**INSTRUCTIONS FOR THE USE OF A
PHILANTHROPIC SUPPORT AGREEMENT**

**A Philanthropic Support Agreement (PSA) is a formal agreement used to document a short-term or project-specific philanthropic relationship between the National Park Service (NPS) and organizations or individuals. PSAs are for financial and/or in-kind support to the NPS for a specific park purpose/project/**program or for a.**limited timeframe.**

**A PSA authorizes the philanthropic partner(s) to undertake activities that will generate funds or other resources on behalf of or to benefit the NPS. A PSA is used to authorize:**

* **One-time fundraising or in kind support initiative for a specific NPS project or program**
* **Cause marketing efforts**
* **Corporate social responsibility (CSR) and pro-bono relationships**
* **Sponsorships**
* **Donations from individuals greater than $25,000**
* **In-park fundraising efforts, such as the checkout counter donation program**

**A PSA should not be used for a longer-term collaborative relationship with a partner, or a collaborative design and construction project. These efforts are formalized through a Philanthropic Partnership Agreement (PPA - see DO#21 Reference Manual (RM)-21 Chapter 6.1 and template) or a Partner Design and Construction Agreement (PDCA - see RM-21 Chapter 7 and template).**

**Small scale fundraising events or efforts that raise less than $25,000 in funds for the NPS do not require written philanthropic agreements. These include local or community-based activities and events that are locally publicized and are not expected to exceed $25,000 in donations. Such donations should still be vetted through the NPS donation acceptance process (See DO#21 RM-21 Chapter 5). Cooperating associations and concessionaires that wish to conduct in-park fundraising (donation boxes, checkout counter donation programs, and electronic donations, which may fall under the $25,000 threshold) must establish a philanthropic agreement and/or a check-out counter donation program authorization with the Park or with WASO as per DO# 21, Section 4.5.**

**Philanthropic Support Agreements can be used to commit NPS support which is specific to the partnership in the form of furnishing NPS property, goods, or services but not financial assistance (Cooperative Agreements and Grants are used to provide federal financial assistance). Please see DO#21,** **RM-21, Appendix A, Agreements Flowchart, for assistance in determining an appropriate agreement(s) for the philanthropic relationship you are developing. Also, please consult with your Regional Partnerships Coordinator if needed.**

**Annual Work Plans: The NPS and the partner(s) must approve an annual work plan for each year that their agreement is active. Please see DO#21,** **RM-21 Section 6.4.1 for detailed information and RM-21, Appendix B for samples and templates.**

**Signatures / Approvals:**

**NPS Park and Program Managers are responsible for fostering and managing philanthropic partnerships, including the development and administration of philanthropic agreements. Partners working with donors or developing cause marketing, pro-bono, or sponsorship relationships with other organizations on behalf of or to benefit NPS must coordinate with the NPS to ensure that philanthropic support guidelines are followed. PSAs may require review by the Regional and/or WASO Partnership Office. Some PSAs also may require review by the DOI Solicitor; please consult with your Regional Partnerships Coordinator. The approval process for both agreements and annual work plans is dependent on a number of factors as outlined in DO#21 Section 3.1.3-3.1.11 and RM-21 Chapter 3. Please see Appendix I for the chart of authorities for agreements and donation acceptance.**

**Requirements specific to PSAs include:**

* **Cause marketing, CSR/pro-bono support, or Sponsorships that involve more than one park or program in a Region must be coordinated through the NPS** **Regional Office**
* **Cause marketing, CSR/pro-bono support, or Sponsorships that involve more than one region, or are national in scope, will be managed by the WASO Office of Partnerships and Philanthropy**
* **Cause marketing, CSR/pro-bono support, or Sponsorships that have a goal > $250,000 will be reviewed by the WASO Office of Partnerships and Philanthropy**
* **Superintendents or program managers should follow their donor recognition plan to recognize sponsorship, corporate CSR, and pro-bono contributions**
* **The term of the agreement should reflect the length of the specific project/effort but may not exceed 10 years (see DO#21, RM 21, Chapter 6 for specific guidance on negotiating the term of the agreement)**

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**[BRACKETED TEXT] within the Agreement provides explanatory information or direction and should not be included in the final draft Agreement. All other text is pre-approved template language and should be included. Proposed changes to template language should be shown through “Track Changes” and “Comment” boxes. Some provisions may not be applicable to your situation. In those cases, retain the Article number and heading, type in “N/A,” use Track Changes to delete the provision and provide an explanation in the “Comment” box. When changes are made to the PSA template, the agreement must be reviewed by the Regional Partnership Coordinator. If applicable, when submitting final draft agreements to the Regional Office for review and approval, please send the “Track Changes” marked-up copy. This will allow reviewers to focus on proposed changes (to the template) and information specific to your project and partner(s). Please ensure that a copy of all executed agreements are provided to your Regional Partnerships Office.**

