



INSTRUCTIONS COMMERCIAL USE AUTHORIZATION APPLICATION



Haleakala National Park
P.O. Box 369
Makawao, HI 96768
Lahela Park, Acting CUA Coordinator
Phone Number: (808) 572-4440
Mobile Phone: (808) 268-2705

The following explanations correspond with the numbered items on the Application Form.
Please read this entire document prior to completing the application. Include the nonrefundable application fee when submitting this application.

1. Enter the service you are proposing to provide. These are the services which are currently approved in the park:

Service Type and Location	Number of Available CUAs *	What Must Be Submitted to Apply	Terms and Conditions Applicable to CUA
<u>Guided Hiking</u> : guided hiking within the area of the Park shown on Exhibit 1-Map	6	<ul style="list-style-type: none">Completed Application Form (OMB #1024-0268)Additional Information Required by Section III of Appendix 3: Park-specific InstructionsProof of Insurance compliance, PUC licenseApplication Fee	<ul style="list-style-type: none">Conditions of This AuthorizationAppendix 2: Special Park Conditions for Guided Hiking
<u>Astronomy Tours</u> : tours at the Haleakalā Visitor Center and Red Hill for celestial events and stargazing	4	<ul style="list-style-type: none">Completed Application Form (OMB #1024-0268)Additional Information Required by Section III of Appendix 3: Park-specific InstructionsProof of Insurance compliance, PUC licenseApplication Fee	<ul style="list-style-type: none">Conditions of This AuthorizationAppendix 1: Special Park Conditions for Astronomy tours

2. Respond "No" or list other parks where you will be providing this service.
3. Enter the legal name of your business. If you have a secondary name under which you are doing business (d.b.a.), please enter that name also.
4. Give the name(s) of persons designated as Authorized Agents for your business. This may include the on-site general manager responsible for day to day operations.
5. Provide contact information for both the main season and the off-season. Over the term of your authorization, it may be necessary to contact you to obtain or share information. Your contact information may also be published in the NPS Commercial Services Directory.
6. Check the box that identifies your type of business.
7. If the state in which you operate or the state where your business is domiciled requires a state business license, provide the license number and year of expiration.
8. Provide your Employer Identification Number (EIN). The Debt Collection Improvement Act of 1996 requires us to collect an EIN or Social Security Number (SSN). The NPS will not collect SSNs, only EINs. The EIN is issued by the Internal Revenue Service. You may receive a free EIN at <http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/How-to-Apply-for-an-EIN>. We will use the EIN that you provide as needed to collect debts.
9. Provide proof of General Liability Insurance naming the United States of America, as additional insured in the amounts designated in the application. Provide proof of vehicle/vessel/aircraft liability insurance, if required by law, or if visitors are transported by vehicle/vessel/aircraft within the Park, or if vehicle/vessel/aircraft are engaged in providing the service (i.e., hauling horses used in the activity). Insurance companies must be rated at least A- by the most recent edition of A.M. Best's Key Insurance Reports

(Property-Casualty edition) or similar insurance rating companies (Moody's, Standard and Poor's, or Fitch). Refer to "Attachment B".

10. Provide a description of and registration number of each vehicle/vessel/aircraft you will utilize during the course of the proposed commercial service.
 11. Provide copies of all licenses, vehicle/vessel registration, and certificates of training as required by "Attachment A".
 12. NPS Management Policy prohibits employees of the NPS and their spouses and minor children from acquiring or retaining any authorization for conducting commercial services in a park area.
 13. If your business or business owners or current employees or proposed employees have been convicted or are currently under charges for violation of State, Federal, or local law or regulation in the last 5 years, please give details (does not include minor traffic tickets).
 14. Fee Schedule and Payment: The National Park Service is required by law to charge a reasonable fee for issuance of a CUA, at a minimum to recover associated management and administrative costs. In addition, the National Park Service may charge fees to recover the costs for the maintenance and repair of park area resources impacted by the CUA Holder's activities
 - a. **Application Fee** represents the costs incurred by the National Park Service in mailing, distribution and initial review to make sure the information supplied is sufficient to form a decision. The Application Fee is due at the time the application is submitted. Applications submitted without the Application Fee will not be considered. The non-refundable application fee for this CUA is **\$300.00**
 - b. **Administration/Management Market Price Fee:** The market price fee is based on a three-tier scale (below) which determines the percentage you owe the park from the revenue you earned from in-park operations for the year. The Annual Report and the amount you owed to the park is to be received by the Park no later than close of business January 31, 2022 and 2023. The market price fee tier is as follows:
 - **< \$250,000 earned from park-based operations** – 3% of gross receipts (minus app fee)
 - **\$250,000 to \$500,000 earned from park-based operations** – 4% of gross receipts (minus app fee)
 - **> \$500,000 earned from park- based operations** – 5% of gross receipts (minus app fee)The application fee is required when you submit your application, but this amount is credited back to you if you are awarded an authorization when you pay the market price fee at the end of the year. In other words, the market price fee covers both the application fee and management fee.
- Write your Employer Identification Number on all checks. Fees may be paid through Pay.gov, cashier's check, certified check or money order and should be made payable to the National Park Service**
15. Please sign and date your application. If the person SIGNING this application is an Authorized Agent for the business, proof of signing authority must accompany this application.

Attachment A: List of Approved Services and Required Documentation

Attachment B: Insurance Requirements

Attachment C: Fee Schedule and Payment

Additional Information: The National Park Service has terms and conditions on all commercial service agreements. The following terms and conditions will apply to all Commercial Use Authorizations. There may be additional terms and conditions based on the services provided. These may include but are not limited to limits on locations, times, group size, and employee licenses and certifications and providing such information to the park superintendent for approval.

