Category III Contract

United States Department of the Interior
National Park Service

Glacier Bay National Park & Preserve

Charter Vessel Services

Concession Contract No. **CC-GLBA034-06**

ASSIGNMENT, ACCEPTANCE and APPROVAL DOCUMENT

ASSIGNMENT

For value received, Erin Ohlson, (hereinafter referred to as the "Seller"), hereby sells, subject to the approval of the Secretary of the Interior acting through the National Park Service, as of the date of approval by the Secretary of the Interior, to InnerSea Discoveries LLC (hereinafter referred to as the "Purchaser") all of their right, title and interest in the membership interests of Concession Contract No. CC-GLBA034-06 (hereinafter referred to as the "Contract") entered into between the Secretary of the Interior and the Concessioner as of January 1, 2006, granting the right to operate a concession at Glacier Bay National Park and Preserve.

Executed in triple at Juneau this 1st day of, April, 2010

WITNESS/ATTEST

Signature */s/ Celeste C. Lopez*

By Celeste C. Lopez

Title Witness

Erin Ohlson

Signature */s/ Erin Ohlson*

By Erin Ohlson

Title Seller

ACCEPTANCE

The undersigned, the named Purchasers and Concessioner in the above assignment, hereby accept the same and agrees, subject to the approval of the Secretary of the Interior acting through the National Park Service, to carry out fully and to perform all of the obligations imposed upon the Concessioner by the terms and provisions of the Contract from and after the date of approval by the Secretary. The undersigned Purchasers and Concessioner further understand and agree to the following conditions of the Secretary's approval of this sale:

1. Within 60 days of the date of approval of the Assignment, a balance sheet as of the effective date of the Assignment will be submitted for the approval of the Secretary.

2. Assets acquired by the Assignee from the Assignor must be recorded at an amount that will not exceed fair value as defined in the Contract, or if the Contract does not define fair value for a particular class of assets, an amount that will not exceed the fair market value of the asset.

3. To assume all obligations of the Contract incurred by the Assignor prior to the effective date of the Assignment if the Assignor fails to perform them, including, but not limited to, payment of franchise fees, payment of utilities provided by the National Park Service, and deposits to capital and government improvement accounts, if any.

4. Within 60 days after approval of the Assignment, a copy of an itemized Bill of Sale covering all transferred assets will be provided to the National Park Service.

5. The purchase price or any debt to be incurred in connection with the Assignment will not be used at any time by the Assignee or any related party as justification for:

a. An increase in rates to be charged to the public;

b. A waiver or reduction of franchise fees or other Contract requirements; or

c. Any claim that the terms of the Contract do not provide a reasonable opportunity for profit.

6. The National Park Service, when developing the requirements of any subsequent concession contract for this operation, will not take into account the purchase price or any outstanding debt resulting from this Assignment. Franchise fees and other contract obligations for the subsequent concession contract will be established based on the probable value to a concessioner of the authorization as determined by the National Park Service. The Assignee assumes all risk in this connection.

7. In the event that the Assignee is not awarded a subsequent concession contract, neither the National Park Service nor the successor concessioner will bear any liability for any debt incurred by the Assignee in connection with this Assignment.

8. The Assignee represents that it has not been advised by the National Park Service or any official of the United States government that the National Park Service or other government official considers the terms of this transaction to be reasonable or that the Assignee may expect to earn a profit under the terms of the Contract and this transaction.

9. Approval of this Assignment by the Secretary in no manner implies the existence or absence of or grants or denies any preferential right to the award of any subsequent concession contract, and Assignee waives any right to assert any preferential right or other benefit based on approval of this Assignment by the Secretary. This approval does not impact any preferential right assignee may have under statute or regulation.

10. Assignee will not utilize this approval in any form or manner, including, but not limited to, any litigation, proceeding or hearing, involving the National Park Service or the United States of America, as evidence of any fact or matter other than that the National Park Service approved the Assignment in accordance with Section 408 of the National Park Service Concessions Management Improvement Act of 1998 (P.L. 105-391).

11. Notwithstanding any representations made by the Assignee to the National Park Service or the Assignor or other persons as to the value of the Contract or possessory interest, if any, or as to any other matters related to this transaction, the National Park Service, by approving this Assignment, expressly is not agreeing to, approving or concurring in any such representations. The National Park Service reserves the right to challenge any representations made by the Assignee in any future matters concerning the Contract and the National Park Service, including, but not limited to, the value of any possessory interest granted by the Contract, if any.

12. That, to the extent that the Assignor may have been allocated user days or other access privileges to the park area for the purposes of the Contract, such allocations are subject to change or elimination by the

National Park Service and that the Contract does not grant such allocations as a matter of right to the Assignee or any subsequent concessioner.

13. The approval of this Assignment by the Secretary shall not be construed, in any manner, as amending, altering or waiving any terms and conditions of the Contract.

14. The approval of this Assignment by the Secretary does not in and of itself constitute approval of any financial transaction or encumbrance associated with this Assignment. If such financial transaction or encumbrance must by law be approved by the Secretary, the Secretary's approval of any such associated financial transaction or encumbrance, if granted, will be provided in a separate document.

Executed in triple at Seattle this 5th day of April, 2010

WITNESSES/ATTEST

InnerSea Discoveries LLC

Signature */s/ Eric Gier*

By Eric Gier

Title CFO

Signature */s/ Daniel Blanchard*

By Daniel Blanchard

Title CEO

APPROVAL

The foregoing Assignment and Acceptance of Concession Contract CC-GLBA034-06 is hereby considered as duly transferred by Seller, to the Buyer, effective as of the date set forth below, subject to agreement to and satisfactory performance by the Purchasers and Concessioner of the conditions set forth above.

Executed in triple at Anchorage, AK this 26th day of April, 2010.

SECRETARY OF THE INTERIOR

By */s/ Victor Knox*

Acting Regional Director, Alaska

National Park service

ASSIGNMENT, ACCEPTANCE and APPROVAL DOCUMENT

ASSIGNMENT

For value received, David Koschmann, (hereinafter referred to as the "Seller"), hereby sells, subject to the approval of the Secretary of the Interior acting through the National Park Service, as of the date of approval by the Secretary of the Interior, to Erin Ohlson (hereinafter referred to as the "Purchaser") all of their right, title and interest in the membership interests of Concession Contract No. CC-GLBA034-06 (hereinafter referred to as the "Contract") entered into between the Secretary of the Interior and the Concessioner as of January 1, 2006, granting the right to operate a concession at Glacier Bay National Park and Preserve.

Executed in triple at Gustavus, AK this 2nd day of April, 2009.

WITNESS/ATTEST	**David Koschmann**
Signature */s/ M. Kate Boesser*	Signature */s/ David F. Koschmann*
By M. Kate Boesser	By David Koschmann
Title Partner	Title Owner – Seller

ACCEPTANCE

The undersigned, the named Purchasers and Concessioner in the above assignment, hereby accept the same, and agrees, subject to the approval of the Secretary of the Interior acting through the National Park Service, to carry out fully and to perform all of the obligations imposed upon the Concessioner by the terms and provisions of the Contract from and after the date of approval by the Secretary. The undersigned Purchasers and Concessioner further understand and agree to the following conditions of the Secretary's approval of this sale:

1. Within 60 days of the date of approval of the Assignment, a balance sheet as of the effective date of the Assignment will be submitted for the approval of the Secretary.

2. Assets acquired by the Assignee from the Assignor must be recorded at an amount that will not exceed fair value as defined in the Contract, or if the Contract does not define fair value for a particular class of assets, an amount that will not exceed the fair market value of the asset.

3. To assume all obligations of the Contract incurred by the Assignor prior to the effective date of the Assignment if the Assignor fails to perform them, including, but not limited to, payment of franchise fees, payment of utilities provided by the National Park Service, and deposits to capital and government improvement accounts, if any.

4. Within 60 days after approval of the Assignment, a copy of an itemized Bill of Sale covering all

transferred assets will be provided to the National Park Service.