**PHILANTHROPIC SUPPORT AGREEMENT**

**Between the**

**NATIONAL PARK SERVICE,**

**[INSERT THE NAME OF THE PARK(s) OR NPS PROGRAM(s)]**

**And the**

**[INSERT THE NAME OF THE PHILANTHROPIC PARTNER(s)]**

This Philanthropic Support Agreement (Agreement) is entered into between the National Park Service (NPS), a Bureau of the U.S. Department of the Interior (DOI), and NAME THE PHILANTHROPIC PARTNER(s) (SHORT NAME(s)) collectively referred to in this Agreement as the “Parties” to provide the legal and policy framework supporting the achievement of mutual goals and funding needs at [NAME OF THE PARK(s) OR NPS PROGRAM(s)] (Park or Program (short names)).

**[The Park/Program can use the general language on philanthropic support for the NPS or adapt this section to include its own history of philanthropic partnerships (see paragraph below).]**

The NPS recognizes both private and corporate philanthropy as noble traditions for the establishment and support of national parks and vital elements of the success of today’s National Park System. A number of national parks exist because motivated citizens contributed time, talent, and funds to create them. Gifts of land or easements have helped establish or enlarge many parks. Corporate sponsorships have helped meet park needs and helped launch NPS Centennial initiatives. Philanthropic support helps fund park and visitor center improvements, youth programs, cultural preservation, resource management and other vital programming. Philanthropy offers people opportunities to participate actively in the creation and care of their national parks in the 21st century. The NPS embraces philanthropic support as a key strategy for stewardship of the parks and programs entrusted to our care. The NPS and partners promote partnerships as a way to accomplish mutual goals, leverage resources, increase productivity and collective competencies, and nurture a supportive and collaborative culture for the benefit of parks and the public.

# **I. Background**

The NPS is charged with the responsibility to administer the National Park System and Programs of the United States, which contains areas and programs reflecting the natural, cultural, and historical heritage of the Nation. The NPS mission is to preserve and manage these areas and programs for the benefit and inspiration of all the people of the United States and to cooperate with partners to extend the benefits of natural and cultural resource conservation and outdoor recreation throughout this country and the world.

The goals of a Philanthropic Support Agreement (PSA) may include monetary, non-monetary, marketing, event sponsorship, or other forms of support for NPS parks and programs. Such time-specific philanthropic partnerships can also help the NPS complete critical projects, build constituencies, promote stewardship, and increase awareness through volunteerism and public engagement. The value and potential of all corporate partnerships, sponsorships, and cause marketing efforts must be consistent with the mission and purpose of the NPS,

**[Within this section, include the following information:]**

* A brief description of both the NPS unit/program and the Philanthropic Partner(s) involved. Indicate whether the Philanthropic Partner(s) is/are a(an):
	+ Individual
	+ Nonprofit organization,
	+ Public sector agency
	+ For-profit corporation
* For Public Sector Agencies, provide the following:
	+ Name of Agency and brief summary of partner role
	+ Main Point of Contact
	+ Address
	+ Mission
* For Organizational or Corporate Partners, provide the following:
	+ Specific incorporation and tax status - e.g. 501(c)(3) organization, Limited Liability Corporation, C corporation, etc.
	+ The state(s) in which the organization was incorporated
	+ The state(s) in which the organization is doing business
	+ Address of the organization’s headquarters
	+ Mission
* A concise description of what the Parties want to accomplish together and whether they are establishing a new partnership or building on an existing partnership
* A description of the scope of the project, i.e., how it is targeted to a specific project/initiative or funding goal and is time- limited
* A brief history of the relationship between the Parties (if applicable);
* An explanation of existing or related agreements and/or relationships that affect this Agreement (if applicable).

| **EXAMPLE:** |
| --- |

# **II. Legal Authority**

The NPS enters into this Agreement pursuant to [54 U.S.C. § 100101](https://www.law.cornell.edu/uscode/text/54/subtitle-I/division-A/chapter-1001) (the NPS Organic Act), which authorizes the NPS to take actions in furtherance of the NPS mission; 54 U.S.C. §101101, which authorizes the NPS to accept donations of land, buildings, or other property within a system unit and money that may be donated for the purposes of the System; [54 U.S.C § 101701](https://www.law.cornell.edu/uscode/text/54/101701), which authorizes the Secretary to enter into agreements with individuals and entities to share costs and services in support of NPS projects; and. **[If applicable, add additional authorities as needed.]**

The Partner(s) enter(s) into this Agreement under the following legal authority (or authorities): Example: “The Philanthropic Partner enters into this Agreement as a nonstock corporation organized under the Virginia Nonstock Corporation Act, Virginia Code §§ 13.1-801 to 980, and subject to Virginia law regulating the solicitation of charitable contributions, Virginia Code §§ 5748-5763.” If other statute(s) support(s) the Partner’s relationship with the NPS, list them here.