CONDITIONS OF THIS AUTHORIZATION

1. **False Information:** The holder is prohibited from knowingly giving false information. To do so will be considered a breach of conditions and be grounds for revocation: [RE: 36 CFR 2.32(a) (3)].
2. **Legal Compliance:** The holder shall exercise this privilege subject to the supervision of the park area Superintendent. The holder shall comply with all applicable laws and regulations of the area and terms and conditions of the authorization. The holder must acquire all permits or licenses of State or local government, as applicable, necessary to provide the services described above, and must operate in compliance with all applicable Federal, State, and local laws and regulations, including, without limitation, all applicable park area policies, procedures and regulations.
3. **Rates:** The holder shall provide commercial services under this authorization to visitors at reasonable rates and under operating conditions satisfactory to the area Superintendent.
4. **Liabilities and Claims:** This authorization is issued upon the express condition that the United States, its agents and employees shall be free from all liabilities and claims for damages and/or suits for or by reason of any injury, injuries, or death to any person or persons or property of any kind whatsoever, whether to the person or property of the holder, its agents or employees, or third parties, from any cause or causes whatsoever while in or upon said premises or any part thereof during the term of this authorization or occasioned by any occupancy or use of said premises or any activity carried on by the holder in connection herewith, and the holder hereby covenants and agrees to indemnify, defend, save and hold harmless the United States, its agents, and employees from all liabilities, charges, expenses and costs on account of or by reason of any such injuries, deaths, liabilities, claims, suits or losses however occurring or damages growing out of the same.
5. **Insurance:** Holder agrees to carry general liability insurance against claims occasioned by the action or omissions of the holder, its agents and employees in carrying out activities and operations under this authorization. The policy shall name the United States of America as additional insured. Holder agrees to have on file with the park copies of the above insurance with the proper endorsements.
6. **Fees:** Holder shall reimburse the park for all costs incurred by the park as a result of accepting and processing the application and managing and monitoring the authorization activity. Administrative costs for the application process must be paid when the application is submitted. Monitoring fees and any additional costs incurred by the park to support the commercial activity will be paid annually.
7. **Benefit:** No member of, or delegate to, Congress, or Resident Commissioner shall be admitted to any share or part of this authorization or to any benefit that may arise from this authorization. This restriction shall not be construed to extend to this Contract if made with a corporation or company for its general benefit.
8. **Transfer:** This authorization may not be transferred or assigned without the written consent of the park area Superintendent.
9. **Termination:** This authorization may be terminated upon breach of any of the conditions herein or at the discretion of the park area Superintendent.
10. **Preference or Exclusivity:** The holder is not entitled to any preference to renewal of this authorization except to the extent otherwise expressly provided by law. This authorization is not exclusive and is not a concession contract.
11. **Construction:** The holder shall not construct any structures, fixtures or improvements in the park area. The holder shall not engage in any groundbreaking activities without the express, written approval of the park area Superintendent.
12. **Reporting:** The holder is to provide the park area Superintendent upon request (and, in any event, immediately after expiration of this authorization) a statement of its gross receipts from its activities under this authorization and any other specific information related to the holder's operations that the park area superintendent may request, including but not limited to, visitor use statistics, and resource impact assessments.
13. **Accounting:** The holder is to maintain an accounting system under which its accounts can be readily identified within its system of accounts classification. This accounting system must be capable of providing the information required by this authorization. The holder grants the United States of America access to its books and records at any time for the purpose of determining compliance with the terms and conditions of this authorization.

- 14. Minimum Wage:** The holder is required to adhere to Executive Order 13658 – Establishing a Minimum Wage for Contractors. The implementing regulations, including the applicable authorization clause, are incorporated by reference into this contract as if fully set forth in this contract and available at <https://federalregister.gov/a/2014-23533>.

Exemption: Under Executive Order 13838, Executive Order 13658 shall not apply to contracts or contract-like instruments entered into with the Federal Government in connection with seasonal recreational services or seasonal recreational equipment rental for the general public on Federal lands, but this exemption shall not apply to lodging and food services associated with seasonal recreational services. Seasonal recreational services include river running, hunting, fishing, horseback riding, camping, mountaineering activities, recreational ski services, and youth camps.

- 15. Visitor Acknowledgment of Risks (VAR):** The holder is not permitted to require clients to sign a waiver of liability statement or form, insurance disclaimer, and/or indemnification agreement waiving the client's right to hold the CUA holder responsible for accidents or injury occurring on NPS property. The holder is permitted to request or require a client to sign a form or statement acknowledging risk and/or indicating that certain prerequisite skills may be needed to participate in the commercial activity. The holder must provide the park with the current copy of all forms and/or statements used for this purpose and obtain written approval by the park. A sample Acknowledgment of Risk form may be obtained by contacting the CUA office at 808-572-4440 or by going to the WASO CUA insurance webpage at: <https://www.nps.gov/subjects/cua/cua-insurance.htm>
- 16. Intellectual Property of the National Park Service:** Except with the written authorization of the Director of the National Park Service, the Holder shall not assert any legal claim that the Holder or any related entity holds a trademark, tradename, service mark or other ownership interest in the words "National Park Service", the initials "NPS", or official name of any unit or part thereof, including but not limited to any facility, logo, distinctive natural, archaeological, cultural, or historic site, within the National Park System, or any colorable likeness thereof, or the likeness of a National Park Service official uniform, badge, logo, or insignia.
- 17. Nondiscrimination:** The holder must comply with Applicable Laws relating to nondiscrimination in providing visitor services to the public and with all equal employment opportunity provisions of Title VII of the Civil Rights Act, as amended.