5. The purchase price or any debt to be incurred in connection with the Assignment will not be used at any time by the Assignee or any related party as justification for:

a. An increase in rates to be charged to the public;

b. A waiver or reduction of franchise fees or other Contract requirements; or

c. Any claim that the terms of the Contract do not provide a reasonable opportunity for profit.

6. The National Park Service, when developing the requirements of any subsequent concession contract for this operation, will not take into account the purchase price or any outstanding debt resulting from this Assignment. Franchise fees and other contract obligations for the subsequent concession contract will be established based on the probable value to a concessioner of the authorization as determined by the National Park Service. The Assignee assumes all risk in this connection.

7. In the event that the Assignee is not awarded a subsequent concession contract, neither the National Park Service nor the successor concessioner will bear any liability for any debt incurred by the Assignee in connection with this Assignment.

8. The Assignee represents that it has not been advised by the National Park Service or any official of the United States government that the National Park Service or other government official considers the terms of this transaction to be reasonable or that the Assignee may expect to earn a profit under the terms of the Contract and this transaction.

9. Approval of this Assignment by the Secretary in no manner implies the existence or absence of or grants or denies any preferential right to the award of any subsequent concession contract, and Assignee waives any right to assert any preferential right or other benefit based on approval of this Assignment by the Secretary. This approval does not impact any preferential right assignee may have under statute or regulation.

10. Assignee will not utilize this approval in any form or manner, including, but not limited to, any litigation, proceeding or hearing, involving the National Park Service or the United States of America, as evidence of any fact or matter other than that the National Park Service approved the Assignment in accordance with Section 408 of the National Park Service Concessions Management Improvement Act of 1998 (P.L. 105-391).

11. Notwithstanding any representations made by the Assignee to the National Park Service or the Assignor or other persons as to the value of the Contract or possessory interest, if any, or as to any other matters related to this transaction, the National Park Service, by approving this Assignment, expressly is not agreeing to, approving or concurring in any such representations. The National Park Service reserves the right to challenge any representations made by the Assignee in any future matters concerning the Contract and the National Park Service, including, but not limited to, the value of any possessory interest granted by the Contract, if any.

12. That, to the extent that the Assignor may have been allocated user days or other access privileges to the park area for the purposes of the Contract, such allocations are subject to change or elimination by the National Park Service and that the Contract does not grant such allocations as a matter of right to the

Assignee or any subsequent concessioner.

13. The approval of this Assignment by the Secretary shall not be construed, in any manner, as amending, altering or waiving any terms and conditions of the Contract.

14. The approval of this Assignment by the Secretary does not in and of itself constitute approval of any financial transaction or encumbrance associated with this Assignment. If such financial transaction or encumbrance must by law be approved by the Secretary, the Secretary's approval of any such associated financial transaction or encumbrance, if granted, will be provided in a separate document.

Executed in triple at Juneau this 7th day of April, 2009

WITNESSES/ATTEST

Erin Ohlson

Signature /s/ Travis Ohlson

Signature /s/ Erin Ohlson

By Travis Ohlson

By Erin Ohlson

Title Partner

Title Purchaser

APPROVAL

The foregoing Assignment and Acceptance of Concession Contract No. CC- CC-GLBA034-06 is hereby considered as duly sold by Seller, to the Buyer, effective as of the date set forth below, subject to agreement to and satisfactory performance by the Purchasers and Concessioner of the conditions set forth above.

Executed in triple at Anchorage. AK this 29th day of April, 2009.

SECRETARY OF THE INTERIOR

By /s/ D. Cooper for
Regional Director, Alaska
National Park service

RECEIVED
FEB 2 3 2006
Glacier Bay National Park

Category III Contract

United States Department of the Interior
National Park Service

Glacier Bay National Park & Preserve

Charter Vessel Services

Concession Contract No. **CC-GLBA034-06**

David Koschmann
P.O. Box 47
Gustavus, AK 99826
Telephone: (907) 697-2282
Email: fritz@thegreatsea.com

d.b.a.: **Woodwind Adventures**

Covering the Period: **January 1, 2006 through December 31, 2015**

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

This Contract is between the National Park Service and **David Koschmann (hereinafter referred to as "Concessioner"), a Sole Proprietorship d.b.a. Woodwind Adventures** under the authority of 16 U.S.C. 1 et. seq., including 16 U.S.C. 5901 et. seq., and other laws that supplement and amend these laws. The Director and the Concessioner agree:

Sec. 1. Term of Contract

This Contract will be from **January 1, 2006** until its expiration on **December 31, 2015**.

Sec. 2. Services and Operations

(a) Required and Authorized Visitor Services
The Concessioner must provide the following required Visitor Services within the Area: **None**
The Concessioner may provide the following authorized Visitor Services within the Area: **Charter Vessel Services.**
(b) Operation, Maintenance and Quality of Operation
The Concessioner must provide, operate and maintain the Visitor Services in accordance with this Contract in a manner considered satisfactory by the Director, including the nature, type and quality of the Visitor Services. The Concessioner's authority to provide Visitor Services under the terms of this Contract is nonexclusive. The Concessioner's operations and contract compliance will be evaluated on at least an annual basis.
No government owned personal property is assigned to the Concessioner.
(c) Operating Plan
The Director will establish and revise, as necessary, after consultation with the Concessioner, specific requirements for the operations of the Concessioner under this Contract in the form of an Operating Plan. The initial Operating Plan is attached to this Contract as Exhibit B.
(d) Rates
All rates and charges to the public by the Concessioner for Visitor Services must be reasonable and appropriate and must be approved by the Director.
(e) No Capital Improvements
The Concessioner may not construct any Capital Improvements upon Area lands.

Sec. 3. Concessioner Personnel

(a) The Concessioner must ensure that its employees are hospitable and exercise courtesy and consideration in their relations with the public.
(b) The Concessioner must establish appropriate screening, hiring, training, safety, employment, termination and other policies and procedures.
(c) The Concessioner must review the conduct of any of its employees whose action or activities are considered by the Concessioner or the Director to be inconsistent with the proper administration of the Area and enjoyment and protection of visitors and must take such actions as are necessary to correct the situation.
(d) The Concessioner must maintain, to the greatest extent possible, a drug free work environment.

Sec. 4. Environmental

The Concessioner must utilize appropriate best management practices (practices that apply the most current and advanced means and technologies available to the Concessioner to undertake and maintain a superior level of environmental performance reasonable in light of the circumstances of

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

the operations conducted under this Contract) in its provision of Visitor Services and other activities under this Contract.

Sec. 5. Fees

(a) Franchise Fee
The Concessioner must pay a franchise fee to the Director as follows: **the greater of $500 or 5.5% of gross receipts**. The Concessioner has no right to waiver of the fee under any circumstances.
(b) Payments Due
(1) The franchise fee is due on November 1 of each year.
(2) All franchise fee payments consisting of $10,000 or more, will be deposited electronically by the Concessioner in the manner directed by the Director.
(3) If adjustments need to be made to the franchise fee payment due to adjustments to the reported gross receipts at the time of submission of the Concessioner's Annual Financial Report, or for any other reason, the adjustments will be made as follows:
(i)Additional payments will be made at the time of submission of the Concessioner's Annual Financial Report.
(ii) Overpayments will be offset against the following year's fees.
(c) Interest
An interest charge will be assessed on overdue amounts for each thirty (30) day period, or portion thereof, that payment is delayed. The percent of interest charged will be based on the current value of funds to the United States Treasury as published quarterly in the Treasury Fiscal Requirements Manual. The Director may also impose penalties for late payment to the extent authorized by Applicable Law.

Sec. 6. Insurance

The Concessioner must obtain and maintain during the entire term of this Contract at its sole cost and expense, coverage necessary to fulfill the obligations of this Contract. The insurance requirements are set forth in Exhibit D.