# **III. Responsibilities of the Parties**

Subject to the terms and conditions set forth in this Agreement:

## A. **Joint Responsibilities of the NPS and the Partner(s)**. The NPS and the Partner(s) shall:

1. Respect the roles that donors, volunteers, philanthropic partners, and NPS staff play in achieving goals and fulfilling the mission of the National Park Service and the Park.
2. Expedite decisions and agreements considered vital to the Parties’ mutual goals. Resolve any issues that arise as expeditiously as possible. Work together in good faith to resolve differences at the organizational level of the Key Officials listed in this Agreement prior to elevating matters within the Partner's organization, or appealing elsewhere within the NPS or the federal government.
3. Promote and utilize best practices relating to philanthropy, corporate social responsibility (CSR), cause marketing and donor recognition in all activities related to this Agreement, such as those expressed within NPS Director’s Order #21 on Donations and Philanthropic Partnerships (DO#21), the DO#21 Reference Manual, and the Donor’s Bill of Rights. The Donor’s Bill of Rights can be found at the following website - <http://www.afpnet.org/Ethics/EnforcementDetail.cfm?ItemNumber=3359>. Find resources for CSR [here](https://www.fastcompany.com/1338993/51-great-sites-corporate-social-responsibility-and-sustainability).
4. Work collaboratively for mutual development of philanthropic competencies and skills, including participation in training offered by the NPS or other organizations with philanthropic expertise. Other resources can be found in DO#21, RM-21, Appendix C, Resources for Partnerships and Agreements
5. Submit materials that are intended for public distribution and that refer to the other Party or to the partnership or associated agreements to one another for advance review and approval. This review is to ensure that information in all materials and messaging for public distribution is accurate, doesn’t commit any Party to an inappropriate action or funding, doesn’t lead to false expectations for prospective donors, or misrepresent NPS policy or Partner Bylaws.
	1. Donation solicitation and publicity materials must receive advance review and approval by all Parties. Other materials that should receive this review include website and social media information, press releases, and brochures for all Parties where the material references the partnership. Internal communications within the Park(s) or Program(s) or Partner(s) are not subject to this review.
	2. The Parties may develop standard language that does not require approval beyond the initial approval. Where standard language has not been developed, the Parties will use best efforts to review, approve, or deny such materials within **[xx - Park(s) and Partner(s) agree on # days]** business days of receipt. Each Party agrees that failure on its part to meet the (X) day target will serve as an automatic approval of that proposed language.
6. Jointly review proposed donations of funds, in-kind goods and services, pro-bono services, or other contributions intended for the NPS to ensure that they meet NPS needs, requirements, and specifications. These reviews should include the standards identified in DO#21 Section 5 (Donor Review). Work collaboratively to implement and follow the NPS/Partner’s Donor Review Process (Attachment B).
7. Follow NPS donor recognition guidelines and implement a jointly-developed NPS/ Partner Donor Recognition Plan or a Partner Donor Recognition Plan that has been developed in alignment with the Park’s Donor Recognition Plan (Attachment C) (See DO#21 and RM-21, Chapter 8 for more information).
8. Partner(s) will collaborate with the NPS on any required approvals or permits before undertaking in-Park activities associated with this Agreement (please see 36 CFR 2.50 [Special Events] and 36 CFR 7 [Special Regulations] [here](https://www.gpo.gov/fdsys/search/pagedetails.action?collectionCode=CFR&searchPath=Title+36%2FChapter+I%2FPart+3&granuleId=CFR-2011-title36-vol1-sec2-50&packageId=CFR-2011-title36-vol1&oldPath=Title+36%2FChapter+I%2FPart+3&fromPageDetails=true&collapse=false&ycord=1700) and Director’s Order#53 and RM-53, [here](https://www.nps.gov/applications/npspolicy/DOrders.cfm).
9. Agree that the NPS Partner(s) is/are authorized to raise funds for specific programs and projects or for an identified pro-bono project, CSR effort, or cause marketing campaign as specified in the Annual Work Plan and in the relevant Attachment(s) 1-7. If the Philanthropic Partner intends to conduct a campaign associated with a Partner Design and Construction Agreement, other requirements and separate agreements will apply (please see RM-21, Chapters 4 & 6).