IMPORTANT: Before completing this application, please refer to the Application Instructions to verify that the service you are proposing is an approved commercial service. If the service you wish to provide is not listed on the table of approved commercial visitor services, contact us at the number above.



COMMERCIAL USE AUTHORIZATION APPLICATION



Haleakala National Park
P.O. Box 369
Makawao, HI 96768
Attn: Lahela Park Acting CUA Coordinator
Phone Number: 808-572-4440
Mobile- 808-268-2705

Some parks have additional requirements for businesses that offer services to visitors relating to the safety and welfare of the visitors and protection of the resources. These requirements may include applicable operating licenses, certificates showing proof of training, operating plans, emergency response plans, group size limitations, etc.

1. **Service for which you are applying:** *[attach diagram, attach additional pages, if necessary, include locations within the Park, frequency, estimated number of participants (per trip and annually), number of vehicles, support equipment (trailers, generators, etc.)]*

2. **Will you be providing this service in more than one park?** Yes ☐ No ☐ *If "Yes", list all parks and services provided.*

3. **Applicant's Legal Business Name:** *[Include any additional names (DBA) under which you will operate.]*

4. **Authorized Agents:** *(Name and title of owner, and any onsite person authorized to manage the operation or service.)*

5. **Mailing Addresses**

PRIMARY CONTACT INFORMATION *(Dates to contact you at this address, if seasonal.)*

Address:

City, State, Zip:

Email:

Website:

Day Phone:

Evening Phone:

Fax:

ALTERNATE CONTACT INFORMATION *(Dates to contact you at this address, if seasonal.)*

If same as "Primary Contact Information, check here ☐ and go to question 6.

Address:

City, State, Zip:

Email:

Website:

Day Phone:

Evening Phone:

Fax:

6. **What is your Business Type?** *(Please check one below)*

☐ Sole Proprietor

☐ Partnership *(Print the names of each partner. If there are more than two partners, please attach a complete list of their names.)*

Name:

Name:

☐ Limited Liability Company: (State: Entity Number:)

☐ Corporation: (State: Entity Number:)

☐ Non-Profit *(Please attach a copy of your IRS Ruling or Determination Letter)*

7. **State Business License Number:**

Expiration Date:

8. **Employer Identification Number (EIN):**

9. Liability and Vehicle Insurance:

Provide proof of insurance. The CUA operator must maintain General Liability insurance naming the United States of America as additional insured. Minimum coverage amount is \$500,000 per occurrence. Some activities will require increased coverage; see Park-Specific CUA Insurance Requirements ("Attachment B"). Auto Liability insurance is required, if applicable, in the minimum coverage amounts described below.

COMMERCIAL GENERAL LIABILITY INSURANCE

Single Purpose Activities (includes day and overnight hiking, photography and art classes, bicycling, and group camping)	\$500,000
Commercial Vehicle Insurance – Passenger Transport (bodily injury and property damage)	Minimum per Occurrence Liability Limits
Up to 6 passengers	\$1,000,000
7 – 15 passengers	\$1,500,000
16 – 25 passengers	\$3,000,000
26+ passengers	\$5,000,000

10. Will your business operate vehicles (car, truck, van, bus, taxicab, vessel, aircraft, etc.) within NPS boundaries?

Yes ☐ No ☐

If "Yes," please give a description of each vehicle. Use additional paper, if necessary. All vehicles are required to be registered and the operators are required to have the proper licenses to operate them commercially, as required by law or regulation.

Make/Model of Vehicle	License Number	Year	Max # Passenger Capacity	Own/Rent

Make of Aircraft	Tail Number	Max # Passenger Capacity	Own/Rent

Make/Model of Vessel	Registration Number or USCG Documentation	Length	Max # Passenger Capacity	Own/Rent

11. Employee Licenses and Certifications:

Parks typically require proof of applicable licenses, registrations and certificates of training, such as; valid driver's or pilot's license, fishing license, vessel registration, dive certification, CPR certification, or others. Provide copies of licenses and certifications required by "Attachment A".

12. NPS Employment:

Are you, your spouse, or minor children employed within the National Park Service?

Yes ☐ No ☐ If "Yes", please provide information below:

Employee Name: Title:

Park and Office Where Employed:

- 13. Violations:** To your knowledge, have you, your company, or any current or proposed employees been convicted or fined for violations of State, Federal, or local law within the last 5 years? Are you, your company, or any current or proposed employees now under investigation for any violations of State, Federal, or local law or regulation? See instructions.

Yes ☐ No ☐ If "Yes", please provide the following information. Attach additional pages, if necessary.

Date of violation or incident under investigation:

Name of business or person(s) charged:

Please identify the law or regulation violated or under investigation:

Please identify the State, municipality, or Federal agency that initiated the charges:

Additional Detail (optional):

(Results) Action Taken by Court:

- 14. Fee:** Please include the Application/Administrative Fee as outlined in Attachment C.

15. Signature:

False, fictitious or fraudulent statements of representations made in this application may be grounds for denial or revocation of the Commercial Use Authorization and may be punishable by fine or imprisonment (U.S. Code, Title 18, Section 1001). All information provided will be considered in reviewing this application. Authorized Agents must attach proof of authorization to sign below.

By my signature, I hereby attest that all my statements and answers on this form and any attachments are true, complete, and accurate to the best of my knowledge.

Signature

Date

Printed Name

Title

NOTICES

Privacy Act Statement

Authority: The authority to collect information on the attached form is derived from 16 U.S.C. 5966, Commercial Use Authorizations.