Sec. 7. Records and Reports

(a) Accounting System
(1) The Concessioner must maintain an accounting system under which its accounts can be readily identified with its system of accounts classification. Such accounting system must be capable of providing the information required by this Contract. The Concessioner's system of accounts classification must be directly related to the Concessioner Annual Financial Report Form issued by the Director.
(2) If the Concessioner's annual gross receipts are $500,000 or more, the Concessioner must use the accrual accounting method.
(3) The Concessioner must keep its accounts in such manner that there can be no diversion or concealment of profits or expenses in the operations authorized under this Contract by means of arrangements for the procurement of equipment, merchandise, supplies or services from sources controlled by or under common ownership with the Concessioner or by any other device.
(b) Annual Financial Report
The Concessioner must submit annually as soon as possible but not later than March 1 a financial statement for the preceding fiscal year or portion of a year as prescribed by the Director ("Concessioner Annual Financial Report").

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

(1) If the annual gross receipts of the Concessioner are in excess of $1,000,000, the financial statements must be audited by an independent Certified Public Accountant in accordance with Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.
(2) If annual gross receipts are between $500,000, and $1,000,000, the financial statements must be reviewed by an independent Certified Public Accountant in accordance with Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.
(3) If annual gross receipts are less than $500,000, the financial statements may be prepared without involvement by an independent Certified Public Accountant, unless otherwise directed by the Director.
(c) Other Reports
(1) Balance Sheet. If requested by the Director, within ninety (90) days of the execution of this Contract or its effective date, whichever is later, the Concessioner must submit to the Director a balance sheet as of the beginning date of the term of this Contract. The balance sheet must be audited or reviewed, as determined by the annual gross receipts, by an independent Certified Public Accountant.
(2) The Director from time to time may require the Concessioner to submit other reports and data regarding its performance under this Contract or otherwise, including, but not limited to, operational information.

Sec.8. Suspension, Termination, or Expiration

(a) Termination and Suspension
(1) The Director may temporarily suspend operations under this Contract in whole or in part or terminate this Contract in writing at any time in order to protect Area visitors, protect, conserve, and preserve Area resources, or to limit Visitor Services in the Area to those that continue to be necessary and appropriate.
(2) The Director may terminate this Contract if the Director determines that the Concessioner has materially breached any requirement of this Contract.
(3) In the event of a breach of the Contract, the Director will provide the Concessioner an opportunity to cure by providing written notice to the Concessioner of the breach. In the event of a monetary breach, the Director will give the Concessioner a fifteen (15) day period to cure the breach. If the breach is not cured within that period, then the Director may terminate the Contract for default. In the event of a nonmonetary breach, if the Director considers that the nature of the breach so permits, the Director will give the Concessioner thirty (30) days to cure the breach, or to provide a plan, to the satisfaction of the Director, to cure the breach over a specified period of time. If the breach is not cured within this specified period of time, the Director may terminate the Contract for default. Notwithstanding this provision, repeated breaches (two or more) of the same nature will be grounds for termination for default without a cure period. In the event of a breach of any nature, the Director may suspend the Concessioner's operations as appropriate in accordance with Section 8(a).
(b) Requirements in the Event of Suspension, Termination or Expiration
(1) In the event of suspension or termination of this Contract for any reason or expiration of this Contract, no compensation of any nature will be due the Concessioner, including, but not limited to, compensation for personal property, or for losses based on lost income, profit, or the necessity to make expenditures as a result of the termination.
(2) Upon termination of this Contract for any reason, or upon its expiration, and except as otherwise provided in this section, the Concessioner must, at the Concessioner's expense, promptly vacate the Area, remove all of the Concessioner's personal property, and repair any injury caused by removal of the property. This removal must occur within thirty (30) days (unless the Director in particular

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

circumstances otherwise determines). Personal property not removed from the Area will be considered abandoned property subject to disposition by the Director, at full cost and expense of the Concessioner.

Sec. 9. Assignment, Sale or Encumbrance of Interests

This Contract may not be assigned [e.g. sold] or encumbered [e.g. mortgaged] without the approval of the Director in accordance with 36 CFR Part 51 with respect to proposed assignments and encumbrances.

Sec. 10. General Provisions – See Addendum 1.

Addendum 1 attached to this Contract is made a part of this Contract.

By:

CONCESSIONER	UNITED STATES OF AMERICA
/s/ David F Koschmann Signature David Koschmann, Owner d.b.a.: Woodwind Adventures	*/s/ Tomie Patrick Lee* Signature Tomie Patrick Lee, Superintendent Glacier Bay National Park & Preserve
2/10/06 Date	2/23/06 Date

Attachments:
Addendum 1 – General Provisions
Exhibit A – Nondiscrimination
Exhibit B – Operating Plan
Exhibit C – Reserved
Exhibit D – Insurance

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

the Director immediate written notice of any violation of Applicable Laws by the Concessioner, including its employees, agents or Contractors, and must promptly correct any violation.

3. Services and Operations

(a) All promotional material, regardless of media format (i.e., printed, electronic, broadcast media), provided to the public by the Concessioner in connection with the services provided under this Contract must be approved in writing by the Director prior to use. All such material will identify the Concessioner as an authorized Concessioner of the National Park Service, Department of the Interior.

(b) The Concessioner will provide Federal employees reduced rates, in accordance with guidelines established by the Director, when conducting necessary official business. Complimentary or reduced rates and charges may otherwise not be provided to Federal employees by the Concessioner except to the extent that they are equally available to the general public.

(c) The Director and Comptroller General of the United States, or any of their duly authorized representatives, will have access to the records of the Concessioner as provided by the terms of Applicable Laws.

(d) Subconcession or other third party agreements, including management agreements, for the provision of Visitor Services required and/or authorized under this Contract, whether in consideration of a percentage of revenues or otherwise, are not permitted.

(e) The Concessioner will ensure that any protected sites and archeological resources within the Area are not disturbed or damaged by the Concessioner's activities. Discoveries of any archeological resources by the Concessioner will be promptly reported to the Director.

4. Environmental Data, Reports, Notifications, and Approvals

(a) Inventory of Hazardous Substances and Inventory of Waste Streams. The Concessioner must submit to the Director, upon request, an inventory of hazardous chemicals used and stored in the Area by the Concessioner. The Concessioner must obtain the Director's approval prior to using any extremely hazardous substance, as defined in the Emergency Planning and Community Right to Know Act of 1986, in operations under this Contract. The Concessioner must also submit to the Director, upon request, an inventory of all waste streams generated by the Concessioner under this Contract.

(b) Reports. The Concessioner must submit to the Director copies of all documents, reports, monitoring data, manifests, and other documentation required under Applicable Laws to be submitted to regulatory agencies. The Concessioner must also submit to the Director any environmental plans for which coordination with Area operations are necessary and appropriate, as determined by the Director in accordance with Applicable Laws.

(c) Notification of Releases. The Concessioner must give the Director immediate written notice of any discharge, release or threatened release (as these terms are defined by Applicable Laws) within or at the vicinity of the Area (whether solid, semi-solid, liquid or gaseous in nature) of any hazardous or toxic substance, material, or waste of any kind, including, without limitation, building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product.

(d) Notice of Violation. The Concessioner must give the Director in writing immediate notice of any written threatened or actual notice of violation from other regulatory agencies of any Applicable Law arising out of the activities of the Concessioner, its agents or employees.

(e) Communication with Regulatory Agencies. The Concessioner must provide timely written advance notice to the Director of communications, including without limitation, meetings, audits, inspections, hearings and other proceedings, between regulatory agencies and the Concessioner related to compliance with Applicable Laws concerning operations under this Contract. The Concessioner must also provide to the Director any written materials prepared or received by the Concessioner in advance of or subsequent to any such communications. The Concessioner must allow the Director to participate in any such communications. The Concessioner must also

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

provide timely notice to the Director following any unplanned communications between regulatory agencies and the Concessioner.

