall comply with inspection requirements deemed appropriate by the authorized officer. The holder's obligations under this permit are not contingent upon any duty of the Forest Service to inspect the permit area or authorized equipment. 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 permit.

**H. CUTTING, DISPOSAL, AND PLANTING OF VEGETATION.** This permit does not authorize the cutting of trees, brush, shrubs, and other plants ("vegetation"). Vegetation may be cut, destroyed, or trimmed only after the authorized officer or the authorized officer's designated representative has approved in writing and marked or otherwise identified what may be cut, destroyed, or trimmed. The holder shall notify the authorized officer when approved cutting, destruction, or trimming of vegetation has been completed. Felled trees in the permit 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 permit area must have prior written approval from the authorized officer.

**I. 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.

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

**K. ALTERATION OF FEDERALLY OWNED STRUCTURES.** If during the term of this permit any federally owned structures are altered in any way, the material, equipment, fixtures or other appurtenances that are affixed to or made a part of those federally owned structures in connection with the alteration shall become the property of the United States, regardless of whether the work is performed by the holder or any other party. The holder shall not be entitled to any compensation for that property, other than to the extent it qualifies for GT fee offset under clause VI.D.

#### **IV. RIGHTS AND LIABILITIES**

**A. LEGAL EFFECT OF THE PERMIT.** This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR Part 214 and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.

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

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

**D. NO WARRANTY OF ACCESS, SITE SUITABILITY, OR SERVICES.** This permit authorizes the use and occupancy of National Forest System lands by the holder for the purposes identified in this permit. The Forest Service does not make any express or implied warranty of access to the permit area, of the suitability of the permit 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.

#### **<USER NOTES FOR THE REMAINING CLAUSES IN SECTION IV>**

**<Include the following clauses IV.E through IV.K in permits issued to non-federal entities unless otherwise directed by the user notes. Delete the following clauses IV.E through IV.K for permits issued to federal entities.>**

**E. RISK OF LOSS.** The holder assumes all risk of loss to the authorized equipment and federally owned structures and all risk of loss of use and occupancy of the permit area, in whole or in part, due to public health and safety or environmental hazards. Loss to the authorized equipment and federally owned structures and of use and occupancy of the permit area may result from but is not limited to theft, vandalism, fire and any fire-fighting activities (including prescribed burns), environmental contamination, avalanches, rising waters, winds, falling limbs or trees, and other forces of nature. If any authorized equipment or federally owned structures are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the authorized equipment or federally owned structures can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not

allowed, this permit shall terminate as to that authorized equipment or those federally owned structures. If the authorized officer determines that the permit area cannot be safely occupied due to a public health or safety or environmental hazard, this permit shall terminate. Termination under this clause shall not give rise to any claim for damages, including lost profits and the value of the authorized equipment and federally owned structures, by the holder against the Forest Service.

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

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

2. The holder shall be liable for damage to all roads and trails of the United States caused by use of the holder or the holder's heirs, assignees, agents, employees, or contractors 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 holder shall take all measures necessary to protect the health and safety of all persons affected by the use and occupancy authorized by this permit. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any physical or mechanical procedure, activity, event, or condition existing or occurring in connection with the authorized use and occupancy during the term of this permit that causes or threatens to cause a hazard to the health or safety of the public or the holder's employees, agents, or contractors. The holder shall as soon as practicable notify the authorized officer of all serious accidents that occur in connection with these procedures, activities, events, or conditions. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations of the holder for hazardous conditions or compliance with health and safety standards.

#### **H. ENVIRONMENTAL PROTECTION**

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

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

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

**I. INDEMNIFICATION OF THE UNITED STATES.** The holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use or occupancy authorized by this permit. This indemnification provision includes but is not limited to acts and omissions of the holder or the holder's heirs, assignees, agents, employees, or contractors in connection with the use and occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may in the future become applicable; (2) judgments, claims, demands, penalties, or fees assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) the release or threatened release of any solid waste, hazardous waste, hazardous materials, pollutant, contaminant, oil in any form, or petroleum product into the environment. The authorized officer may prescribe terms that allow the holder to replace, repair, restore, or otherwise undertake necessary curative actions to mitigate damages in combination with or as an alternative to monetary indemnification.

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

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

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



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

**<USER NOTES FOR PROPERTY INSURANCE>**

**<Include property insurance clause when the authorized officer has elected to require property insurance. Identify specific property insured. Identify the specific property to be insured. Specify whether the insurance will be based on replacement in kind or functional replacement, and specify the value of the improvement (the amount of insurance must represent between 80 and 100 percent of the value of the property).>**

**K. PROPERTY INSURANCE.** The holder shall have in force property insurance for [identify the Federal property to be insured] in the minimum amount of \$#AMOUNT#, which represents [replacement in kind/functional replacement] of the insured property. The types of loss to be covered by this clause shall include but not be limited to damage to the federally owned improvements covered by this permit. At the sole discretion of the authorized officer, the Forest Service may require the holder to use all proceeds from property damage insurance policies to repair, rebuild, restore, or replace damaged Government property covered by the policy, or may obtain payment of those proceeds from the holder or the insurance company.