1. Agree that NPS Partners which are non-profit organizations are authorized to raise funds for internal administrative needs (such as staff salaries/benefits, office space and utilities, development of marketing materials, equipment/supply purchases, etc.) and that messaging associated with such fundraising will not imply those funds directly support the NPS.

## B. **Responsibilities of the NPS.** The NPS shall:

1. Establish and maintain a collaborative relationship with the Partner(s) with the goal of accomplishing the PSA-identified project(s) and encouraging volunteer contributions.
2. Work with the Partner(s) to encourage community relevance and engagement in shared stewardship of the Park. Provide resources to and engage in dialogue with the Partner related to civil engagement (see DO#75A [here](https://www.nps.gov/policy/Dorders/75A.htm) diversity, relevance and inclusion (see DO#16A-F [here](https://www.nps.gov/applications/npspolicy/DOrders.cfm)),
3. Provide the Partner(s) with timely updates on implementing projects and/or programs funded by donors and an annual accounting of how funds donated by the Partner to the Park were expended during the previous fiscal year. The Parties should agree on a format and content for those updates as part of each year’s Annual Work Plan.
4. Provide guidance and assistance to the Partner(s) to help them meet the requirements of DO#21 and other laws, regulations, and policies that relate to the work of the partnership, and to meet the requirements for the PSA initiative(s) as outlined in the Annual Work Plan and relevant Attachments (1-5).
5. Collaborate with the Partner(s) to make the case for and grow awareness of the Park’s project and program needs, as well as acknowledging donors in a timely and appropriate manner.

## C. **Responsibilities of the Partner(s)**: The Partner(s) shall:

1. Establish and maintain a collaborative relationship with the NPS with the goal of accomplishing the PSA-identified project(s) and encouraging volunteer contributions.
2. Be qualified to make, solicit, and accept philanthropic contributions under applicable state and federal laws and follow all state/federal requirements before making, soliciting, or accepting such contributions.
3. Conform to industry standards of best practices and ethics related to philanthropic activities, corporate social responsibility, cause marketing and fundraising as well as applicable local, state, and federal government laws and regulations.
4. Comply with the NPS donor vetting process as outlined in [DO #21, Section 5](https://www.nps.gov/policy/DOrders/DO_21.htm).
5. Fundraising consultants or staff, if compensated, are to be paid a salary or flat fee; no payment may be made as commissions or as a percentage of funds raised.
6. Ensure that the organization’s or corporation’s Articles of Incorporation or State Operating Agreement (Attachment A), Bylaws (Attachment B) are consistent with the terms of this Agreement. In the case of a non-for-profit organizational partner, include the Partner’s tax-exempt status determination letter from the Internal Revenue Service (Attachment C).
7. Not accept donations, enter into cause marketing relationships, or accept other contributions of goods and or services for the benefit of the NPS that might associate the NPS with tobacco or any illegal or inappropriate products or enterprises. Please see DO#21, Section 6.5, and RM-21, Chapter 6, regarding brand alignment and promotion.
8. Not solicit or accept donations, enter into a cause marketing relationship, or solicit or accept any other contribution of time or services for the benefit of the NPS from NPS concessioners unless the NPS pre-approves the acceptance of such donations in writing.

# **IV. Annual Work Plan**

 The NPS and Partner(s) commit energy, people, and resources to goals of mutual interest, as identified in the Annual Work Plan (Attachment D). Each activity outlined in the Annual Work Plan is described in detail, including NPS guidelines and requirements, in relevant Attachments (1-7). The Parties share mutual interests with respect to the (Park(s)/Program(s)) and will each make good faith efforts to: (1) work together to support and promote awareness and appreciation for the significance of the (Park(s)/Program(s)); and, (2) pursue mutually-beneficial working relationships with other organizations and institutions that support the goals of this Agreement

1. Annual Work Plan: The NPS and the Partner(s) must develop an Annual Work Plan for each year this agreement is active (maximum of 10 years). The Annual Work Plan lays out the projects and programs that a park or program and an authorized philanthropic partner(s) agree to work on in a specific year. The Annual Work Plan will be Attachment D to the agreement (See RM-21, Appendix B, for examples and templates).
	1. The Annual Work Plan is a collaborative tool that aligns the identified needs of a park or program area with the authorized philanthropic partner’s specific plan for meeting one or more of those needs through specific fundraising activities or direct contributions.
	2. Guidance and other requirements for efforts to be described in the Annual Work Plan can be found in Appendices 2-7.
	3. In addition to the specifically identified efforts, Annual Work Plans should address such things as fundraising, sponsorship, cause marketing or donor cultivation events, expectations for NPS subject matter expert participation in events, activities and special events to solicit or accept donations in the park, donation box placement (NPS- and/or partner-owned and managed), and NPS.gov online donations. The Annual Work Plan should include any intention to initiate a checkout counter donation program, which also requires a specific written authorization (for more information, See DO #21, Sections 4.5, 4.6 and 4.7, as well as RM-21 Chapter 4).

