

Appendix C
Third Party Sale Agreement Template
Agreement Number [XXXXXXXXXXXX]

VENDOR AGREEMENT –
Third Party Local

[PARK NAME]
National Park Service (“NPS”)

And

[ORGANIZATION or COMPANY NAME] (“Organization”)

RECITALS

- A. Local vendor agreements for third party sales are used to increase the convenience of purchasing Interagency Annual Passes, NPS park specific annual passes or preprinted entrance receipts and are an important component of the NPS Recreation Fee Program. The objective of this Agreement is to ensure consistent and efficient means of authorizing, managing and marketing third party retail sales of the “America the Beautiful – the National Parks and Federal Recreational Lands Annual Pass (Interagency Annual Pass), “[PARK NAME] Annual Pass” and/or “Preprinted - [# OF DAYS] Day Entrance Receipts” [hereafter collectively referred to as “Pass(es)”].

In addition, local third-party vendor agreements serve as a positive partnership between the federal government and private commercial businesses to achieve benefits such as:

1. Increasing opportunities for education about national parks.
 2. Promoting support for and stewardship of national parks.
 3. Providing convenient public sales outlets for the Passes.
 4. Enhancing opportunities for eco-travel and tourism commerce related to national parks.
- B. The government reserves the right not to enter into an agreement with a business or organization that does not support the stated purpose and objectives for this Agreement, or that is not in keeping with the mission of the National Park Service and [PARK NAME].
- C. [ORGANIZATION – Insert the NAME OF ORGANIZATION, ADDRESS, and a brief description of purpose, mission, how supports or affiliates with recreation lands, etc.]

- D. Pursuant to the stated objectives above, this Agreement is entered into with [ORGANIZATION] under the authority of the Federal Lands Recreation Enhancement Act of 2004, 16 USC 6801-6814 *et seq.*, as well as other National Park Service and departmental authorities supporting promotion and protection of public lands.
- E. The Federal Lands Recreation Enhancement Act established the name of the Interagency Annual Pass as the “America the Beautiful – the National Parks and Federal Recreational Lands Pass.” The phrase “America the Beautiful” is trademarked; therefore, except as provided for in this Agreement, using it or an abbreviated acronym such as “ATB” is not permitted.
- F. [ORGANIZATION] must be domiciled in the United States and must have and continuously maintain a valid, current business license, permit or other legal authorization required to operate and to conduct retail sales. [ORGANIZATION] shall furnish copies of such legal authorization to the NPS upon initial application for this Agreement, and at any time upon written request by an authorized employee of the NPS.

AGREEMENT

ARTICLE I Responsibilities of the Parties

A. NPS agrees to:

1. Provide accurate product and supplemental materials in a timely manner through its fulfillment center at the USGS. Occasional unforeseen delays in supply chain production and/or delivery may occur, which may be related to labor disputes or other staffing shortages, severe weather, natural disasters/pandemics, lapses in federal appropriations etc. NPS will notify the Organization as soon as possible of such delays. NPS bears no responsibility for any additional costs or losses incurred as a result of delays in product delivery.
2. All Passes are accountable property coded with unique serial numbers. Information indicating the serial numbers of the Passes within bulk shipments will be provided to the Organization with each shipment.
3. Provide the Organization with accurate general information and prompt responses to questions about the Passes through the contact listed in Article VII.A.
4. Provide high resolution image(s) of the Passes and collateral material upon request by the Organization for approved promotion(s).

B. The Organization agrees to sell the Passes according to the following business rules:

1. Pass Rules, Sales and Validation Procedures

- a. During the term of this Agreement, the Organization is authorized to sell Passes through its retail locations.
- b. The Organization is NOT authorized to sell any Passes through any website.
- c. The Organization is not authorized to duplicate any of the Passes for resale.
- d. When available, the Organization shall issue supplemental materials to each customer, which for the America the Beautiful – the National Parks and Federal Recreational Lands Annual Pass shall include a brochure and hangtag, and [LIST ANY OTHER MATERIALS TO BE ISSUED HERE (I.E. MAPS, REGULATIONS)] to be provided by NPS, in conjunction with each Pass sold by the Organization.
- e. Employees and representatives of The Organization will advise its customers of the following Pass regulations: (a) each individual who purchases an [INSERT NAME OF PASS HERE] is required to sign the back of the pass and present identification at sites where the pass is accepted; (b) all Passes are non-transferable and non-replaceable if lost or stolen; (c) Interagency Annual Passes may not be extended past their expiration date; (d) Representations of the pass are prohibited and will not be accepted for entry in lieu of the physical pass (for example, copies, scans, app that displays pass information or vouchers).
- f. The Organization must validate each annual Pass at the time of sale. All [INSERT NAME OF PASS HERE] sold will be punched with the current month through the end of the current month. The Organization will validate all Preprinted [# OF DAYS] Day Entrance Receipts by writing the purchase and expiration date on the pass at time of sale.
- g. The Organization is required to use hole punches that punch a hole no larger than 1/8 of an inch for all annual passes.
- h. No returns/refunds of annual Passes by customers will be allowed once the Pass has been punched and signed. The Organization's promotional materials shall advise consumers that all Passes are non-refundable.
- i. All [INSERT NAME OF PASS HERE] will be sold with a full 12 months of use from the month of purchase. Passes will not be sold after December 31 of the year in which they were issued (e.g., 2022 Passes **cannot be sold** after December 31, 2022).
- j. The Organization will not charge any sales tax on the sale of any Pass.
- k. The Organization will provide a main point of contact for Pass sales to NPS pursuant to Article VII of this Agreement.
- l. Unless specified in this agreement, subsidiaries and/or subcontractors providing fulfillment to other companies or other third-party agreements (including management agreements) for the provision of Pass sales/promotions are not permitted.