Purpose: The purposes of the system are (1) to assist NPS employees in managing the National Park Service Commercial Services program allowing commercial uses within a unit of the National Park System to ensure that business activities are conducted in a manner that complies with Federal laws and regulations; (2) to monitor resources that are or may be affected by the authorized commercial uses within a unit of the National Park System; (3) to track applicants and holders of commercial use authorizations who are planning to conduct or are conducting business within units of the National Park System; and (4) to provide to the public the description and contact information for businesses that provide services in national parks.

Routine Uses: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, records or information contained in this system may be disclosed outside the National Park Service as a routine use pursuant to 5 U.S.C. 552a(b)(3) to other Federal, State, territorial, local, tribal, or foreign agencies and other authorized organizations and individuals based on an authorized routine use when the disclosure is compatible with the purpose for which the records were compiled as described under the system of records notice for this system.

Disclosure: Providing your information is voluntary, however, failure to provide the requested information may impede the processing of your commercial use authorization application.

Paperwork Reduction Act Statement

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501), please note the following. This information collection is authorized by The Concession Management Improvement Act of 1998 (54 USC 101911). Your response is required to obtain or retain a benefit in the form of a Commercial Use Authorization. We will use the information you submit to evaluate your ability to offer the services requested and to notify the public what services you will offer. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget control number. OMB has assigned control number 1024-0268 to this collection.

Estimated Burden Statement

We estimate that it will take approximately 2.5 hours to prepare an application, including time to review instructions, gather and maintain data, and complete and review the proposal. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information Collection Officer, National Park Service, 12201 Sunrise Valley Drive, MS-242, Reston, VA 20192. Please do not send your completed form to this address; but rather to the address at the top of the form.

**APPENDIX 1 THROUGH 3
SPECIAL PARK CONDITIONS
COMMERCIAL USE AUTHORIZATION**

Appendix 1
Park-Specific Terms and Conditions for Astronomy Tours

ASTRONOMY: In addition to the Conditions of This Authorization, the holder of any Commercial Use Authorization authorizing astronomy tours shall comply with the following terms and conditions:

- Group size will be limited to a maximum of 12 people, including employees.
- Each authorized astronomy tour provider will have access to the summit district five days per week and could offer one trip per day.
- Astronomy tours will not be permitted to use the summit area at sunrise or during park-sponsored special evening programs.
- Annual Report Commercial Use Authorization must be completed annually and submitted by January 31, 2022 and 2023. The report template is here: [Required CUA reports](#)
- The CUA holder may not request or require Park visitors participating within the Park in astronomy tours to sign a liability waiver, insurance disclaimer, and/or indemnification. However, the CUA holder may require such Park visitors to sign an acknowledgement of risk form provided that acknowledgement of risk form is the NPS approved version ([Acknowledgment of Risk form](#)) or has been approved in writing by the Park superintendent.
- Transfers or assignments of the CUA prohibited without the written consent of the Park superintendent include (1) a transfer of the CUA holder's assets that permits the exercise of managerial authority over the actions and operations of the CUA holder; and (2) arrangements where the CUA holder employs or contracts with a third-party (other than an employee of the CUA holder) to operate and/or manage the visitor services authorized by this CUA.
- **Proof of Operating Authority:** The Holder shall provide proof of current operating authority from the Hawai'i Public Utilities Commission (PUC) and from the Department of Transportation (DOT) at the time of application. All vehicles must carry proof of state registration and insurance.

1. **Conduct of the Tour—Nighttime:**

- a. Nighttime activities shall commence no earlier than 1 hour prior to sunset. All tours must be completed no less than 2 hours prior to sunrise. Official sunrise/sunset times can be found at <http://www.bishopmuseum.org/planetarium/planetarium.html>
- b. Nighttime activities will be restricted to the following locations:
 - 1) Paved sidewalks at Haleakalā Visitor Center, Summit (Red Hill), and Kīpahulu Visitor Center.
- c. **Tours within the Park boundaries are limited to 3 vehicles, of which only 1 may be a support vehicle.**

- a. For safety reasons, tours may not utilize the following trails: Pā Ka`oao (White Hill), Keonehe`ehe`e (Sliding Sands), Leleiwi, and Halemau`u.
- b. Vehicle Headlights and flashlights should be turned off at all times once in an authorized and safe location.
- c. The Holder, or registered employee, trip leader, guide, operator, or representative of the business shall transport all clients into and out of the park and stay with all clients while within Park boundaries.

2. Operation Plan: The Holder is required to submit an Operation Plan to the National Park Service (NPS) summarizing the operations to be conducted, routes to be taken, products used/provided, safety plan of action, and methods of operation employed to prevent pollution and to reduce waste through source reduction and recycling. The operation plan is reviewed and approved/disapproved by the NPS. The NPS shall keep the operation plan on file and will become part of the record regarding the performance of this Authorization; Any routes not delineated in Exhibit 1 shall be provided to the NPS at least 30 days prior to the trip for approval. The operation plan will specifically include:

- i. Safety plan of action the Holder will implement in the event of accident or injury, including:
- ii. A list communication, first aid, and safety equipment to be carried by Holder on every trip.
- iii. certifications and trainings required of staff
- iv. protocols for all possible emergency scenarios

3. Endangered Birds On and Near the Road:

If a Nene or 'Ua'u is hit by a vehicle or injured in any other way, the Holder and/or employees, shall, upon discovery or awareness, immediately contact Park Dispatch (1-808-985-6170).

a. *Nene*:

- i. The Permittee shall inform all drivers that *Nene* are frequently on the Park's road and do not readily move when approached by vehicles. If there is a *Nene* on the road, drivers shall stop and allow the *Nene* to move away on its own.
- ii. The Permittee shall especially caution all drivers that *Nene* routinely suddenly appears from the bushes into the road and be especially vigilant of this behavior on foggy and/or rainy days.

b. *'Ua'u*:

- i. The Permittee shall inform all drivers *'Ua'u* nests occur along the roadside from MM 16.5 to the summit.
- ii. The *'Ua'u* are active at night within the Park, sometimes land on the road, and do not move when approached by vehicles.
- iii. Exhaust from vehicles may harm nesting *'Ua'u*.
- iv. If an *'Ua'u* is on the road, drivers should stop, call Park Dispatch directly and await instruction and assistance.
- v. *'Ua'u* are usually absent from the Park in December and January of each year.