**<USER NOTES FOR STATES>**

**<If the state that has shown that state law limits its liability or obligation to indemnify, follow the direction in FSH 2709.11, Chapter 50, section 52.2, clause B-12.>**

**<USER NOTES FOR FEDERAL ENTITIES>**

**<When issuing a permit to federal entities, use the following clauses IV.E through IV.H, and delete clauses IV.E through IV.K above.>**

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

**F. HEALTH AND SAFETY.** The holder shall take all measures necessary to protect the health and safety of all persons affected by the use and occupancy authorized by this permit. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any physical or mechanical procedure, activity, event, or condition existing or occurring in connection with the authorized use and occupancy during the term of this permit that causes or threatens to cause a hazard to the health or safety of the public or the holder's employees, agents, or contractors. The holder shall as soon as practicable notify the authorized officer of all serious accidents that occur in connection with these procedures, activities, events, or conditions. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations of the holder for hazardous conditions or compliance with health and safety standards.

**G. ENVIRONMENTAL PROTECTION**

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

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

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

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

**H. LIABILITY FOR INJURY.** As an agency of the United States, the holder is limited by federal law as to the assumption of liability for its acts or omissions. The holder agrees, within its legal limitations and limitations of appropriations, to be responsible for all damages arising from injury to persons or property associated with the use and occupancy authorized by this permit. The holder further agrees, to the extent legally permissible, to use its appropriations and resources as required to pay any claims and to repair damage to the federal lands covered by this permit. The Forest Service is exempt from any burdens, other than administrative costs, which may arise in connection with the use and occupancy authorized by this permit.

## **V. RESOURCE PROTECTION**

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

leading into water except in full compliance with all applicable federal, state, and local environmental and other laws.

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

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

**D. PESTICIDE USE**

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

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

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

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

5. Labeling, Laws, and Regulations. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers. No pesticide waste, excess materials, or containers shall be disposed of in any area administered by the Forest Service.

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

**F. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT (NAGPRA).** In accordance with 25 U.S.C. 3002(d) and 43 CFR 10.4, if the holder inadvertently discovers human

remains, funerary objects, sacred objects, or objects of cultural patrimony on National Forest System lands, the holder shall immediately cease work in the area of the discovery and shall leave the discoveries intact and in place. The holder shall follow the applicable NAGPRA protocols for the undertaking provided in the NAGPRA plan of action or the NAGPRA comprehensive agreement; if there are no such agreed-upon protocols, the holder shall as soon as practicable notify the authorized officer of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the authorized officer certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, or at any time if a NAGPRA plan of action has been executed by the Forest Service following tribal consultation and any preconditions have been met.

#### **G. PROTECTION OF THREATENED AND ENDANGERED SPECIES, SENSITIVE SPECIES, AND SPECIES OF CONSERVATION CONCERN AND THEIR HABITAT**

1. Threatened and Endangered Species and Their Habitat. The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.*, as amended, or within designated critical habitat shall be shown on a map in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on listed species or designated critical habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing threatened or endangered species or designated critical habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

2. Sensitive Species and Species of Conservation Concern and Their Habitat. The location of sites within the permit area needing special measures for protection of plants or animals designated by the Regional Forester as sensitive species or as species of conservation concern pursuant to FSM 2670 shall be shown on a map in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on sensitive species or species of conservation concern or their habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing sensitive species or species of conservation concern or their habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

**H. CONSENT TO STORE HAZARDOUS MATERIALS.** The holder shall not store any hazardous materials at the site without prior written approval from the authorized officer. This approval shall not be unreasonably withheld. If the authorized officer provides approval, this permit shall include or, in the case of approval provided after this permit is issued, shall be amended to include specific terms addressing the storage of hazardous materials, including the specific type of materials to be stored, the volume, the type of storage, and a spill or release prevention and control plan. Such terms shall be proposed by the holder and are subject to approval by the authorized officer.

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

**<Include clauses V.H.1 through V.H.4 for non-federal entities, and clauses V.H.1, V.H.3 and V.H.4, re-lettered appropriately, for federal entities, when consenting to store hazardous materials, which include diesel fuel for a backup generator. Otherwise, delete all four paragraphs.>**

1. If the holder receives consent to store hazardous material, the holder shall identify to the Forest Service any hazardous material to be stored at the site. 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 holder shall maintain Material Safety Data Sheets for any stored hazardous chemicals, consistent with 29 CFR 1910.1200(c) and (g). In addition, all hazardous materials stored by the holder shall be used, labeled, stored, transported, and disposed of in accordance with all applicable federal, state, and local laws and regulations. Any hazardous material transportation and disposal manifests shall clearly identify the holder as the generator of the hazardous waste.