(f) Cost Recovery for Concessioner Environmental Activities. If the Concessioner does not promptly contain and remediate an unauthorized discharge or release arising out of the activities of the Concessioner, its employees, agents and Contractors, as set forth in this section, or correct any environmental self-assessment finding of non-compliance, in full compliance with Applicable Laws, the Director may, in its sole discretion and after notice to the Concessioner, take any such action consistent with Applicable Laws as the Director deems necessary to abate, mitigate, remediate, or otherwise respond to such release or discharge, or take corrective action on the environmental self-assessment finding. The Concessioner will be liable for and must pay to the Director any costs of the Director associated with such action upon demand. Nothing in this section precludes the Concessioner from seeking to recover costs from a responsible third party.

5. Fees

(a) Adjustment of Franchise Fee

(1) The Concessioner or the Director may request, in the event that either considers that extraordinary, unanticipated changes have occurred after the effective date of this Contract, a reconsideration and possible subsequent adjustment of the franchise fee established in this section. For the purposes of this section, the phrase "extraordinary, unanticipated changes" will mean extraordinary, unanticipated changes from the conditions existing or reasonably anticipated before the effective date of this Contract which have or will significantly affect the probable value of the privileges granted to the Concessioner by this Contract. For the purposes of this section, the phrase "probable value" means a reasonable opportunity for net profit in relation to capital invested and the obligations of this Contract.

(2) The Concessioner or the Director must make a request for a reconsideration by mailing, within sixty (60) days from the date that the party becomes aware, or should have become aware, of the possible extraordinary, unanticipated changes, a written notice to the other party that includes a description of the possible extraordinary, unanticipated changes and why the party believes they have affected or will significantly affect the probable value of the privileges granted by this Contract.

(3) If the Concessioner and the Director agree that extraordinary, unanticipated changes have occurred, the Concessioner and the Director will undertake good faith negotiations as to an appropriate adjustment of the franchise fee.

(4) The negotiation will last for a period of sixty (60) days from the date the Concessioner and the Director agree that extraordinary, unanticipated changes occurred. If the negotiation results in agreement as to an adjustment (up or down) of the franchise fee within this period, the franchise fee will be adjusted accordingly, prospectively as of the date of agreement.

(5) If the negotiation does not result in agreement as to the adjustment of the franchise fee within this sixty (60) day period, then either the Concessioner or the Director may request binding arbitration to determine the adjustment to franchise fee in accordance with this section. Such a request for arbitration must be made by mailing written notice to the other party within fifteen (15) days of the expiration of the sixty (60) day period.

(6) Within thirty (30) days of receipt of such a written notice, the Concessioner and the Director will each select an arbiter. These two arbiters, within thirty (30) days of selection, must agree to the selection of a third arbiter to complete the arbitration panel. Unless otherwise agreed by the parties, the arbitration panel will establish the procedures of the arbitration. Such procedures must provide each party a fair and equal opportunity to present its position on the matter to the arbitration panel.

(7) The arbitration panel will consider the written submissions and any oral presentations made by the Concessioner and the Director and provide its decision on an adjusted franchise fee

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

(up, down or unchanged) that is consistent with the probable value of the privileges granted by this Contract within sixty (60) days of the presentations.

(8) Any adjustment to the franchise fee resulting from this section will be prospective only.

(9) Any adjustment to the franchise fee will be embodied in an amendment to this Contract.

(10) During the pendency of the process described in this section, the Concessioner will continue to make the established franchise fee payments required by this Contract.

6. Indemnification

The Concessioner agrees to assume liability for and does hereby agree to save, hold harmless, protect, defend and indemnify the United States of America, its agents and employees from and against any and all liabilities, obligations, losses, damages or judgments (including without limitation penalties and fines), claims, actions, suits, costs and expenses (including without limitation attorneys fees and experts' fees) of any kind and nature whatsoever on account of fire or other peril, bodily injury, death or property damage, or claims for bodily injury, death or property damage of any nature whatsoever, and by whomsoever made, in any way connected with or arising out of the activities of the Concessioner, its employees, agents or Contractors under this Contract. This indemnification will survive the termination or expiration of this Contract.

7. Notice of Bankruptcy or Insolvency

The Concessioner must give the Director immediate notice (within five (5) days) after the filing of any petition in bankruptcy, filing any petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, or making any assignment for the benefit of creditors. The Concessioner must also give the Director immediate notice of any petition or other proceeding against the Concessioner for the appointment of a trustee, receiver, or liquidator, or, the taking by any person or entity of the rights granted by this Contract or any part thereof upon execution, attachment or other process of law or equity. For purposes of the bankruptcy statutes, NPS considers that this Contract is not a lease but an executory Contract exempt from inclusion in assets of Concessioner pursuant to 11 U.S.C. 365. The Director may terminate this Contract if the Director determines that the Concessioner is unable to perform the terms of Contract due to such bankruptcy or insolvency action.

8. Additional Provisions

(a) This Contract contains the sole and entire agreement of the parties. No oral representations of any nature form the basis of or may amend this Contract. This Contract may be extended, renewed or amended only when agreed to in writing by the Director and the Concessioner.

(b) This Contract does not grant rights or benefits of any nature to any third party.

(c) The invalidity of a specific provision of this Contract will not affect the validity of the remaining provisions of this Contract.

(d) Waiver by the Director or the Concessioner of any breach of any of the terms of this Contract by the other party will not be deemed to be a waiver or elimination of such term, nor of any subsequent breach of the same type, nor of any other term of the Contract. The subsequent acceptance of any payment of money or other performance required by this Contract will not be deemed to be a waiver of any preceding breach of any term of the Contract.

(e) No member of, or delegate to, Congress or Resident Commissioner will be admitted to any share or part of this Contract or to any benefit that may arise from this Contract but this restriction will not be construed to extend to this Contract if made with a corporation or company for its general benefit.

(f) This Contract is subject to the provisions of 43 CFR, Subtitle A, Part 12, Subpart D, concerning nonprocurement debarment and suspension. The Director may recommend that the Concessioner be debarred or suspended in accordance with the requirements and procedures described in those regulations, as they are effective now or may be revised in the future.

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

EXHIBIT A
NONDISCRIMINATION

Section I: Requirements Relating to Employment and Service to the Public

A. Employment

During the performance of this CONTRACT the Concessioner agrees as follows:

(1) The Concessioner will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin, or disabling condition. The Concessioner will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, or disabling condition. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Concessioner agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Secretary setting forth the provision of this nondiscrimination clause.

(2) The Concessioner will, in all solicitations or advertisements for employees placed by on behalf of the Concessioner, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, national origin, or disabling condition.

(3) The Concessioner will send to each labor union or representative of workers with which the Concessioner has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Secretary, advising the labor union or workers' representative of the Concessioner's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) Within 120 days of the commencement of a contract every Government contractor or subcontractor holding a contract that generates gross receipts which exceed $50,000 and having 50 or more employees shall prepare and maintain an affirmative action program at each establishment which shall set forth the contractor's policies, practices, and procedures in accordance with the affirmative action program requirement.

(5) The Concessioner will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Concessioner will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to the Concessioner's books, records, and accounts by the Secretary of the Interior and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Concessioner's noncompliance with the nondiscrimination clauses of this CONTRACT or with any of such rules, regulations, or orders, this CONTRACT may be canceled, terminated or suspended in whole or in part and the Concessioner may be declared ineligible for further Government concession contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Concessioner will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or vendor. The Concessioner will take such action with respect to any subcontract or purchase order as the Secretary may direct as a means of enforcing such provisions, including

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

sanctions for noncompliance: Provided, however, that in the event the Concessioner becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Secretary, the Concessioner may request the United States to enter into such litigation to protect the interests of the United States.

B. Construction, Repair, and Similar Contracts

The preceding provisions A(1) through A(8) governing performance of work under this CONTRACT, as set out in Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, shall be applicable to this CONTRACT, and shall be included in all contracts executed by the Concessioner for the performance of construction, repair, and similar work contemplated by this CONTRACT, and for that purpose the term ``CONTRACT'' shall be deemed to refer to this instrument and to contracts awarded by the Concessioner and the term ``Concessioner'' shall be deemed to refer to the Concessioner and to contractors awarded contacts by the Concessioner.