4. Safety: Activities shall not block/hinder vehicular traffic flow on the roadways or “people flow” on sidewalks and trails or on handicap accessible routes. Activities may not take place within buildings or near building entrances/exit areas.

5. First Aid Requirements: The Holder, trip leader(s), guide(s), or operator(s) are required to possess current Advanced or First Responder first aid certification and CPR certification and will carry first aid equipment commensurate with the size of the group and training of leader(s), guide(s), or operator(s). The Holder shall ensure current copies of the Advanced or First Responder first aid certification(s) and CPR certification(s) are always on file in the Park Business & Revenue Office as a matter of record for this Authorization.

Appendix 2 *Park-Specific Terms and Conditions for Guided Hiking*

HIKING: In addition to the Conditions of This Authorization, the holder of any Commercial Use Authorization authorizing guided hiking shall comply with the following terms and conditions:

- A maximum of up to one guided hiking trip per day is authorized.
- Hiking tour providers will not be permitted to take groups up to the summit area at sunrise. After sunrise, hiking tour providers can park their vehicles at the Haleakalā Visitor Center and Red Hill, competing with noncommercial vehicles for available parking spaces.
- Exhibit 1 – Area where guided hiking is authorized on Summit District.
- Annual Report Commercial Use Authorization must be completed annually and submitted by January 31, 2022 and 2023. The report template is here: [Required CUA reports](#)
- The CUA holder may not request or require Park visitors participating within the Park in astronomy tours to sign a liability waiver, insurance disclaimer, and/or indemnification. However, the CUA holder may require such Park visitors to sign an acknowledgement of risk form provided that acknowledgement of risk form is the NPS approved version ([Acknowledgment of Risk form](#)) or has been approved in writing by the Park superintendent.
- Transfers or assignments of the CUA prohibited without the written consent of the Park superintendent include (1) a transfer of the CUA holder's assets that permits the exercise of managerial authority over the actions and operations of the CUA holder; and (2) arrangements where the CUA holder employs or contracts with a third-party (other than an employee of the CUA holder) to operate and/or manage the visitor services authorized by this CUA.
- Proof of Operating Authority: The Holder shall provide proof of current operating authority from the Hawai'i Public Utilities Commission (PUC) and from the Department of Transportation (DOT) as applicable. All vehicles must carry proof of state registration and insurance. All commercial vehicles that transport 7 or less passengers may display PUC number on the front and rear bumper; all larger vehicles must display PUC number on the side.

1. Conduct of the Tour:

- a. The Holder shall provide clients with a specific time and location for meeting at the start of the trip.
- b. The Holder shall not use the interior of any Visitor Center as a meeting location.
- c. The Holder shall advise visitors/clients to inspect their footwear and remove any dirt, debris, and seeds BEFORE entering the Park. This will also be included in company brochures and on the company website.
- d. Tours are limited to 12 people, including staff.
- e. The Holder, or registered employee, trip leader, guide, operator, or representative of the business shall transport all clients into and out of the park and stay with all clients while within Park boundaries.

- f. Tours within the Park boundaries are limited to 3 vehicles, of which only 1 may be a support vehicle.
- g. The Holder and their employees registered under this Authorization **shall only provide Guided Hiking Tours on designated trails**, as shown on the current Haleakalā National Park Official Map and Guide, enclosed with this Authorization. (Exhibit 1). Authorized trails on the Kipahulu District include the Pipiwai and Kuloa trails.
2. Damage to Natural/Cultural Resources: The Holder and their employees registered under this Authorization will ensure that no visitor/client disturbs, damages, or removes any natural/cultural resources, archeological or historic artifacts. Entering any closed area is prohibited by law.
 - a. If artifacts are discovered, the Holder shall ensure they are left in place undisturbed and will immediately report the discovery to the Park Dispatch (808) 985-6170.
3. Operation Plan: The Holder is required to submit an Operation Plan to the National Park Service (NPS) summarizing the operations to be conducted, routes to be taken, products used/provided, safety plan of action, and methods of operation employed to prevent pollution and to reduce waste through source reduction and recycling. The operation plan is reviewed and approved/disapproved by the NPS. The NPS shall keep the operation plan on file and will become part of the record regarding the performance of this Authorization; Any routes not delineated in Exhibit 1 shall be provided to the NPS at least 30 days prior to the trip for approval. The operation plan will specifically include:
 - a. Detailed maps with routes and campsites delineated.
 - b. Safety plan of action the Holder will implement in the event of accident or injury, including:
 - 1) A list communication, first aid, and safety equipment to be carried by Holder on every trip.
 - 2) Certifications and trainings required of staff
 - 3) Protocols for all possible emergency scenarios
4. First Aid Requirements: The Holder, trip leader(s), guide(s), or operator(s) are required to possess current Advanced or First Responder first aid certification and CPR certification and will carry first aid equipment commensurate with the size of the group and training of leader(s), guide(s), or operator(s). The Holder shall ensure current copies of the Advanced or First Responder first aid certification(s) and CPR certification(s) are always on file in the Park Business & Revenue Office as a matter of record for this Authorization.
5. Trip Itinerary: A minimum of **7 business days prior to each guided hiking tour** the Holder shall submit a completed Trip Itinerary. The Holder shall provide the completed trip itinerary either by Facsimile at (808) 572-4438 or by email to: Hale_Commercial_Manager@nps.gov
6. Emergency Response: The Holder shall report all emergencies such as accidents, fires, and search and rescues by calling 911 or to a Park Ranger or Park Dispatch by phone at (877) 428-6911.
 - a. The NPS shall arrange and direct any helicopter evacuation or other emergency or special operation.
 - b. The Holder shall assume financial responsibility for helicopter evacuation or other emergency or special operation when such service becomes necessary/is provided to a visitor/client of the tour.