2. If hazardous materials are used or stored at the site, the authorized officer may require the holder to deliver and maintain a surety bond in accordance with clause IV.J.
3. The holder shall not release any hazardous material onto land or into rivers, streams, impoundments, or natural or artificial channels leading to them. All prudent and safe attempts must be made to contain any release of these materials. The authorized officer in charge may specify specific conditions that must be met, including conditions more stringent than federal, state, and local regulations, to prevent releases and protect natural resources.
4. If the holder uses or stores hazardous materials at the site, upon revocation or termination of this permit the holder shall provide the Forest Service with a report certified by a professional or professionals acceptable to the Forest Service that the permit area is uncontaminated by the presence of hazardous materials and that there has not been a release or discharge of hazardous materials upon the permit area, into surface water at or near the permit area, or into groundwater below the permit area during the term of the permit. If a release or discharge has occurred, the professional or professionals shall document and certify that the release or discharge has been fully remediated and that the permit area is in compliance with all applicable federal, state, and local laws and regulations.

**I. FEDERAL SURVEY MONUMENTS, CORNERS, and BOUNDARY MARKERS.** The holder shall protect in place all federal survey monuments, corners, and boundary markers in the permit area. If any federal survey monuments, corners, or boundary markers in the permit area are destroyed or modified, the holder shall ensure that they are reestablished or corrected in accordance with (1) the Manual of Instructions for the Survey of the Public Land of the United States; (2) the applicable county surveyor's specifications; and (3) the specifications of the Forest Service, as applicable. The holder shall ensure that any official survey records that were affected due to the destruction or modification of any federal survey monuments, corners, or boundary markers are amended in accordance with applicable law. Nothing in this clause shall relieve the holder of liability for the willful destruction or modification of any federal survey monuments, corners, or boundary markers as provided in 18 U.S.C. 1858.

## **VI. LAND USE FEE AND DEBT COLLECTION**

### **A. DEFINITIONS**

1. **Maintenance.** Actions taken to keep fixed assets in an acceptable condition, including preventive maintenance, normal repairs, replacement of parts and structural components, and other activities needed to preserve a fixed asset so that it continues to provide acceptable service and achieves its expected life, and work needed to comply with laws, regulations, codes, and other legal requirements as long as the original intent or purpose of the fixed asset is not changed, but not including activities aimed at expanding the capacity of an asset or otherwise upgrading it to serve needs different from or significantly greater than those originally intended, such as construction of new facilities.
2. **Improvement.** Advancing a fixed asset to a better quality or state or adding a new fixed asset to the authorized improvements under the permit, including replacement, such as, substitution of a fixed asset or any of its components with one having essentially the same capacity and purpose. Improvement is always the responsibility of the Forest Service rather than the holder.
3. **Reconditioning or Renovation.** A type of maintenance, other than construction of new facilities, that rehabilitates an existing fixed asset or any of its components to restore the functionality or life of the asset.
4. **Holder Maintenance, Reconditioning, or Renovation.** Maintenance, reconditioning, or renovation (MRR) that neither materially adds to the value of the property nor appreciably prolongs its life and that serves only to keep the facility in an ordinary, efficient operating condition, such as, from an accounting or tax perspective, work that may be expensed, but not capitalized, including but not limited to interior

painting, vandalism repair, repair of broken windows, light bulb replacement, cleaning, preventive maintenance, minor vegetation management, and routine housekeeping.

5. Government Maintenance, Reconditioning, Renovation, or Improvement. Maintenance reconditioning, renovation, or improvement (MRRI) that arrests deterioration, improves and upgrades facilities, and appreciably prolongs the life of the property, including but not limited to installing a new roof, new floor, or new siding; upgrading facilities; installing utilities such as electrical grounding systems; and performing exterior painting and refinishing (other than repair of unsightly visual marks caused by everyday use) and that is performed at the sole discretion of the authorized officer.

**<USER NOTES FOR THE REMAINING CLAUSES IN SECTION VI>**

**<Include the following clauses VI.B through VI.D and clause VI.E, as applicable, in permits issued to a federal entity. Delete the remaining clauses VI.B through VI.G.>**

**B. LAND USE FEE.** The holder is exempt from a land use fee pursuant to 36 CFR 251.57 and Forest Service Handbook 2709.11, Chapter 30.

**C. HOLDER MRR.** The holder at its expense shall perform holder MRR as approved by the Forest Service.

**D. GOVERNMENT MRRI.** The Forest Service and holder may enter into a separate collection agreement for the holder to conduct Government MRRI.

**<USER NOTES FOR CLAUSE VI.E>**

**<Include clause VI.E when the Forest Service will provide utilities to the holder. Otherwise, delete it.>**

**E. UTILITY COSTS.** The holder shall pay the holder's proportionate share of the cost to operate and maintain utilities that are owned and operated by the Forest Service and that serve the permit area, and the cost of utilities such as electricity and telephone service that are paid for by the Forest Service and that serve the permit area. The holder shall deposit funds into a Forest Service account at times and in amounts specified by the authorized officer to cover the holder's proportionate share of the cost of these utilities. Any amounts deposited exceeding the cost of these utilities shall be refunded to the holder.