 B. Feasibility Studies

Feasibility studies (Attachment E) help NPS and the Partner(s) assess the likelihood that a fundraising, sponsorship or cause marketing effort campaign will be successful. The NPS requires feasibility studies for philanthropic agreements with projects at or above the $1 million threshold (applies to any single project in the Annual Work Plan that is at or above $1 million), for projects that require the Director’s approval, or projects that may attract public scrutiny or controversy. A philanthropic Partner or a park, region, or program may request an exemption to this requirement, which will be evaluated based on the Partner’s past experience and success in fundraising efforts of the proposed size. Exemption requests should be submitted to the appropriate authorized employee (refer to Delegations of Authority table in DO #21 Section 3.1.3). Please consult with the Regional Partnerships Office regarding determination of the need for feasibility studies and regarding the exemption process. RM-21contains more information on feasibility studies and waiver request procedures.

# **V. Considerations**

# Use and/or Occupancy of Government-Owned Property:

**[Use the following provision if the Partner(s) intends to use Government property in furtherance of this Agreement. The Property Use Agreement must be executed by the Parties before the Partner(s) can use and/or occupy Government property in the furtherance of this Agreement. If Government property will not be used, delete the provision below, type in “N/A”, and retain the Section number and heading.]**

The Partner(s) may use Government-owned real and/or other property in furtherance of this Agreement in accordance with the Property Use Agreement (PUA), included as Attachment F. In the case of fundraising or other events to be held on Park property, the Partner(s) will secure a Special Use Permit from the Park and ensure compliance with all visitor safety, resource protection, and event guidelines (see Article III A-8).

# B. Intellectual Property

If any activity (within the context of this Partnership and Agreement) of either Party is expected to result in the creation of intellectual property or donation of any intellectual property rights, or if the Partner or the NPS requires a license to any intellectual property rights of the other Party (including website links), the Parties shall abide by the terms described in the Intellectual Property Attachment (Attachment G) to this Agreement. The Intellectual Property Attachment addresses the process, terms, and conditions applicable to such intellectual property rights. The NPS shall not use any intellectual property of the Partner(s), and the Partner(s) shall not use any intellectual property of the United States of America, including NPS and Park-specific logos, marks, images of NPS employees in uniform, and taglines, unless authorized in accordance with NPS policy (See DO#52A-D [here](https://www.nps.gov/applications/npspolicy/DOrders.cfm)) and an Intellectual Property Attachment to this Agreement.

# **VI. Term**

Unless earlier terminated in accordance with Article VIII A, this Agreement shall remain in effect for a period of **[INSERT THE TERM < 10 years]** beginning on the date the last signature is affixed.

**[The authorized employee (see DO#21, Section 3.1.3) will establish the term of a philanthropic support agreement based on general guidelines found in RM-21, such as a partner’s years of involvement with the NPS, level of experience, level of volunteer support, expertise, and demonstrated philanthropic success. The term of a PSA may range from one to ten years.]**

# **VII. Termination and Disposition of Assets**

## A. Termination

1. Each Party may terminate this Agreement for any reason by giving advance written notice. Termination shall be effective sixty (60) calendar days from the date of receipt of the notice, or upon the termination date specific in the notice, whichever is later.
2. Each Party may immediately terminate this Agreement for a material breach of this Agreement by the other Party. In this event, this Agreement shall terminate upon the breaching party’s receipt of a written Notice of Termination for Breach. Alternatively, the non-breaching Party may provide the breaching Party with an opportunity to cure the breach by a date specified in a Cure Letter. If the breach is not cured to the satisfaction of the non-breaching Party by the specified date, this Agreement will terminate upon the breaching Party’s receipt of a Notice of Termination for Breach.
3. Unless expressly provided for in this Agreement or related agreements, neither Party shall be liable for any costs, damages, or other claims that result directly or indirectly from termination of this Agreement. All other rights and claims of the Parties shall be preserved.

## B. Disposition of Assets Upon Termination

Upon the termination or expiration of this Agreement or cessation of the operations of the Partner for any reason and subject to the applicable laws pertaining to the State in which the Partner was incorporated, those funds held “for the benefit of the NPS” (defined within Article XII, Clause I), including all interest and earnings thereon and all in-kind contributions held “for the benefit of the NPS”, shall be transferred to the NPS or to a third party deemed acceptable by the NPS (under such terms and conditions as are deemed acceptable by the NPS) for use consistent with the purposes for which the donations were made. Nothing herein shall prevent the Partner from satisfying allowable outstanding obligations and legal requirements reasonably incurred in association with this Agreement prior to the termination or expiration of this Agreement.