7. Prohibited Activity: The Holder and their employees registered under this Permit are specifically prohibited from providing, conducting, engaging in, or effecting by any method of delivery, including by land, by water or by air, the following:
 - a. Traversing by vehicle anywhere other than on designated public roads.
 - b. Cutting and/or creating new trails in any form, by any means.
 - c. Marking trails by flagging or by use of marking paint of any kind, by any means.
 - d. Pets of any kind on guided hiking tours.
 - e. Filming or still photography by the Holder for **commercial purposes**. A separate Special Park Use Permit is required for this activity and can be obtained through the Park Business & Revenue Office.
 - f. Guided hiking service to any commercial film, research entity, or any agency without first ensuring the entity or agency possesses a valid Special Park Use Permit issued by the Park Business & Revenue Office.
 - g. Allowance of clients/visitors to enter waters within the park.
 - h. Providing alcohol products to any visitor/client.
8. Business Supplies and Materials: The Holder and their employees registered under this Authorization are authorized to carry into the Park only those supplies and materials necessary to support the duration of the tour. At the completion of the tour, all remaining supplies and materials will be removed immediately from the Park. The Holder shall not cache supplies and materials by any means, whatsoever, within the Park boundaries.
9. Storage: The Holder shall not store vehicles or other equipment overnight within the Park when not engaged in the commercial activity permitted by this Authorization.

Appendix 3

Park-Specific Application Instructions: CUAs authorizing Guided Hiking and Astronomy Tours

I. GENERAL INFORMATION

1. The National Park Service is prohibited by Federal law from issuing CUAs other than to an eligible applicant and then only if specified criteria are met. The criteria for issuance of CUAs and the limitations on their use has been set by Congress in a law codified at 16 U.S.C. §5966 (recently re-codified as 54 U.S.C. §101925) *available at* <http://www.gpo.gov/fdsys/>. Among other things, the National Park Service must determine that the commercial service will have minimal impact on resources and values of the unit of the National Park System and are consistent with the purpose for which the unit was established and with all applicable management plans and park policies and regulations. In addition, the National Park Service is required to include terms and conditions in CUAs that address specified statutory criteria, including (for example) the preservation and conservation of park resources and values, protection of visitors, the liability of the United States arising from authorized services, and fees to be paid in connection with the CUA. The National Park Service is prohibited by law from issuing more CUAs than are consistent with the preservation and proper management of park resources and values
2. The levels and types of commercial tour services that are appropriate in the non-wilderness areas of Haleakala National Park and that meet the eligibility criteria for authorizations under available legal authorities are identified in the Park's Commercial Services Plan, *available at* www.nps.gov/hale/parkmgmt. Some of the limitations set in that Commercial Services Plan are on hiking and astronomy tours. Both types of tours may be authorized by CUAs but the number of CUAs available for issuance is limited: for hiking tours, the number of CUAs may not exceed 2009 levels and for astronomy tours, the number may not exceed four. Additional conditions on those two types of commercial services also are set in the Commercial Services Plan
3. No more than one CUA per activity will be issued to an Applicant (inclusive of its individual owners and employees). However, Applicants can apply for and receive CUAs for more than one type of activity.
4. Federal law limits the duration of any CUA to a maximum of 2 years. The duration and date of expiration of any CUA issued to an applicant will be specified in the CUA. The law prohibits any preferential right of renewal or similar provisions for renewal of a CUA.
5. If the business is a non-profit that will not be generating taxable income from the activity, then you are not required to obtain a CUA. Non-profit entities may be required to obtain a Special Use Permit for their activity even if they are not required to obtain a CUA. Please contact the park for additional information concerning this issue.
6. Each authorization must be licensed by the State of Hawaii. Please contact the Maui County Business Resource Center at: (808) 873-8247 or get more information online at <http://www.co.maui.hi.us>

7. An Application for a guided hiking or astronomy tour CUA will be considered complete when the applicant has submitted the Following:

- (a) All of the information required on the Application Form.
- (b) All of the Additional Information Required for Application identified in Section III of this Appendix 3.
- (c) Proof of insurance compliance for general liability and vehicle insurance, naming the United States of America, National Park Service, as additionally insured in the amounts designated in the application. Vehicle insurance must be for the vehicle to be used for the authorized tours.
- (d) Application Fee of \$300.

Completed applications should be sent by email to the [HALE Commercial Manager@nps.gov](mailto:HALE_Commercial_Manager@nps.gov), or by regular or express mail or other means of method of delivery providing for overnight delivery to:

Haleakalā National Park
Attention: Business and Revenue Fee and Commercial Specialist
PO Box 369
Makawao, HI 96768

8. An Application for a guided hiking or astronomy tour CUA will be considered timely if it reaches the Park Business & Revenue Program Manager by the deadline. All information must be received in our office **by December 21, 2020**.
9. If a CUA is awarded, the CUA Holder is required to report activity levels and remit payment:
- (a) **Annual Reporting** – Annual Report Commercial Use Authorization (NPS Form 10-660)– Due annually by January 31, 2022 and 2023
 - (b) **Administration and Management Market Price Fee** - The market price fee is based on a percentage of your revenue earned from in-park or park-based operations.
10. All requests for this CUA will receive a response from our office. If the Application results in award, the CUA will be mailed to the Applicant for signature.