**<Include the following clauses VI.B through VI.F and clause VI.G, as applicable, in permits issued to a non-federal entity. Delete the preceding clauses VI.B through VI.E.>**

**B. LAND USE FEES.** The annual land use fee for this permit shall consist of the applicable fee for the use of National Forest System lands from the Rental Fee Schedule for Communications Uses and a fee for the use of the federally owned structures. All or part of the annual land use fee is subject to offset in accordance with clauses VI.D.

1. Fee for Use of National Forest System Lands. The holder shall pay in advance an annual fee for the use of National Forest System lands in accordance with the Rental Fee Schedule for Communications Uses in Forest Service Handbook 2709.11, Chapter 90. The annual fee for the use of National Forest System lands shall be adjusted annually using the Consumer Price Index-Urban (CPI-U).

2. Fee for Use of Federally Owned Structures. The holder shall pay in advance an annual fee for use of federally owned structures, which shall be 6 percent of their replacement value, divided by the holder's proportionate use of the occupied space in or on the federally owned structures. The fee for use of federally owned structures is calculated and documented in Appendix B of this permit. The replacement value of the federally owned structures and the holder's proportionate use of the federally owned structures shall be updated as appropriate by the authorized officer and reflected in Appendix B of this permit.

**C. MODIFICATION OF THE LAND USE FEE.** The land use fee may be revised whenever necessary to reflect the market value of the authorized use or occupancy or when the fee system used to calculate the land use fee is modified or replaced.

**D. GT FEE OFFSET.** Pursuant to 16 U.S.C. 580d, the Forest Service may offset all or part of the annual land use fee by the cost of Government MRRI performed at the holder's expense.

1. GT Fee Offset Agreement. Before issuance of this permit, the Forest Service and the holder shall execute a GT fee offset agreement using Appendix C of this permit that specifies the Government MRRI that may be used to offset the annual land use fee. A multi-year GT fee offset agreement may be executed only if payment of the annual land use fee is consolidated. Otherwise, a GT fee offset agreement may cover no more than one year. The GT fee offset agreement shall enumerate the types of costs that are eligible for GT fee offset; the Government MRRI that may be used to offset the annual land use fee; whether the holder or the Forest Service shall perform the Government MRRI; the estimated costs of the Government MRRI based on the types of costs that are eligible for GT fee offset; and the schedule and standards for completion of the Government MRRI.

2. Holder-Performed Government MRRI

(a) Offset of the Cost of Government MRRI in Lieu of Cash Payments. Notwithstanding clause VI.B, the cost of Government MRRI performed by the holder pursuant to a GT fee offset agreement as provided in clause VI.D.1 may be offset in lieu of cash payments against the annual land use fee, provided that the Government MRRI has been accomplished in accordance with the GT fee offset agreement and has been accepted as completed by the Forest Service before the end of the holder's fiscal year. In the absence of a GT fee offset agreement, payment of the annual land use fee shall be made in accordance with clause VI.B.

(b) Offset for Forest Service Oversight of Large-Scale Government MRRI Performed by the Holder. The Forest Service may include in the GT fee offset agreement the cost of a Forest Service employee administering and overseeing large-scale Government MRRI performed by the holder. For purposes of this clause only, large-scale Government MRRI costs \$#AMOUNT# or more.

(c) Documentation of Expenses. Prior to offset of the cost of Government MRRI, the holder shall submit sufficient documentation to allow the authorized officer to determine that the costs claimed are allocable to the GT fee offset agreement, actual, reasonable, allocable, and allowable.

3. Forest Service-Performed Government MRRI

(a) Offset of the Cost of Government MRRI in Lieu of Cash Payments. Notwithstanding clause VI.B, the cost of Government MRRI performed by the Forest Service or a Forest Service contractor at the holder's expense pursuant to a GT fee offset agreement as provided in clause VI.D.1, and a collection agreement executed by the authorized officer and the holder under section 5 of the GT Act, 16 U.S.C. 572, may be offset in lieu of cash payments against the annual land use fee. In the absence of a GT fee offset agreement, payment of the annual land use fee shall be made in accordance with clause VI.B.

(b) Payments. The holder shall deposit land use fees annually into a Forest Service account. All deposits shall be retained by the Forest Service until expended or, if unutilized in 5 years, shall be deposited into the U.S. Treasury.

**E. HOLDER MRR.** The holder at its expense shall perform holder MRR as defined in clause VI.A.4 of this permit as approved by the Forest Service. The costs of holder MRR may not be used to offset the annual land use fee under clause VI.D.

**<USER NOTES FOR CLAUSE VI.F>**

**<Include clause VI.F when the Forest Service will provide utilities to the holder. Otherwise, delete it.>**

**F. UTILITY COSTS.** The holder shall pay the holder's proportionate share of the cost to operate and maintain utilities that are owned and operated by the Forest Service and that serve the permit area, and the cost of utilities such as electricity and telephone service that are paid for by the Forest Service and that serve the permit area. The holder shall deposit funds into a Forest Service account at times and in amounts specified by the authorized officer to cover the holder's proportionate share of the cost of these utilities. Any amounts deposited exceeding the cost of these utilities shall be refunded to the holder.