# **VIII. Insurance**

A. In accordance with nonprofit and business best practice, the Partner(s) should take steps to manage exposure to risk. Organizations should develop a risk management plan that protects board members, the organization, employees, and clients from potential liability. The Partner(s) should acquire appropriate industry-standard insurance coverage for the type and level of activities and liability exposures associated with this Agreement. The NPS will generally require the Partner(s) to carry commercial general liability insurance to hold activities and events in a park under a special park use permit; however, the NPS may condition the issuance of a permit upon the Partner(s) acquiring additional insurance that is acceptable to the NPS. Public sector agencies that are self-insured should include language regarding liability coverage in this agreement.

B. Where the Partner(s) have acquired insurance, the DOI and the NPS shall be listed as additional insureds. The insurance policy or policies shall specify that the insurer shall have no right of subrogation against the United States and shall have no recourse against the United States for payments of any premiums or deductibles due thereunder. The NPS will not be responsible for any omissions or inadequacies of any insurance coverage and amounts in the event that the insurance purchased by the Partner(s) is inadequate or otherwise insufficient for any reason whatsoever.

C. The NPS reserves the right to file insurance claims on its own behalf or to require the transfer of insurance proceeds from the Partner(s) to the NPS where, in the NPS’s judgment, the NPS will undertake remedial work for which the claim is paid.

# **IX. Liability and Indemnification**

The Partner(s) shall indemnify, defend, and hold harmless the United States of America and its agents and employees from and against any and all liabilities, obligations, losses, damages, judgments, claims, actions, suits, penalties, fines, costs, and expenses (including reasonable attorneys’ fees and experts’ fees) of any kind and nature whatsoever arising out of the acts or omissions of the Partner, its employees, agents, or contractors (including any contractor’s subcontractors), including injury to persons (including injury resulting in death) and damage to property. The Partner(s) shall promptly pay the United States of America the full value of all damages to the lands or other property of the United States of America caused by the Partner, its employees, agents, representatives, or contractors (including any contractor’s subcontractors) or, as agreed to by the Parties, shall undertake the remedial work to repair or replace the damaged lands or property. The Partner(s) will cooperate with the NPS in the investigation and defense of any claims that may be filed with the NPS arising out of the activities of the Partner, its employees, agents, representatives, or contractors (including any contractor’s subcontractors). Nothing in this Section is intended to prevent the Partner(s) from seeking a judicial determination of whether its actions, or those of its employees, agents, representatives, or contractors (including any contractor’s subcontractor) caused the matter for which the United States of America requests indemnification.

To the extent authorized by applicable federal law, including the Federal Tort Claims Act, codified as amended primarily at 28 U.S.C. §§ 2671-80 (2015), the NPS will be liable for the negligent or wrongful acts or omissions of its officers or employees while acting within the scope of their office or employment. The NPS’s commitment to pay any lawful obligation or liability incurred by the NPS under this agreement is backed by the full faith and credit of the United States.

# **X. Financial Matters**

A. In General. The Partner(s) shall maintain proper financial management procedures, accounting records, and reporting under a system of accounts and financial controls that is consistent with Generally Accepted Accounting Principles of the United States (GAAP), established by the Financial Accounting Standards Board (FASB). The NPS shall maintain proper financial management procedures, accounting records, and reporting under a system of accounts and financial controls that is consistent with Federal Accounting Standards, established by the Federal Accounting Standards Advisory Board (FASAB).

B. Right of Inspection and Audit. The Partner(s) shall permit the DOI or its designee, including the NPS Comptroller and Office of the Inspector General (OIG), to verify and audit any financial audit or records from the books, correspondence, memoranda, and other records of a Partner relating to this Agreement or any other agreement executed in connection herewith, during the term of this Agreement, and for such time thereafter as may be necessary to accomplish such verification. The Partner(s) agree to take appropriate corrective action based on such audit findings.

C NPS Management of Donated Funds. The NPS will maintain proper internal controls as required by the Office of Management and Budget’s (OMB) Circular A-123 to ensure proper handling and expenditure of donated funds provided by the Partner(s). In addition to any reporting or review specified in the Annual Work Plan, the Park will meet with the Partner annually to discuss how the Park expended funds donated by the Partner during the previous fiscal year. If a Partner has concerns about expenditure of donated funds during the term of this Agreement and for such time thereafter as may be necessary to accomplish such verification, the Partner can fund an audit of the Park’s donation accounts and records. The NPS agrees to take appropriate corrective action based on such audit findings.