II. MULTI-LEVEL NPS QUALIFICATION AND AWARD PROCESS

The number of CUAs available for issuance is limited: for hiking tours, the number of CUAs may not exceed six and for astronomy tours, the number may not exceed four. A multi-step process will be used to select the applicants to whom the available CUAs will be issued.

In the first step of the selection process, applications will be reviewed for completeness and timely submission (as specified above).

Applications that are determined in the first step of the selection process to be complete and to be timely submitted ("Qualifying Application(s)") qualify, depending on their number, either for issuance

of a CUA or further consideration in a second step, or round, of the selection process. If the number of Qualifying Applications is equal to or less than the total number of CUAs available for a particular type of commercial service, then a CUA will be issued to each of the applicants who submitted a Qualifying Application. If, however, the number of Qualifying Applications is greater than the total number of CUAs available for issuance for that type of commercial service, there will be a second step to the selection process.

In the second step of the selection process, Qualifying Applications will be evaluated and their relative qualities assessed on the following factors (discussed more fully below, in section III), each of which is equally important:

- (1) Resource Protection
- (2) Visitor Safety
- (3) Relevant Experience
- (4) Submission of Operating Plan.

The Qualifying Applications will be ranked by the National Park Service in an order that reflects this evaluation and assessment. CUAs then will be issued to the top ranked applicants in order of their ranking and in number corresponding to the number of available CUAs.

III. ADDITIONAL INFORMATION REQUIRED FOR APPLICATION: NARRATIVE RESPONSE

Provide in writing the following information:

- (1) **Resource Protection** – The Park is prohibited by law from issuing more CUAs than are consistent with the preservation and proper management of Park resources and values. One objective of the Park in evaluating this is to assure the protection of fragile and sensitive terrestrial resources.
 - (a) Describe any formal or informal training, education, and/or experience that you have obtained about the National Park Service and specifically, Haleakala National Park.
 - (b) What experience, training and/or certification do you have in the realm of environmental ethics and practices (e.g. Leave No Trace training). *Proper certificates or course completion documents for owners and/or employees must be submitted to receive full consideration.*
 - (c) Describe the manner and content of marine bird, mammal, and wildlife protection orientation you will provide to clients and guides.
- (2) **Visitor Safety** – The Park is concerned, among other things, about the safety of visitors.
 - (a) Describe the safety record of your company. How many incidents per thousand clients in the past five years have you had? List injuries, severity of injuries, and how many times you required professional emergency medical care to assist clients.
 - (b) What formal processes/procedures do you employ onsite to reduce risk on a daily basis? What environmental indicators do you assess to determine if the activity can be carried out and how do you assess client ability prior to undertaking the activity? Provide the list of equipment that will be issued to each client. Will that list change be based on weather? If so, how?

- (c) Provide two examples that demonstrate your ability to safely manage incidents and emergencies that minimized injury, natural resource or equipment loss.
 - (d) What type and level of training do your guides receive relating to emergency medical treatment and CPR, group management, and industry standards of service? *Proper certificates or course completion documents must be submitted to receive full consideration.*
 - (e) How many guides do you employ? How many of these guides are considered advanced level guides and what is their average number of years of experience? Provide resumes of key individuals that you will employ. Specifically identify the manager and describe their decision-making authority. The Park will evaluate key personnel qualifications and experience based on scope, magnitude, and relevance to the work that will be authorized under the CUA.
- (3) **Relevant Experience:** The Park is looking for a business entity that has experience and competence in providing guided Astronomy or Hiking services with sufficient financial resources to meet the requirements of the authorization.
- (a) Provide the total number of years that your company has provided guided tours. In your response, provide specific examples of relevant experience in providing guided tours in remote areas. Where has your company provided these guided services? What types of sea and weather conditions were encountered? What are your company's weather condition cancellation parameters?
 - (b) What experience does your company have in guiding excursions? Where was this experience gained? How many years of experience?
 - (c) In the last 5 years has your company held any previous business guided Astronomy or Hiking permit with any public agency (submit proof)? If yes, has that permit ever been revoked? Why?
- (4) **Operating Plan.** Applicant must prepare an **Operating Plan**. The **Operating Plan** will be reviewed for compatibility with the guidelines for commercial services, interpretation, and resource protection at the Park. CUAs will not be issued and trips must not begin until the Operating Plan has been approved. The CUA Holder will be required as a condition of the CUA to comply with the approved Operating Plan.

The **Operating Plan**, at a minimum, should include:

- (a) Explanation of services to be provided.
- (b) Beginning and ending dates of service.
- (c) Copy of your rate sheet.
- (d) Average and maximum size of group(s) for each type of activity planned.
- (e) Qualifications roster of individuals guiding in the Park.
- (f) Outline of environmental education information that will be provided to your clients.
- (g) Describe your accident prevention program, including safety and/or sanitation precautions/procedures that apply to your service.
- (h) Explanation of the procedures to be taken in case of accidents or other emergencies.