**G. LAND USE FEE PAYMENTS**

1. **Due Date and Crediting of Land Use Fee Payments.** Land use fees are due January 1 of each year. Payments in the form of a check, draft, money order, or credit card shall be made payment 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 Land Use Fees.** Land use fees are due and payable by the due date. Disputed land use fees, other than land use fees recalculated pursuant to an audit, must be paid in full. Adjustments will be made if dictated by 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 land use fees and utility costs not paid within 30 days from the date they became due. The rate of interest assessed shall be the higher of the Prompt Payment Act rate or the rate of the current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate), as prescribed and published annually or quarterly by the Secretary of the Treasury in the *Federal Register* and the Treasury Fiscal Requirements Manual Bulletins. Interest on the principal shall accrue from the date the land use fee is due.

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

(c) **Penalties.** Pursuant to 31 U.S.C. 3717(e)(2), a penalty of 6% per year shall be assessed on the total amount of any debt, including interest and administrative charges, that is more than 90 days delinquent. The penalty shall accrue from the same date on which interest charges begin to accrue.

(d) **Termination for Nonpayment.** This permit shall terminate if the holder fails to pay any land use fees, utility costs, interest, or any other charges within 90 calendar days of the due date. The holder shall remain responsible for the delinquent charges.

4. **Administrative Offset and Credit Reporting.** Delinquent land use fees, utility costs, and other charges associated with this permit shall be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 *et seq.* and its implementing regulations. Delinquencies are subject to any or all of the following:

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

(b) If in excess of 120 days, referral to the United States Department of the Treasury for appropriate collection action as provided by 31 U.S.C. 3711(g)(1) and its implementing regulations.

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

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



## **VII. REVOCATION, SUSPENSION, AND TERMINATION**

### **<USER NOTES FOR CLAUSE VII.A>**

**<Include the following clause VII.A in permits issued to a federal entity. Delete the remaining clause VII.A and clause VII.B, and re-letter the remaining clauses in section VII.>**

#### **A. REVOCATION AND SUSPENSION**

1. The authorized officer may not revoke or suspend this permit without the consent of the head of the agency that holds this permit.
2. The authorized officer may revoke this permit at the request of the holder. Revocation at the request of the holder must be agreed to in writing by the authorized officer. As a condition of revocation of this permit at the request of the holder, the authorized officer has discretion to impose any terms deemed appropriate as provided for in this permit.

**<Include the following clauses VII.A through VII.E in permits that are not issued to a federal entity. Delete the preceding clause VII.A.>**

#### **A. REVOCATION AND SUSPENSION**

1. The authorized officer may revoke or suspend this permit in whole or in part:
  - (a) For noncompliance with federal, state, or local law;
  - (b) For noncompliance with the terms of this permit;
  - (c) For abandonment or other failure of the holder to exercise the privileges granted; or
  - (d) At the discretion of the authorized officer, for specific and compelling reasons in the public interest.
2. The authorized officer may revoke this permit at the request of the holder. Revocation at the request of the holder must be agreed to in writing by the authorized officer. As a condition of revocation of this permit at the request of the holder, the authorized officer has discretion to impose any terms deemed appropriate as provided for in this permit.
3. Prior to revocation or suspension, other than revocation at the request of the holder under clause VII.A.2 and immediate suspension under clause VII.B, the authorized officer shall give the holder written notice of the grounds for revocation or suspension and a reasonable period, typically not to exceed 90 days, to cure any noncompliance.

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

**C. APPEALS AND REMEDIES.** Written decisions by the authorized officer relating to administration of this permit are subject to administrative appeal pursuant to 36 CFR Part 214, as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service.

**D. TERMINATION.** This permit shall terminate when by its terms a fixed or agreed upon condition, event, or time occurs without any action by the authorized officer. Examples include but are not limited to expiration of the permit by its terms on a specified date and, in the case of a permit issued to a business

entity, termination upon change of control of the business entity. Termination of this permit shall not require notice, a decision document, or any environmental analysis or other documentation. Termination of this permit is not subject to administrative appeal and shall not give rise to any claim for damages by the holder against the Forest Service.

**<USER NOTES FOR CLAUSE VII.E>**

**<Include the following clause VII.E in permits issued to a non-federal entity, and delete the remaining clause VII.E.>**

**E. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT ISSUANCE OF A NEW PERMIT.** Upon revocation or termination of this permit without issuance of a new permit, the holder shall remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and shall restore the site to the satisfaction of the authorized officer. If the holder fails to remove all structures and improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

**<Include the following clause VII.E in permits issued to a federal entity and delete the previous clause VII.E.>**

**E. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT ISSUANCE OF A NEW PERMIT.** Upon revocation or termination of this permit without issuance of a new permit, the holder shall remove within a reasonable period prescribed by the authorized officer all structures and improvements installed by the holder in the permit area and shall restore the site to the satisfaction of the authorized officer.