C. Facilities

(1) Definitions: As used herein:
   (a) Concessioner shall mean the Concessioner and its employees, agents, lessees, sublessees, and contractors, and the successors in interest of the Concessioner;
   (b) Facility shall mean any and all services, facilities, privileges, accommodations, or activities available to the general public and permitted by this agreement.

(2) The Concessioner is prohibited from:
   (a) Publicizing facilities operated hereunder in any manner that would directly or inferentially reflect upon or question the acceptability of any person because of race, color, religion, sex, age, national origin, or disabling condition;
   (b) Discriminating by segregation or other means against any person.

Section II: Accessibility

Title V, Section 504, of the Rehabilitation Act of 1973, as amended in 1978, requires that action be taken to assure that any "program" or "service" being provided to the general public be provided to the highest extent reasonably possible to individuals who are mobility impaired, hearing impaired, and visually impaired. It does not require architectural access to every building or facility, but only that the service or program can be provided somewhere in an accessible location. It also allows for a wide range of methods and techniques for achieving the intent of the law, and calls for consultation with disabled persons in determining what is reasonable and feasible.

No handicapped person shall, because a Concessioner's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance or conducted by any Executive agency or by the U.S. Postal Service.

A. Discrimination Prohibited

A Concessioner, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, on the basis of handicap:
   (1) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;
   (2) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
   (3) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;
   (4) Provide different or separate aids, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

(5) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;
(6) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or
(7) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

B. Existing Facilities
A Concessioner shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not require a Concessioner to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

EXHIBIT B
CHARTER VESSEL OPERATING PLAN

INTRODUCTION

This Operating Plan between **David Koschmann, d.b.a. Woodwind Adventures (hereinafter referred to as "Concessioner")** and Glacier Bay National Park & Preserve, National Park Service (hereinafter referred to as the "Service") shall serve as a supplement to Concession Contract **CC-GLBA034-06** (hereinafter referred to as the "CONTRACT"). It describes specific operating responsibilities of the Concessioner and the Service with regard to those lands and facilities within Glacier Bay National Park & Preserve (hereinafter referred to as the "Area") which are assigned to the Concessioner for the purposes authorized by the CONTRACT. In the event of any conflict between the terms of the CONTRACT and this Operating Plan, the terms of the CONTRACT, including its designations and amendments, shall prevail. This plan will be reviewed annually by the Superintendent in consultation with the Concessioner and revised as determined necessary by the Superintendent of the Glacier Bay National Park & Preserve.

Any revisions shall not be inconsistent with the main body of this CONTRACT. Any revisions must be reasonable and in furtherance of the purposes of the CONTRACT.

A. Definitions and Abbreviations

1. Definitions

In addition to all defined terms contained in the CONTRACT, including without limitation Exhibit A, and Exhibits C - I, the following definitions apply to this Operating Plan:

a. "Glacier Bay" or "Glacier Bay proper", means all marine waters inside a line from Pt. Gustavus to Pt. Carolus.

b. "Park" means Glacier Bay National Park & Preserve.

c. "Park Compendium" or "Compendium" refers to a compendium of park regulations for which the Superintendent has discretionary authority.

d. "Pool" or "Use day pool" or "vessel use day pool" means charter vessel use days not allocated to a specific concessioner, but which are potentially available for use by charter vessel concessioners.

e. "Vessel Use Day" or "Use day" means any continuous period of time that a motor vessel is in Glacier Bay between the hours of 12 midnight on one day to 12 midnight the next day.

2. Abbreviations

a. CFR: Code of Federal Regulations

b. CPR: Cardiopulmonary Resuscitation

c. NPS: National Park Service

3. Operations

a. All vessel operations shall be conducted in conformance with relevant National Park Service regulations contained in the current US Code of Federal Regulations, with particular attention to applicable elements of 36 CFR 13.65 and the Park Compendium.

b. Food and beverage service shall be conducted in conformance with the U.S. Public Health Service, Food and Drug Administration Food Code.

c. Charter vessel use in Glacier Bay (proper), for all operators combined, is limited to six vessels per day from June 1 through August 31.

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

d. Charter vessel use limits in park marine waters outside Glacier Bay (proper) have not been established, but may be imposed at any time by the Superintendent in accordance with federal law.
e. The Concessioner shall remove all solid wastes from the park for proper separation, recycling and disposal. Use of NPS solid waste receptacles or the park landfill is prohibited.
f. Materials, supplies, or equipment of any type will not be cached or stored ashore without prior written approval by the Superintendent.
g. The Concessioner is required to notify park headquarters by telephone (907 697-2627) or marine band radio (KWM 20 Bartlett Cove on Channel 16) prior to entering Glacier Bay from June 1 through August 31, and provide or confirm the following:
   (1) Name of the vessel operator;
   (2) Identify the concession contract under which the vessel will be operating;
   (3) Number of guests and crew on board the vessel; and
   (4) Confirm the scheduled entry and departure dates for that trip.
h. Except as noted below, charter vessel services are restricted to the marine waters of Glacier Bay National Park unless specifically authorized in writing by the Superintendent. Off-vessel activities authorized for all charter operators:
   (1) Guided or unguided day hikes (group size limit is 12); and
   (2) Guided or unguided day trips with hand propelled watercraft (group size limit is 12).
   (3) Operations must be in accordance with the Resource Protection Guidelines for Glacier Bay National Park (Operating Plan Attachment A).
i. Each vessel operator must be familiar with park regulations. Each vessel operator shall receive an NPS boater orientation prior to each operating season. Orientations will be available at the NPS Visitor Information Station, (907) 697-2627, in Bartlett Cove May-September or by prior arrangement with the NPS Ranger station.
j. The Concessioner will report Visitor Use and Sport Fish activity for each charter in the park, in a format provided by the Service. The report must be received not later than the 5th of every month for the previous month (i.e. report May charters no later than June 5).
k. The Concessioner will approach nesting seabird colonies and marine mammals hauled-out on ice or land slowly and quietly while maintaining the regulated distances, and will maintain greater than regulated distance from wildlife if the wildlife indicates a change in behavior.*
l. The Concessioner will use radar, GPS, computer charts, depth sounder, chart, and compass to maintain regulated distance from wildlife.*
m. The Concessioner will either (1) not provide guided sport fishing in Glacier Bay or (2) provide sport fishing as an incidental activity **and** comply with the ADF&G Selective Harvest and Catch and Release program. Ref.: http://www.sf.adfg.state.ak.us/statewide/flyfish/selhar.cfm and http://www.sf.adfg.state.ak.us/statewide/flyfish/candr.cfm)*;
n. During onshore activities, the Concessioner will either not take food on shore or will put food in bear-proof containers except when being prepared or consumed.*
o. Before off-vessel excursions, the Concessioner will brief clients regarding minimum distance requirements in park regulations and the compendium or clients will be accompanied by a guide.*
p. The Concessioner will not operate a gas or diesel powered generator while anchored between the hours of 10:00PM and 6:00AM.*
q. At the beginning of the charter, the Concessioner will provide guests a thorough safety orientation to the boat and safety procedures, including a discussion or demonstration of man over board, fire, abandoning ship, actions to take if a bear is encountered and safety, use of skiff and life jackets and guidelines of the vessel.*
r. The Concessioner will check the expiration dates of medical supplies at least annually, and will replace expired items.*