- (i) Visitor Acknowledgement of Risk Form. (if applicable) This form must meet the requirements of the National Park Service approved form. Please see the Application Instructions and the draft CUA for more information.
- (j) Resource protection measures including measures/guidelines that will be taken to avoid impacts to ecosystem.
- (k) Visitor experience measures, including measures/guidelines that will minimize impacts on other park visitors (e.g. non-guided star gazers, or hikers)

ATTACHMENT A

Authorized Services & Required Licenses, Registrations and Training Certificates

AUTHORIZED COMMERCIAL SERVICE	REQUIRED DOCUMENTATION
Guided Hiking	<ul style="list-style-type: none">• Current Advanced or First Responder first aid certification• CPR certification• Leave No Trace• ID badges• Proof of operating authority (PUC and DOT licenses)• Liability and vehicle insurance
Astronomy	<ul style="list-style-type: none">• Current Advanced or First Responder first aid certification• CPR certification• Proof of operating authority (PUC and DOT licenses)• Liability and vehicle insurance

Refer to the rest of the application for any additional documentation required.

ATTACHMENT B CUA Insurance Requirements

Commercial General Liability (CGL) Insurance

Liability insurance is required for all CUA holders under the terms of the authorization. Such insurance should be of sufficient scope to cover all potential risks and in an amount to cover claims that can reasonably be expected in the event of serious injury or death. The minimum liability insurance is \$1,000,000.00.

REQUIRED GENERAL LIABILITY INSURANCE: INCREASED COVERAGE AMOUNTS FOR GUIDED HIKING AND ASTRONOMY CUAs

Service Description	Minimum per Occurrence Liability Limits
Guided Hiking	\$1,000,000
Astronomy	\$1,000,000

Liability insurance policies must name the United States of America as additional insured. The business or person that is providing the service must be the named insured (policy holder).

Automobile Liability Insurance

If a CUA holder transports passengers or uses a vehicle in the performance of the service in the park, they are required to have Automobile Liability insurance. The auto liability insurance must include coverage of "owned, leased, rented or hired" vehicles if the CUA holder rents or leases vehicles. The minimum commercial auto liability insurance for passenger transport is reflected in the following table:

Commercial Vehicle Insurance – Passenger Transport (bodily injury and property damage)	Minimum per Occurrence Liability Limits
Up to 6 passengers	\$1,000,000
7 – 15 passengers	\$1,500,000
16 – 25 passengers	\$3,000,000
26+ passengers	\$5,000,000

Commercial auto insurance provides:

1. Liability insurance, which includes coverage for bodily injury, property damage, uninsured motorists, and underinsured motorists;
2. Physical damage insurance, which includes collision insurance; and;
3. Other coverage, which includes medical payments, towing and labor, rental reimbursement, and auto loan coverage.

Taxis that do not provide tour services are only required to have Auto Liability insurance. The Commercial General Liability covers out of vehicle activities and taxis do not provide out of vehicle activities.

Insurance Company Minimum Standards

The NPS has established the following minimum insurance **company** requirements. All insurance companies must meet the following minimum standards. These standards apply to foreign insurance companies as well as domestic companies.

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), or similar insurance rating companies (Moody's, Standard and Poor's, or Fitch), unless otherwise authorized by the Service.
2. All insurers for all coverages must have Best's Financial Size Category of at least VII according to the most recent edition of Best's Key Rating Guide (Property-Casualty edition), or similar insurance rating companies (Moody's, Standard and Poor's, or Fitch), unless otherwise authorized by the Service.
3. The insurance ratings must be submitted with the CUA Application. The rating companies do not issue certificates. We require the insurance broker to note this rating in the Certificate. If the rating does not appear on the certificate, the insurance broker must provide it in another document.

Proof of Insurance Submission

Applicants must submit proof of insurance with the CUA Application. The proof of insurance must:

- ☐ Be written in English with monetary amounts reflected in USD
- ☐ Reflect that insurance coverage is effective at time of CUA Application submission
- ☐ Name as insured the business or person that is providing the service
- ☐ Name the United States as additional insured
- ☐ Reflect a General Commercial Liability Policy with the minimum coverage amount required in the CUA Application
- ☐ Reflect required additional insurances (commercial vehicle, vessel, aircraft, etc.) with the minimum coverage amount required in the CUA Application
- ☐ Include insurance provider rating or provide in separate document

ATTACHMENT C Fee Schedule and Payment Information

Fee Schedule and Payment: The National Park Service is required by law to charge a reasonable fee for issuance of a CUA, at a minimum to recover associated management and administrative costs. In addition, the National Park Service may charge fees to recover the costs for the maintenance and repair of park area resources impacted by the CUA Holder's activities

- a. **Application Fee** represents the costs incurred by the National Park Service in mailing, distribution and initial review to make sure the information supplied is sufficient to form a decision. The Application Fee is due at the time the application is submitted. Applications submitted without the Application Fee will not be considered. The non-refundable application fee for this CUA is **\$300.00**
- b. **Administration/Management Market Price Fee:** The market price fee is based on a three tier scale (below) which determines the percentage you owe the park from the revenue you earned from in-park operations for the year. The Annual Report and the amount you owed to the park is to be received by the Park no later than close of business January 31, 2022 and 2023. The market price fee tier is as follows:
 - **< \$250,000 earned from park-based operations** – 3% of gross receipts (minus app fee)
 - **\$250,000 to \$500,000 earned from park-based operations** – 4% of gross receipts (minus app fee)
 - **> \$500,000 earned from park-based operations** – 5% of gross receipts (minus app fee)

The application fee is required when you submit your application, but this amount is credited back to you if you are awarded an authorization when you pay the market price fee at the end of the year. In other words the market price fee covers both the application fee and management fee.

Write your Employer Identification Number on all checks. Fees may be paid through credit card, cashier's check, certified check or money order and should be made payable to the National Park Service.