**F. CONTINUATION OF OBLIGATIONS AND LIABILITIES BEYOND TERMINATION OR REVOCATION.** Notwithstanding the termination or revocation of this permit, its terms shall remain in effect and shall be binding on the holder and the holder's personal representative, successors, and assignees until all the holder's obligations and liabilities accruing before or as a result of termination or revocation of this permit have been satisfied.

**G. RELOCATION.** This permit is issued with the express understanding that should future location of federally owned improvements or road rights-of-way require relocation of the holder's improvements, the relocation will be conducted by and at the expense of the holder within a reasonable period specified by the authorized officer.

**<USER NOTES FOR CLAUSE VII.H>**

**<Include clause VII.H when the lands authorized for use are withdrawn for hydroelectric power or reclamation purposes, and delete the brackets around the last sentence. Delete the last sentence and the brackets for permits issued to federal entities. Delete clause VII.H if the lands authorized for use are not withdrawn for hydroelectric power or reclamation purposes.>**

**H. TERMINATION FOR THE DEVELOPMENT OF HYDROELECTRIC POWER OR RECLAMATION PURPOSES.** Any lands covered by this permit which have been withdrawn for hydroelectric power under the act of March 3, 1879, or the act of June 25, 1910, or are covered by an application or license governed by the Federal Power Act of June 10, 1920, are subject at any time to use for the development of hydroelectric power. Any lands covered by this permit which have been withdrawn under the Reclamation Act of June 17, 1902, are subject at any time to use for reclamation purposes. This permit is issued with the specific understanding that (1) the use and occupancy authorized by this permit shall not interfere with such development of hydroelectric power or reclamation and that (2) this permit shall terminate after 90 days written notice when, in the judgment of the Federal Power Commission, the lands in question are needed for the development of hydroelectric power or, in the judgment of the Bureau of

Reclamation, the lands in question are needed for reclamation purposes. The holder shall have 90 days to remove the authorized improvements. Termination under this clause shall not give rise to any claim by the holder against the Federal Power Commission, the Bureau of Reclamation, the Forest Service, or hydroelectric power licensees for damages, including lost profits and damage to improvements, due to such development of hydroelectric power or reclamation.

#### **VIII. MISCELLANEOUS PROVISIONS**

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

**B. CURRENT ADDRESSES.** The holder and the Forest Service shall keep each other informed of current mailing addresses, including those necessary for billing and payment of land use fees.

**C. SUPERSEDED AUTHORIZATION.** This permit supersedes a special use authorization designated #PREV\_REISSUE\_HOLDER#, #PREV\_AUTH\_ID#, dated #PREV\_REIS\_ISSUE\_DATE#.

**D. MERGER CLAUSE.** This permit, and any appendices incorporated into this permit by reference, constitute the complete understanding of the parties to this permit as to the rights, duties, and obligations of each party as of the date of issuance of this permit. If there are any inconsistencies between any of the preceding clauses and any subsequent clauses or any appendices to this permit, the preceding clauses shall govern.

**THIS PERMIT IS ACCEPTED SUBJECT TO ALL ITS TERMS.**

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

**ACCEPTED:**

[NAME AND TITLE OF PERSON SIGNING ON BEHALF OF HOLDER, IF HOLDER IS AN ENTITY] #HOLDER_NAME#	DATE
--	------

**APPROVED:**

#AUTHORIZED OFFICER NAME# #TITLE# _____ USDA Forest Service	DATE
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**<Attach maps, and other appendices.>**

## **APPENDIX A**

### **COMMUNICATIONS SITE MANAGEMENT PLAN OR MAP OF PERMIT AREA**

**<USER NOTES FOR APPENDIX B>**

<Include Appendix B in permits issued to a non-federal entity. Insert the information requested in brackets and delete the brackets. Delete Appendix B in permits issued to a federal entity.>

**APPENDIX B**

**CALCULATION OF THE ANNUAL LAND USE FEE**

**Annual land use fee** = annual fee for use of federally owned structures +  
annual fee from Communications Use Rental Fee Schedule

**Annual fee for use of federally owned structures** = 6 percent of their replacement value (FSM 2715.13) multiplied by holder's proportionate use of federally owned structures based on their total square footage or height

*Table 1: Annual Equipment Shelter Fee*

Equipment shelter replacement value	[from NRM, \$10,000]
6% of replacement value	[\$10,000 x .06 = \$600]
Square footage of equipment shelter	[150]
Square footage of holder's use	[20]
Holder's proportionate use of equipment shelter	[square footage of holder's use divided by square footage of equipment shelter, $20 \div 150 = .133$ ]
<b>Equipment shelter fee</b>	[6% of replacement value multiplied by holder's proportionate use, $\$600 \times .133 = \$79.80$ ]