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

s. All Concessioner crew members are trained in safety procedures including but not limited to Fire, Man Over-Board, Heavy Weather, and Abandon Ship. At minimum, monthly drills are held with the crew covering these areas, during the operating season.*
t. At least one crew member will be certified in First Aid, use of Automated External Defibrillator (AED), and professional level CPR training.*
u. The Concessioner's vessel will be equipped with an Emergency Position Indicating Radio Beacon (EPIRB) onboard that is approved by US Coast Guard and inspected in accordance with manufacturer's recommendations.* The vessel will also be equipped with radar, a Global Position Satellite device (GPS), [Proposal ref PSF1, SF1a, page 7], a VHF radio and a cell phone [Proposal ref PSF2, SF2c, page 18]. **
v. All Vessels operated under this contract shall be USCG inspected or participate in the USCG Alaska 5 Star safety program. *
w. w.The Concessioner's primary vessel engine(s) will be 4 stroke outboard(s) and will meet or exceed the EPA 2006 emissions requirements, and will be California Air Resources Board Three Star rating [Proposal ref PSF1,SF1b page 7-8]. **
x. The Concessioner shall provide a comprehensive interpretive (informational) program to passengers about Glacier Bay. A comprehensive program at a minimum includes:
   (1) One crew member or captain on each trip who is an experienced and well-trained naturalist, who has experience in Southeast Alaska or has received a college degree in natural history sciences.*
   (2) Pre-trip information to guests about Glacier Bay, including a suggested reading list, reference to websites, general background, maps, and Park rules.*
   (3) An orientation to Park rules, purpose and significance either given by a Park Ranger or a qualified crew member on the first day of the trip. When in Bartlett Cove, the vessel captain should encourage guests to go on a nature walk on the Forest Loop trail and to visit the NPS Visitor Information Station and an NPS Interpretive program.*
   (4) An extensive natural history library, including general information and reference materials about Glacier Bay.*
   (5) An onboard naturalist who provides an interpretive program using a variety of methods such as instruction, talks, photos, and guided discovery related to Glacier Bay.*
   (6) Guest amenities such as binoculars, spotting scopes, hydrophones and video cameras.*
y. The Concessioner's vessel captain(s) must have 10 years experience in operating charter vessels or other types of equivalent type of vessel(s), and must have 5 years local knowledge and/or an advanced education (master's degree or equivalent in a field related to charter operations). The local area is the "park and surrounding area", meaning Icy Strait/Cross Sound, including northern SE Alaska, including Juneau and Sitka.*
z. The Concessioner will use 4-cycle outboard(s) on any skiff used during the charter operation.*
aa. The Concessioner will use reusable containers, make bulk purchases that utilize minimal packaging, minimize the use of paper and disposable products, have recycle bins onboard, and will recycle engine oil.*
bb. The Concessioner will be familiar with EPA's Environmentally Preferable Purchasing Program (http://www.epa.gov/opptintr/epp/index.htm), and will consider using biodegradable products.*
cc. The Concessioner will purchase locally caught seafood and local produce whenever available.*

4. Glacier Bay Vessel Use Day Allocation and Scheduling

a. The Concessioner has an ***initial*** annual allocation of **24 charter vessel use** days for Glacier Bay (proper) from June 1 through August 31.

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

b. Any vessel use days not used for 2 consecutive years of the contract shall be revoked unless the Concessioner relinquishes the vessel use days in writing prior to March 1 for the upcoming season.
c. NPS will review the use day allocation annually, based on the above, and will advise operators of their following year's allocation by November 1 each year.
d. The Concessioner shall notify the NPS in advance of all charter vessel use in Glacier Bay (proper). Notification shall be through the NPS Concessions office by email [glba_concessions@nps.gov], phone [(907) 697-2670], or fax [907-697-2654]. During the summer, notification may also be through the NPS Visitor Information Station by phone [(907) 697-2627] or VHF Radio [KWM-20 Bartlett Cove channel 16 or 12].
e. Relinquished, revoked and unassigned use days will be put into a vessel use day pool for reallocation.
f. Charter vessel use days, for Glacier Bay (proper) June 1 through August 31, will be scheduled, through the offices noted in 4.d. above, as follows:
   (1) Beginning January 1 each year, charter vessel concessioners may submit requests to schedule both allocated and unallocated use days.
   (2) The NPS will begin scheduling use days allocated to individual operators, beginning February1 of each year. Conflicts will be resolved by the NPS by random selection.
   (3) The NPS will begin scheduling requests for unallocated use days on March 1. Conflicts will be resolved by the NPS by random selection.
   (4) After March 1, unallocated vessel use days will be available on a first come, first served basis. Conflicts will be resolved by the NPS by random selection.
g. Revoked use days will remain in the "use day pool" for the remainder of the contract term.
h. The Concessioner shall notify the park concessions office (email preferred) of any cancellations of scheduled use days as early as possible. In order to insure a fair allocation of use days, operators who do not use 20% of their scheduled use days will lose access to the following March 1 initial allocation of the use day pool. Operators will permanently lose allocated use day(s) if they fail to cancel a scheduled use day prior to the end of the scheduled day.

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

OPERATING PLAN ATTACHMENT A
RESOURCE PROTECTION GUIDELINES
FOR GLACIER BAY NATIONAL PARK
Revised: October 28, 2005

Off-Vessel Activities

I. RESOURCE GUIDELINES FOR WATER AND SHORE BASED OFF-VESSEL ACTIVITIES

- All groups will follow the guidelines set forth in the NPS Wilderness Visitor Use Management Plan (1989). The current plan includes:
    1. Group size is limited to 12 or fewer people, including the guide(s)
    2. Individual guided groups will remain out of sight and sound of each other.
    3. Visual evidence of previous use will be nearly absent.
    4. Landing sites and trails will not be evident, all garbage will be packed out and the noise level will be kept to a minimum.

- Out of sight means that each group will not be in view of each other at any time during the paddle. If because of topography, weather, or logistics each group can not remain out of sight of each other, they will remain at least one-quarter mile apart.

- Out of sound means that each group will remain far enough apart so they would not normally be able to hear each other. This separation may be further than the visual separation as sound travels easily around physical and water barriers that often restrict groups visually. This must be adjusted for each area based on topography and weather conditions. If because of topography, weather, or logistics each group can not remain out of sound of each other, they will remain at least one-quarter mile apart.

- Groups will avoid approaching within one-quarter mile of a tidewater glacier.

- Groups will avoid approaching within 100 feet of nesting seabird colonies. When seabirds begin to circle in the air, dive at individuals on shore, or vocalize, the group should move away from the area as quickly as possible. This will decrease the potential for incubating or brooding adults to abandon their nests. Additionally, adults that continue to leave the nest expend more energy and may expose their eggs and young to predation, chilling, and/or over-heating.

- Vessels dropping passengers on shore should avoid areas where marine birds are concentrated. Each vessel should approach the shoreline at a minimum speed to reduce disturbance to marine birds.

- Whenever possible, groups should attempt to hike in the rocky intertidal to avoid producing trails in the beach grass. When this is not possible, groups hiking in the beach grass, should avoid, to the best of their ability, hiking single file and spread their disturbance over a larger area. Also, consecutive groups should not travel the same path in the same area on any one day to avoid trailing.

- Groups should avoid kayaking or hiking directly in the streambed from July through September to reduce disturbance to spawning salmon and avoid trampling fertilized eggs within the stream gravel.

- Groups should leave the area if moose, bears, wolves, wolverines, or goats alter their behavior (e.g., turning sideways, standing up, leaving the area, stopping in their tracks) due to the presence of the group. This will prevent these animals from becoming displaced from important forage resources.

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

- Groups should avoid hiking directly beneath or walking up to any occupied bald eagle nest. Bald eagles are susceptible to disturbance around their nest. An occupied bald eagle nest can be defined as any nest that has one or more bald eagles perched near (within one-quarter mile) or in the nest tree.

II. SITE SPECIFIC WATER AND SHORE BASED OFF-VESSEL ACTIVITIES

Resource guidelines for specific sites within Glacier Bay National Park:

Reid Glacier

- No more than two groups of 12 individuals will remain in Reid Inlet at any one time. These groups include those involved in all off-vessel activities (on shore and on the water).
- There will be no shore based activities allowed in the area surrounding the Ibach Cabin site. This area is used by numerous species of songbirds, shorebirds, waterfowl, and seabirds. There are mew gull and arctic tern nesting colonies south of the cabin that are susceptible to human foot traffic. Also, brown bears are frequently seen in this area and, in 1998 and 1999, this area was closed to all foot traffic because of increasing brown bear activity.

