

EXHIBIT 10**ASSIGNMENTS AND ENCUMBRANCES****SEC. 1. DEFINITIONS**

In addition to the defined terms in the Agreement, the following definitions apply to this Exhibit:

A controlling interest in the Agreement means an interest, beneficial or otherwise, that permits the exercise of managerial authority over the Operator's performance under the terms of the Agreement and/or decisions regarding the rights and liabilities of the Operator.

A controlling interest in the Operator means, in the case of corporate entities, an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the Operator or related entities that permits the exercise of managerial authority over the actions and operations of the Operator. A "controlling interest" in the Operator also means, in the case of corporate entities, an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the Operator or related entities to permit the election of a majority of the Board of Directors of the Operator. The term "controlling interest" in the Operator, in the instance of a partnership, limited partnership, joint venture, other business organization or individual entrepreneurship, means ownership or beneficial ownership of the assets of the Operator that permits the exercise of managerial authority over the actions and operations of the Operator.

SEC. 2. ASSIGNMENTS REQUIRING THE APPROVAL OF THE DIRECTOR

The Operator may not assign, sell, convey, grant, contract for, or otherwise transfer (such transactions collectively referred to as "assignments" for purposes of the Agreement), without the prior written approval of the Director, any of the following:

- (a) The Agreement;
- (b) Any controlling interest in the Operator or the Agreement; or
- (c) Any rights to compensation under the Agreement.

SEC. 3. ENCUMBRANCES REQUIRING THE APPROVAL OF THE DIRECTOR

The Operator may not encumber, pledge, mortgage or otherwise provide as a security interest for any purpose (such transactions collectively referred to as "encumbrances" for purposes of the Agreement), without the prior written approval of the Director, any of the following:

- (a) The Agreement;
- (b) Any rights to operate under or manage performance under the Agreement as a Suboperator or otherwise;
- (c) Any controlling interest in the Operator or the Agreement; or
- (d) Any rights to compensation under the Agreement.

SEC. 4. REQUIRED DETERMINATIONS FOR APPROVAL OF AN ASSIGNMENT OR ENCUMBRANCE

Approvals of assignments or encumbrances are subject to the following determinations by the Director:

- (a) That the purpose of an encumbrance on any rights to compensation under the Agreement is either to finance the construction of real property improvements under the Agreement in the Park or to finance the purchase of the Agreement. An encumbrance of a right to compensation under the Agreement may not be made for any other purpose, including providing collateral for other debt of the Operator, the parent of the Operator, or an entity related to the Operator;
- (b) That the encumbrance does not purport to provide the creditor or assignee any rights beyond those provided by the Agreement, including any rights to conduct business in the Park except in strict accordance with the terms and conditions of the Agreement;

- (c) That the encumbrance does not purport to permit a creditor or assignee of a creditor, in the event of default or otherwise, to begin operations under the Agreement or through a designated operator unless and until the Director determines that the proposed operator is a qualified entity as defined in 36 C.F.R. part 52;
- (d) That an assignment or encumbrance does not purport to assign or encumber assets that are not owned by the Operator, including Park entrance, user day, or similar use allocations made by the Director;
- (e) That the assignment is to a qualified entity as defined in 36 C.F.R. part 52;
- (f) That the assignment or encumbrance would not have an adverse impact on the protection, conservation or preservation of Park resources;
- (g) That the assignment or encumbrance would not have an adverse impact on the provision or quality of necessary and appropriate facilities and services to visitors; and
- (h) That the assignment or encumbrance would not have an adverse impact on the expansion, modernization, and improvement of the condition of the commercial facilities and services provided to visitors in the Park.

SEC. 5. ASSIGNMENTS OR ENCUMBRANCES COMPLETED WITHOUT DIRECTOR APPROVAL

Assignments or encumbrances completed without the prior written approval of the Director will be considered as null and void and a material breach of the Agreement which may result in termination of the Agreement for cause. No person will obtain any valid or enforceable rights in the Operator, in the Agreement, or to compensation, if acquired in violation of the requirements of this Exhibit.