*Table 2: Annual Antenna Support Structure Fee*

Antenna support replacement value	[from NRM, \$30,000]
6% of replacement value	[\$30,000 x .06 = \$1,800]
Height of antenna support structure in feet	[75]
Number of sides of antenna support structure	[3 for a triangular-shaped lattice tower]
Total linear feet of antenna support structure	[height x number of sides, $75 \times 3 = 225$ ]
Linear footage of holder's use	[10]
Holder's proportionate use of antenna support structure	[linear footage of holder's use divided by total linear feet of antenna support structure, $10 \div 225 = .044$ ]
<b>Antenna support structure fee</b>	[6% of replacement value multiplied by holder's proportionate use, $\$1,800 \times .044 = \$79.20$ ]

*Table 3: Total Annual Fee for Federally Owned Structures*

Total equipment shelter fee	[\$79.80]
Total antenna support structure fee	[\$79.20]
<b>Total fee for federally owned structures</b>	[\$79.80 + \$79.20 = <b>\$159.00</b> ]

*Table 4: Total Annual Land Use Fee*

Annual Fee for Federally Owned Structures	[\$159.00]
Annual Fee from Communications Use Rental Fee Schedule	[\$671.97]
<b>Total Land Use Fee</b>	[\$159.00 + \$671.97 = <b>\$830.97</b> ]

**<USER NOTES FOR APPENDIX C>**

**<Include Appendix C in permits issued to a non-federal entity. Insert the information requested in brackets and delete the brackets. Delete Appendix C in permits issued to a federal entity. A multi-year GT fee offset agreement may be executed only if payment of the annual land use fee is consolidated. If payment of the annual land use fee is not consolidated, a GT fee offset agreement may cover no more than one year.>**

**APPENDIX C**

**GRANGER-THYE FEE OFFSET AGREEMENT FOR  
COMMUNICATIONS USE PERMIT FOR USE AND OCCUPANCY OF  
STRUCTURES UNDER THE JURISDICTION OF THE FOREST SERVICE**

**AUTHORITY:**

**Section 7 of the Granger-Thye Act, 16 U.S.C. 580d**

1. The Parties. This Granger-Thye (GT) fee offset agreement (agreement) is entered into by #HOLDER\_NAME (the holder) and the United States Department of Agriculture, Forest Service, #NAME# National Forest (Forest Service), under section 7 of the GT Act, 16 U.S.C. 580d, and clause VI.D.1 of the communications use permit for the use and occupancy of structures under the jurisdiction of the Forest Service issued to the holder on #DATE# (the permit). This agreement covers fiscal year[s] [year or years].

2. Land Use Fee Offset. The total estimated annual land use fee is \$#AMOUNT#. All or part of the annual land use fee may be offset in accordance with this agreement by the amount of allowable costs incurred by the holder for the Government MRRI listed below. Examples of allowable costs include salaries, wages, materials, supplies, subcontracts that are direct costs of Government MRRI, and indirect costs based on an approved indirect cost rate.

3. Term and Reconciliation of Costs. This agreement covers [calendar year [year]/calendar years [years]]. If this agreement does not involve a consolidated land use fee payment, the estimated and actual costs of Government MRRI performed under this agreement shall not exceed the total annual land use fee. If this agreement involves a consolidated land use fee payment, the total estimated and actual costs of Government MRRI performed under this agreement shall not exceed the total amount of the consolidated land use fee payment, and estimated and actual costs of Government MRRI performed under the agreement must be reconciled annually against the consolidated land use fee payment and documented in the notes column of the table below.

**<USER NOTES FOR PARAGRAPH 4>**

**<Include the following paragraph 4 if the Government MRRI will be performed by the holder.  
Delete the remaining paragraph 4.>**

4. Holder-Performed Government MRRI. The holder shall perform the Government MRRI itemized below by the date specified and within the holder's fiscal year for the year the annual land use fee is due or within the period payment of the annual land use fee is consolidated. The Forest Service may modify the Government MRRI and dates as necessary, after consultation with the holder. Upon a determination by the Forest Service that the Government MRRI has been satisfactorily completed by the holder, the holder shall submit to the Forest Service documentation of the actual costs of the Government MRRI and shall certify that the representations in that documentation are accurate and complete. The certification (Appendix D of this permit) shall be signed and dated and shall state that failure to sign the certification shall vitiate the GT fee offset claim. The Forest Service shall verify that documentation before offsetting the holder's land use fee and reserves the right not to offset the holder's land use fee if any representations in the documentation are inaccurate or incomplete.

**<Include the following paragraph 4 if the Government MRRI will be performed by the Forest Service or a Forest Service contractor. Delete the preceding paragraph 4.>**

4. Forest Service-Performed Government MRRI. The Forest Service or a Forest Service contractor shall perform the Government MRRI itemized below by the date specified and within the year the holder's annual land use fee is due or within the period payment of the annual land use fee is consolidated. The holder shall deposit land use fees annually within the holder's fiscal year into a Forest Service account in accordance with a collection agreement executed by the authorized officer and the holder under section 5 of the GT Act, 16 U.S.C. 572. The Forest Service may modify the Government MRRI and due dates as necessary. The Forest Service shall document the costs of the Government MRRI performed by the Forest Service or a Forest Service contractor.