Tyndall Cove to Shag Cove, Geikie Inlet

- No foot traffic should take place on the small island at the entrance to Shag Cove due to an active bald eagle nest, which has failed to produce young in 1997, 1998, and 2000.
- Groups should not hike along the shoreline directly opposite from the small islet near the northwest entrance to Shag Cove. Marine birds (including harlequin ducks, scoters, and goldeneyes) tend to concentration in this area and can be susceptible to repeated human and vessel disturbance.

Spokane Cove, South Sandy Cove, North Sandy Cove

- The shoreline from Wolf Creek in Spokane Cove to a point due east from the southern tip of Garforth Island, including Puffin Island and the small islets of North and South Sandy Cove are closed to camping from May 1 through August 15. No hiking is authorized in this area due to a large population of black bears. Groups may go to shore for rest and lavatory breaks, but must remain within the intertidal.
- Groups should avoid hiking along Wolf Creek in Spokane Cove in late August and early September. This area contains large concentrations of bears when pink and chum salmon enter the stream drainage to spawn.

Beartrack Cove

- Groups should avoid hiking along the Beartrack River in late August and early September. This area is an important resource to black bears, bald eagles, ravens, crows, and gulls when pink and chum salmon enter the stream drainage to spawn.
- The Beartrack River tidal flats extend out over ¼ mile from the beach fringe. Extensive shoaling can occur in this area at low tide. Groups should be aware of the tidal movements for that day and exercise caution when going to shore in this area.

Berg Bay

- Berg Bay contains native allotments that are private property and not within the park's jurisdiction. Fig. 1. Identifies the general location and boundary of private allotments within Berg Bay.

III. SITE SPECIFIC WATER AND SHORE BASED OFF-VESSEL ACTIVITIES OUTSIDE GLACIER BAY PROPER

A. Resource guidelines for protecting marine birds:

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

- The eastern tidal marsh of Taylor Bay; the Dundas Bay River, wetlands, and estuary; and Sawmill Bay and the Excursion River estuary support large concentrations of marine birds that use these areas for feeding and shelter. Many of these marine birds are also flightless during the late summer molt. The molting process can leave these birds vulnerable to predation and disturbance by vessels. Motorized vessels should minimize their wake and all groups should stay well away from areas where marine bird concentrations are present.

B. Resource guidelines for protecting streams:

- The mouth of the Dundas and Excursion Rivers is an import resource area for bears, moose, wolves, bald eagles, ravens, crows, and gulls when pink and chum salmon enter the stream drainage to spawn. Groups should avoid hiking along either of these rivers in late August and early September when spawning salmon are present.

C. Private Allotments:

- Excursion Inlet, Point Gustavus and Point Carolus contain native allotments that are private property and not within the park's jurisdiction. Fig. 1. Identifies the general location and boundaries of private allotments in these areas.

D. Resource Guidelines for Specific Sites Outside of Glacier Bay Proper

Taylor Bay:

- The tide flats surrounding the Brady Glacier outwash can be dangerous due to saturated mud and sand that causes the substrate to act like quicksand. This area is not to be taken lightly. Groups should avoid the mud flats near the western and eastern outwash streams and any other areas that contain saturated mud.
- When walking near the Brady Glacier, group guides should test the substrate stability with a stick before taking any clients into the area.

Dundas Bay:

- The Dundas Bay cannery is located in lower Dundas Bay and was once the center of an active cannery operation. Several remnants and artifacts from this era still remain on site. When visiting the cannery site, groups will not enter the main cannery building. This building is condemned and dangerous to health and safety. Groups will also follow the safety guidelines developed for shore parties at the cannery site. A copy of these guidelines is enclosed.
- Groups will not remove any items from the Dundas Bay cannery location.
- Metal artifacts and structures and large rocks distributed throughout the cannery site can result in an uneven substrate. Many of the metal pieces are partially buried and contain sharp edges. Groups should take extra precautions when walking in the cannery site.
- The Dundas Bay cannery intertidal and subtidal area is strewn with metal pieces, some of which may be partially buried in the substrate. Vessels should take extra precaution when approaching this area.
- Bears frequent the large estuary at the end of Dundas Bay's northern arm. Caution should be used when taking groups to shore in this area.
- Both the northern and southern arms of Dundas Bay contain navigational hazards (e.g., submerged rocks and shoals) that, due to tidal fluctuations, may or may not be exposed. Extra precaution should be taken when traveling in these areas.
- Extensive mudflats are present in the mouth of the Dundas River and Dundas Bay's southern arms. Vessels should not travel into the mouth of the Dundas River. Exposed mudflats in Dundas Bay's two southern arms can extend out over ½ mile from the beach fringe at low tide. Water levels may

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

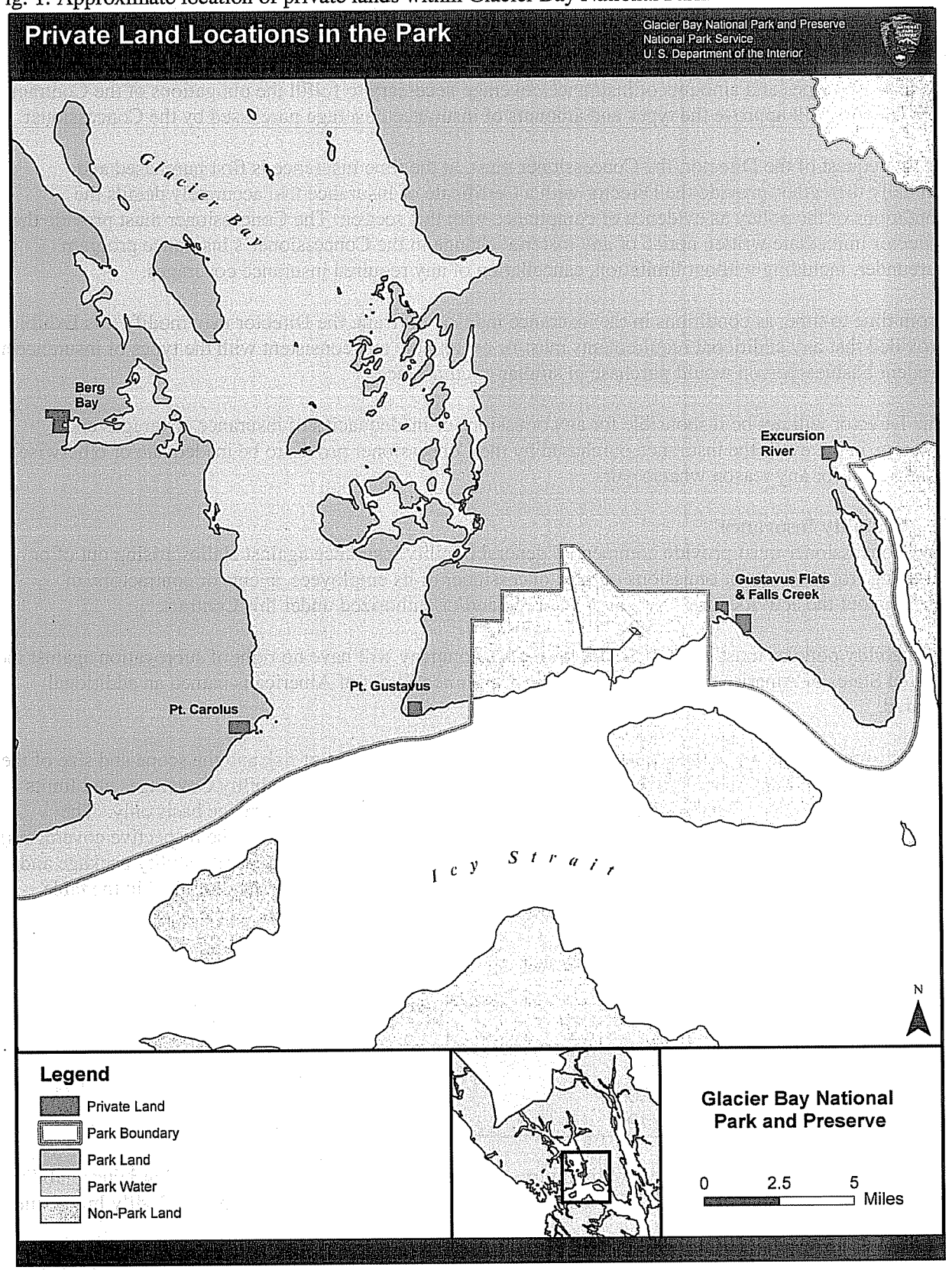
fluctuate from 20 ft. to 2 ft. in very short distances. Groups should be aware of the tidal movements for that day and exercise caution when navigating or going to shore in these areas.