D. Provision of Certain Information. By **[INSERT THE DATE(s)]**, each Partner shall annually provide the NPS an annual report of aid and a short narrative. For Partners with tax-exempt status, the Partner shall also provide the NPS with a copy of its IRS Form 990 and any amendments thereto. The Partner(s) will submit annual reporting information via the NPS Partnership Portal.

E. Threshold for Audit. In any given year where a Partner raises between $500,000 and $1 million for the benefit of the NPS, they will undertake an annual financial review and provide a copy to the NPS. In any given year where a Partner raises $1 million or more for the benefit of the NPS, they will undertake a financial audit and furnish a copy to the NPS. Such reviews or audits will be prepared by an independent certified public accountant (CPA) in conformance with both GAAP. The Partner(s) agree(s) to take appropriate corrective action based on review or audit findings. The review or audit shall be provided to the Superintendent of the affected Park Unit(s) within 9 months of the end of the Partner’s fiscal year.

F. Establishment of Endowment or Investment Accounts. The NPS and the Partner(s) shall mutually determine the need for an Endowment Account and/or Investment Account, where the account will be established for the benefit of the NPS. If such a need is identified, the Parties shall execute and abide by the terms of the Standard Form Endowment and Investment Account Agreement (EIAA), which describes the use, terms, and conditions applicable to such accounts. If executed, the EIAA will be attached as a sub-agreement to this Agreement (Attachment K). For purposes of this Agreement, the terms “Endowment Account” and “Investment Account” are defined in the EIAA.

G. Definition of “For the Benefit of the NPS”: “for the benefit of the NPS” means donations of money (including interest and earnings thereon) and/or in-kind donations that were solicited for the express or implied purpose of using them, whether in whole or in part, to support the NPS, or the NPS’s projects, programs or resources.

# **XI. Key Officials and Notices**

A. Key Officials. Each Party shall designate one or more key personnel to be responsible for coordination and communication between the Partner and the NPS in connection with the activities to be performed pursuant to this Agreement (Key Official). Upon written notice to the other Party, either Party may designate an alternate or liaison to act in the place of the designated Key Official, or designate a new Key Official.

For the NPS: For the Partner:

Name: Name:

Title: Title:

Address: Address:

Phone: Phone:

Fax: Fax:

E-mail: E-mail:

**[Add any additional representatives or any additional partner organization’s contacts here]**

B. Notices. Notices from one Party to the other Party with respect to this Agreement shall be in writing and delivered by mail, personal delivery, electronic delivery, or other appropriate means, to the first listed Key Official of the other Party at the address or contact number indicated above, or at such other address or contact number for such Key Official as may be provided by the other Party from time to time and shall be considered to have been delivered upon receipt at the specified address of such Key Official or such other person as mutually agreed by the Parties.

# **XII.**  **Standard Clauses.**

A. Non-Discrimination. All activities pursuant to or in association with this Agreement shall be conducted without discrimination on grounds of race, color, sexual orientation, national origin, disabilities, religion, age, or sex, as well as in compliance with the requirements of any applicable federal laws, regulations, or policies prohibiting such discrimination.

B. NPS Appropriations. Pursuant to 31 U.S.C. § 1341, nothing contained in this Agreement shall be construed to obligate the NPS, the Department of the Interior, or the United States to any current or future expenditure of funds in advance of the availability of appropriations from Congress and their administrative allocation for the purposes of this Agreement, nor does this Agreement obligate the NPS, the Department of the Interior, or the United States to spend funds on any particular project or purpose, even if funds are available.

C. Limitations on Lobbying. To the extent that the Partner commits in this agreement or any related agreement to raise funds from non-federal sources for a particular purpose or project to benefit NPS, or to donate funds for these purposes, the Partner agrees that it will not lobby for or otherwise seek the appropriation of funds from Congress to meet that commitment. The Partner may not use any appropriated funds (including property, utilities, or services acquired with, or supported by, Congressionally- appropriated funds) to lobby or attempt to influence Congress or any official of any government.

D. Compliance with Applicable Laws. This Agreement and performance hereunder is subject to all Laws whether now in force or hereafter enacted or promulgated. Nothing in this Agreement shall be construed in any way as impairing the authority of the NPS to: (i)supervise, regulate, and administer its property under Laws and management plans or policies as they may be modified from time-to-time; or, (ii) be inconsistent with, or contrary to, the purpose or intent of any Act of Congress.

E. Disclaimers of Endorsement. The Partner shall not publicize or circulate any materials (including advertisements, solicitations, brochures, press releases, speeches, pictures, movies, articles, manuscripts, or other publications) suggesting, expressly or implicitly, that the United States of America, the Department of the Interior, NPS, or any government employee endorses any business, brands, goods or services.