*Table 5: [Forest Service or Holder] - Performed Government MRRI*

<b>[Forest Service/Holder] - Performed Government MRRI</b>	<b>Calendar Year to be Initiated</b>	<b>Due Date</b>	<b>Estimated Costs</b>	<b>Completion Date</b>	<b>Actual Costs</b>	<b>Notes</b>
Large-scale hazard tree mitigation			Tools \$			
Replacement of equipment shelter roof			Shingles \$			
Prepping and painting of exterior buildings with approved color			Paint Supplies \$			
[Additional items]						
Subtotals						
Total Cost of Government MRRI						
Total Annual Land Use Fee						
Balance						

**<USER NOTES FOR PARAGRAPH 5>**

**<Include paragraph 5 if the total estimated cost of Government MRRI to be performed under this agreement exceeds \$2,000 and the holder is a private entity or a state or governmental entity that is contracting with a private entity to perform the Government MRRI, or a Forest Service contractor is performing the Government MRRI. Otherwise delete paragraph 5.>**

5. Davis-Bacon Act Requirements. This agreement is subject to the Davis-Bacon Act, 40 U.S.C. 3141 *et seq.*, and its implementing regulations at 29 CFR 5.5. These regulatory requirements are incorporated by reference into this agreement as if fully set forth in this agreement.

ACCEPTED:

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[NAME AND TITLE OF PERSON SIGNING ON BEHALF OF HOLDER, IF HOLDER IS AN ENTITY] #HOLDER_NAME#	DATE
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APPROVED:

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#AUTHORIZED OFFICER NAME# #TITLE# _____ National Forest	DATE
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**<USER NOTES FOR APPENDIX D>**

**<Include Appendix D in permits issued to a non-federal entity. Insert the information requested in brackets and delete the brackets. Delete Appendix D in permits issued to a federal entity.>**

**APPENDIX D**

**GT FEE OFFSET CLAIM FOR  
COMMUNICATIONS USE PERMIT FOR USE AND OCCUPANCY OF  
STRUCTURES UNDER THE JURISDICTION OF THE FOREST SERVICE**

\_\_\_\_\_**NATIONAL FOREST**  
\_\_\_\_\_**RANGER DISTRICT**  
**AUTHORIZATION ID: #AUTH\_ID#**

**Description of Government MRRI: [ ]**

**Holder's Fiscal Year (FY): [ ]**

This Granger-Thye (GT) fee offset claim (fee offset claim) is submitted by #HOLDER\_NAME# (the holder) under section 7 of the GT Act, 16 U.S.C. 580d, clause VI.D of the communications use permit for use and occupancy of structures under the jurisdiction of the Forest Service issued to the holder on #DATE# (the permit), and the GT fee offset agreement executed by the holder and the Forest Service on #DATE# (GT fee offset agreement).

All or part of the holder's annual land use fee under the permit may be offset in accordance with the GT fee offset agreement by the amount of allowable costs incurred by the holder for Government maintenance, reconditioning, renovation, and improvement (MRRI) listed in the GT fee offset agreement. Total allowable costs of Government MRRI included in this GT fee offset claim are the sum of direct costs and indirect costs allocable to the Government MRRI listed in the GT fee offset agreement. Costs submitted under this GT fee offset claim shall be documented by the holder as provided below and shall be determined by the Forest Service to be actual, reasonable, allocable, and allowable, in accordance with the terms of the permit, the GT fee offset agreement, and applicable Forest Service directives.

The holder shall itemize direct costs of Government MRRI performed by the holder under the GT fee offset agreement and attach documentation for all itemized direct costs. Indirect costs of Government MRRI shall be computed using the Forest Service-approved indirect cost rate. The Forest Service-approved indirect cost rate for FY [ ] is attached.

Approval of this GT fee offset claim is subject to the terms of the permit and GT fee offset agreement.

**DIRECT COSTS**

Salaries and Wages	\$	
Materials and Supplies	\$	
Subcontracts	\$	
Other (specify)	\$	
Sum of Direct Costs	\$	

**INDIRECT COSTS ([#AMOUNT#%] x direct costs)**      \$

**TOTAL GT FEE OFFSET CLAIM**      \$

Subject to the penalties prescribed in the False Statements Act, 18 U.S.C. 1001, the holder certifies to the best of its knowledge that the representations in this GT fee offset claim and its supporting documents are accurate and complete. The Forest Service reserves the right not to grant this GT fee offset claim if any

representations in this GT fee offset claim are inaccurate or incomplete. Failure to sign this GT fee offset claim shall vitiate the claim.

[NAME AND TITLE OF PERSON SIGNING ON BEHALF OF HOLDER,  
IF HOLDER IS AN ENTITY]  
#HOLDER\_NAME#

DATE

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond, to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

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The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.