Excursion Inlet:

- Harbor seals haul out on a sand bar at the mouth of the Excursion River. All vessels (motorized and non-motorized)should remain at least ¼ mile from this haul-out when seals are present.
- The mouth of the Excursion River is also surrounded by extensive mud flats and shoaling. Vessels should not enter this area or travel into the mouth of the river.

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

Fig. 1: Approximate location of private lands within Glacier Bay National Park.



*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

EXHIBIT D
INSURANCE REQUIREMENTS

I. General

The Concessioner must obtain and maintain during the entire term of this Contract, at its sole cost and expense, the types and amounts of insurance coverage necessary to fulfill the obligations of the Contract. The Director will approve the types and amounts of insurance coverage purchased by the Concessioner.

At the request of the Director, the Concessioner must, at the time insurance is first purchased and annually thereafter, provide the Director with a Certificate of Insurance that accurately details the conditions of the policy as evidence of compliance with this section. The Concessioner must provide the Director immediate written notice of any material change in the Concessioner's insurance program hereunder, including without limitation, cancellation of any required insurance coverages.

From time to time, as conditions in the insurance industry warrant, the Director may modify this Exhibit, provided that any additional requirements must be reasonable and consistent with the types of insurance a prudent businessperson would purchase in similar circumstances.

The Director will not be responsible for any omissions or inadequacies of insurance coverages and amounts in the event the insurance purchased by the Concessioner proves to be inadequate or otherwise insufficient for any reason whatsoever.

II. Liability Insurance.

The Concessioner must provide commercial general liability insurance against claims arising out of or resulting from the acts or omissions of the Concessioner or its employees, agents or contractors, in carrying out the activities and operations required and/or authorized under this Contract.

All liability policies must specify that the insurance company will have no right of subrogation against the United States of America and must provide that the United States of America is named an additional insured.

This insurance must be in the amount commensurate with the degree of risk and the scope and size of the activities required and/or authorized under this Contract. The following Liability Coverages and limits are to be maintained at a minimum, all of which are to be written on an occurrence basis only. The Concessioner may attain the limits specified below by means of supplementing the respective coverage(s) with Excess or Excess "Umbrella" Liability. Furthermore, the commercial general liability package and specified additional coverages listed below must provide no less than the limits described in the table below, or as specified in any applicable Federal or State statute or regulation.

Commercial General Liability: as shown below:

Number of Passengers	Minimum Liability Insurance
Up to 6	$300,000
7-12	$500,000
13-20	$1,000,000
21-49	$1,500,000

Coverage will be provided for bodily injury, property damage, personal or advertising injury liability (and must include Contractual Liability and Products/Completed Operations Liability, Bodily Injury and Property Damage:

Products/Completed Operations

Personal Injury & Advertising Injury

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

General Aggregate
Fire Damage Legal Liability ``per fire"

1. The liability coverages may not contain the following exclusions/limitations:
   a. Athletic or Sports Participants
   b. Products/Completed Operations
   c. Personal Injury or Advertising Injury exclusion or limitation
   d. Contractual Liability limitation
   e. Explosion, Collapse and Underground Property Damage exclusion
   f. Total Pollution exclusion
   g. Watercraft limitations affecting the use of watercraft in the course of the concessioner's operations (unless separate Watercraft coverage is maintained)
2. If the policy insures more than one location, the General Aggregate limit must be amended to apply separately to each location, or, at least, separately to the appropriate NPS location(s).

A. Automobile Liability
Coverage will be provided for bodily injury or property damage arising out of the ownership, maintenance or use of ``any auto," Symbol 1, which is used in Glacier Bay National Park & Preserve. (Where there are no owned autos, coverage applicable to ``hired" and ``non-owned" autos, ``Symbols 8 & 9," will be maintained.)

B. Liquor Liability (if applicable)
Coverage will be provided for bodily injury or property damage including damages for care, loss of services, or loss of support arising out of the selling, serving or furnishing of any alcoholic beverage.

C. Watercraft Liability (or Protection & Indemnity)
Coverage will be provided for bodily injury or property damage arising out of the use of any watercraft.

D. Aircraft Liability (if applicable)
Coverage will be provided for bodily injury or property damage arising out of the use of any aircraft.

E. Excess Liability or Excess "Umbrella" Liability
This coverage is not required, but may be used to supplement any of the above Liability coverage policies in order to arrive at the required minimum limit of liability. If maintained, coverage will be provided for bodily injury, property damage, personal or advertising injury liability in excess of scheduled underlying insurance. In addition, coverage must be at least as broad as that provided by underlying insurance policies and the limits of underlying insurance must be sufficient to prevent any gap between such minimum limits and the attachment point of the coverage afforded under the Excess Liability or Excess "Umbrella" Liability policy.

F. Care, Custody and Control--Legal Liability (Describe Specific Coverage)
Coverage will be provided for damage to property in the care, custody or control of the concessioner.

G. Environmental Impairment Liability
Coverage (if requested by the Director) will be provided for bodily injury, personal injury or property damage arising out of pollutants or contaminants (on site and/or offsite).

H. Special Provisions for Use of Aggregate Policies.
At such time as the aggregate limit of any required policy is (or if it appears that it will be) reduced or exhausted, the concessioner may be required to reinstate such limit or purchase additional coverage limits.

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.

I. Self-Insured Retentions.
Self-insured retentions on any of the above described Liability insurance policies (other than Excess "Umbrella" Liability, if maintained) may not exceed $10,000.

J. Workers Compensation and Employers' Liability.
Coverage will comply with the statutory requirements of the state(s) in which the concessioner operates.

III. **Insurance Company Minimum Standards.**
All insurance companies providing the above described insurance coverages must meet the minimum standards set forth below:
1. All insurers for all coverages must be rated no lower than A-by the most recent edition of Best's Key Rating Guide (Property-Casualty Edition).
2. All insurers for all coverages must have a Best's Financial Size Category of at least VIII according to the most recent edition of Best's Key Rating Guide (Property-Casualty edition).
3. All insurers must be admitted (licensed) in the state in which the concessioner is domiciled.

IV. **Certificates of Insurance.**
All certificates of Insurance required by this Contract must be completed in sufficient detail to allow easy identification of the coverages, limits, and coverage amendments that are described above. In addition, the insurance companies must be accurately listed along with their A.M. Best Identification Number ("AMB#"). The name, address and telephone number of the issuing insurance agent or broker must be clearly shown on the certificate of insurance as well.

Due to the space limitations of most standard certificates of insurance, it is expected that an addendum will be attached to the appropriate certificate(s) in order to provide the space needed to show the required information.

In addition to providing certificates of insurance, the concessioner, upon written request of the Director, must provide the Director with a complete copy of any of the insurance policies (or endorsements thereto) required herein to be maintained by the concessioner.

V. **Statutory Limits**
In the event that a statutorily required limit exceeds a limit required herein, the higher statutorily required limit will be considered the minimum to be maintained.

In addition to providing certificates of insurance, the concessioner, upon written request of the Director, must provide the Director with a complete copy of any of the insurance policies (or endorsements thereto) required herein to be maintained by the concessioner.

*Items marked with one asterisk are items which were not included in the draft contract, but were elements of the best offer.
**Items marked with two asterisks are elements that the Concessioner offered in their proposal.