SEC. 6. DEFAULT ON AN APPROVED ENCUMBRANCE

In the event of default on an encumbrance approved by the Director in accordance with the Agreement, the creditor, or an assignee of the creditor, may succeed to the interests of the Operator only to the extent provided by the approved encumbrance and the terms and conditions of the Agreement.

SEC. 7. WRITTEN REQUEST FOR DIRECTOR APPROVAL OF ASSIGNMENTS OR ENCUMBRANCES

Before completing any assignment or encumbrance which may be considered to be the type of transaction described in this Exhibit, the Operator must apply in writing for approval of the transaction by the Director.

SEC. 8. INFORMATION REQUIRED FOR DIRECTOR APPROVAL OF ASSIGNMENTS OR ENCUMBRANCES

An application for the Director's approval of an assignment or encumbrance will include, to the extent applicable and required by the Director in the circumstances of the particular transaction, the following information in such detail as the Director may specify in order to make the determinations required by Section 4 of this Exhibit:

- (a) All instruments proposed to implement the transaction;
- (b) A narrative description of the proposed transaction;
- (c) A statement as to the existence and nature of any litigation relating to the proposed transaction;
- (d) A description of the management qualifications, financial background, and financing and operational plans of any proposed assignee;
- (e) A detailed description of all financial aspects of the proposed transaction;
- (f) Prospective financial statements (proformas);
- (g) A schedule that allocates in detail the purchase price (or, in the case of a transaction other than an asset purchase, the valuation) of all assets assigned or encumbered. In addition, the applicant must provide a description of the basis for all allocations and ownership of all assets; and
- (h) Such other information as the Director may require to make the determinations required by Section 4 of this Exhibit.

SEC. 9. CONTENT OF STANDARD PROFORMAS

Operators are encouraged to submit standard prospective financial statements (proformas) pursuant to this Exhibit. A "standard proforma" is one that:

- (a) Provides projections, including revenues and expenses that are consistent with the Operator's past operating history unless the proforma is accompanied by a narrative that describes why differing expectations are achievable and realistic;
- (b) Assumes that any loan related to an assignment or encumbrance will be paid in full by the expiration of the Agreement unless the proforma contains a narrative description as to why an extended loan period is appropriate. The narrative description must include identification of the loan's collateral after expiration of the Agreement; and
- (c) Assumes amortization of any intangible assets assigned or encumbered as a result of the transaction over the remaining term of the Agreement unless the proforma contains a narrative description as to why such extended amortization period is appropriate.

SEC. 10. GENERAL PROVISIONS

- (a) In deciding whether to approve an assignment or encumbrance, the Director will consider the proformas, all other information submitted by the Operator, and other information available to the Director.
- (b) In approving an assignment or encumbrance, the Director has no duty to inform any person of any information the Director may have relating to the Agreement, the Park, or other matters relevant to the Agreement or the assignment or encumbrance. In addition, in approving an assignment or encumbrance, the Director makes no representations of any nature to any person about any matter, including the value, allocation, or potential profitability of the Agreement or assets of the Operator. No approval of an assignment or encumbrance may be construed as altering the terms of the Agreement unless expressly so stated by the Director in writing.
- (c) The Director will not amend the Agreement for the purpose of facilitating an assignment or encumbrance. The Director will not make any commitments regarding rates to the public, Agreement terms, or any other matter, for the purpose of facilitating an assignment or encumbrance.
- (d) The Director will not open to renegotiation or modify the terms of the Agreement as a condition to the approval of an assignment or encumbrance. The exception is if the Director determines that renegotiation or modification is required to avoid an adverse impact on the protection, conservation or preservation of the resources of the Park or an adverse impact on the provision of necessary and appropriate visitor services.