F. Merger. This Agreement, together with each Annual Work Plan and Related Agreement, contains all the terms and conditions agreed to by the Parties, and supersedes any prior agreements between the Parties, with respect to the subject matter hereof.

G. Modifications. This Agreement may be extended, renewed, supplemented or amended only when agreed to in writing by the NPS and the Partner(s).

H. Waiver. No waiver of any provisions of this Agreement shall be effective unless made in writing and signed by the waiving Party. No waiver of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof.

I. Assignment; Binding Effect. Neither Party may assign any of its rights or obligations under this Agreement without the prior written consent of the other Party. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. The Parties waive the defense of lack of consideration.

J. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original (including copies sent to a Party by facsimile or electronic transmission) as against the Party signing such counterpart, but which together shall constitute one and the same instrument.

K. Member of Congress. Pursuant to 41 U.S.C. § 22, no Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or adopted by or on behalf of the United States, or to any benefit to arise thereupon.

L. No Agency. The Partner(s) is/are not agents or representatives of the United States, the Department of the Interior, or the NPS, nor will any Partner represent itself as such to third parties. NPS employees, representatives of the United States and the Department of the Interior are not agents of the Partner(s) and will not represent themselves as such to third parties. Nothing in this Agreement shall at any time be construed so as to create the relationship of employer and employee, principal and agent, general or limited partnership or joint venture as between the Partner(s) and the NPS.

M. Non-Exclusive Agreement. This Agreement in no way restricts either the NPS or the Partner(s) from entering into similar agreements, or participating in similar activities or arrangements, with other public or private agencies, organizations, or individuals.

N. No Third-Party Beneficiaries. Unless expressly stated herein, nothing in this Agreement is intended to grant any legally enforceable rights or provide any benefits to any third party.

O. Survival. The terms of this Agreement that by their nature are reasonably intended by the Parties to survive expiration or termination shall survive expiration or termination of this Agreement.

P. Partial Invalidity. If any provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such provision to the Parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and be enforced to the fullest extent permitted by Laws.

Q. Interpretation. The headings of the Articles in this Agreement are inserted only as a matter of convenience and shall in no way be construed to define or limit the scope or intent, or affect the meaning or interpretation, of this Agreement. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” Additionally, the phrase “for the benefit of the NPS” means donations of money (including interest and earnings thereon) and / or in-kind donations that were solicited for the express purpose or implied purpose of using them, whether in whole or in part, to support the NPS, or NPS’s projects, programs or resources. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which such Party or its professional advisors participated in the preparation of this Agreement or based on a Party’s undertaking of any obligation under this Agreement.

R. Further Assurances. If reasonably requested by one Party, the other Party shall execute and deliver such other documents and take such other action as may be necessary to effect the terms of this Agreement.

S. Disputes and Venue. The Parties agree that in the event of a dispute between them, the NPS and the Partner(s) shall promptly use their commercially reasonable best efforts to resolve the dispute in an informal fashion through communication and consultation, or other forms of non-binding alternative dispute resolution that are mutually acceptable to the Parties. The Parties agree that the venue to commence litigation of any disputes stemming from this Agreement shall be a Federal court with appropriate jurisdiction.

# **XIV. Signatures [NOTE: NPS signs first, then partner(s)]**

**IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date the last signature is affixed.**

**NATIONAL PARK SERVICE**

**By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Title: Superintendent**

**By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Title: [Insert Title if applicable- for other designated authority requirements, see Appendix I]**

**[PARTNER]**

**By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Title:**

 **[PARTNER - if applicable]]**

**By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Title:**

**APPENDIX I -- Table: Delegations of Authority for Authorized Employees**

**ATTACHMENTS**

Attachment A – Annual Work Plan

Check if included at the time of execution of this Agreement [ ]

Attachment B - Donor Review Process

Attachment C - Donor Recognition Plan(s)
Check if included at the time of execution of this Agreement [ ]

Attachment D - Feasibility Study

Check if applicable and included at the time of execution of this Agreement [ ]

Attachment E - Philanthropic Partner(s) Articles of Incorporation or State Operating Agreement

Attachment F - Philanthropic Partner(s) By-laws
Check if applicable and included at the time of execution of this Agreement [ ]

Attachment G – Philanthropic Partner(s) IRS Tax-Exemption Determination Letter

Check if included at the time of execution of this Agreement [ ]

Attachment I – Property Use Agreement

Check if applicable and included at the time of execution of this Agreement [ ]

Attachment J – Intellectual Property Attachment

Attachment K – Standard Form Endowment and Investment Account Agreement

Check if applicable and included at the time of execution of this Agreement [ ]