2. Marketing and Promotion

- a. NPS reserves the right to review and approve any advertising, publicity or other material prepared by the Organization (the “Organization Materials”) for any promotional campaign for public distribution. The Organization shall promptly provide NPS notice any time that a promotional campaign is planned or predicted. NPS shall then promptly provide notice to the Organization if further review is required. Granting of approval may be based on whether the Organization Materials, in the sole reasonable discretion of the NPS, properly reflects U.S. Government agency missions; conveys an educational message; promotes appropriate and responsible behavior at federal recreation sites and/or encourages continued public support and preservation of public lands.
- b. By entering this Agreement, NPS does not directly or indirectly endorse any product or service provided or to be provided by the Organization, its successors, assignees or licensees. The Organization shall not in any way imply that this Agreement is an endorsement of any product or service.
- c. During the term of this Agreement, and solely in furtherance of sales of the Passes, the Organization shall be permitted to reproduce a graphic of the Passes, in the form attached hereto as Exhibit A [and/or EXHIBIT B...] pursuant to the license in Article IV of this Agreement.
- d. The Organization will not publicize or otherwise circulate promotional material related to Passes (such as advertisements, sales brochures, press releases, speeches, still or motion pictures, articles, manuscripts, or other publications) that state or imply U.S. governmental, departmental, bureau, NPS, or government employee endorsement of a product, service, or position that the Organization represents. No release of information relating to this Agreement may state or imply that the U.S. Government or NPS approves of the Organization’s work or product or considers The Organization’s work or product to be superior to other products or services.
- e. The Organization shall attempt to inform potential customers, either directly or via written materials, that they may be eligible for other Interagency Passes, thereby avoiding potential customer service problems. Language to be used and/or displayed by the Organization shall include the following statement and hyperlink:

"The Annual Pass is just one of several Pass options available. If you are a U.S. citizen or permanent resident age 62 or older, have a permanent disability, are a student in the 4th grade, or are on active duty in the U.S. Military, a military veteran or a Gold Star Family member, you may qualify for other passes. For more information contact your local participating federal recreation site, or visit the webpage <https://store.usgs.gov/recreational-passes>."

- f. Security of Privacy Information. The recording of a customer's personal information is only allowed when it is necessary for the completion of a sales transaction. The Organization is solely responsible for providing adequate protection to ensure that the information is secure from theft or misuse. Personal information collected may not be sold or given to any other entity, except as required for the explicit purpose of Pass sales, including but not limited to payment processing, fulfillment, and delivery services. If the Organization uses any information collected from a Pass sale in an internal marketing campaign, the Organization will give the customer an option to opt out of any future communication. Breaches of Organization security in which customer's personal information is or may be released to others or unlawfully obtained by others must be reported to the NPS within 5 business days.
- g. The obligations set forth in Article I.B.2 hereof shall survive the termination of this Agreement.

B) Pass Price; Organization Re-Sale

- 1) The Organization shall offer the America the Beautiful – the National Parks and Federal Recreational Lands Annual Pass to its customers for \$80.00, the [PARK NAME] Annual Pass for a price of [PRICE] and the Preprinted [# OF DAYS] Day Entrance Receipt for a price of [PRICE].
- 2) The Organization may not add any additional fees, including but not limited to processing or administrative fees, to the price of a Pass.
- 3) NPS shall not change the wholesale price of the Passes without giving the Organization written notice at least thirty (30) day in advance of such change.
- 4) *Value-Added Promotions*. "Value-added" promotions, where Passes may be packaged for sale with other appropriate items, are allowed, provided that:
 - (1) In addition to any packaged offer the Pass must also be available as a stand-alone product at a price equivalent to the face value.
 - (2) All products or services packaged with a Pass must be approved by the NPS and promote its mission.
 - (3) Items included in the promotion must be appropriate for all audiences. Examples of appropriate items are cameras, hotel stays, backpacks, wildlife calendars, outdoor recreational equipment or clothing, etc.
 - (4) Items packaged with the Pass must be clearly promoted as being added by the Organization, and do not imply any approval or endorsement by the Government.
 - (5) All Organization materials shall prominently list that the retail value of the Pass at the face value.
- 5) Pass giveaways – purchasing Passes at a discount for the purpose of gifting or providing them to others for free is not permitted under this agreement.

C) Ordering

- a. All Passes will be provided to the Organization by NPS.
- b. The Organization may make payment for all Passes via approved credit card, or in U.S. funds by check or money order at the time orders are placed or upon product receipt. Payment of all previous orders must be received before additional orders may be placed.
- c. Interagency Annual Passes will be sold to the Organization at a wholesale rate of [\$80.00 OR \$72.00], [PARK NAME] Annual Pass for a price of [PRICE] and the Pre-paid [# OF DAYS] Day Entrance Pass for a price of [PRICE].
- d. Exchange of Stock for Pre-Purchased Passes
 - i. Exchange of stock refers to the Organization exchanging its unsold [INSERT CURRENT YEAR] inventory for replacement with [INSERT NEXT YEAR] inventory. The policy may be modified or terminated if accountability and manageability problems arise
 - ii. The Organization must be an actively participating vendor with a valid agreement for subsequent year in order to exchange stock from preceding year. That is, in order to exchange unsold [INSERT CURRENT YEAR] inventory for replacement [INSERT NEXT YEAR] inventory, the Organization must have a valid agreement for [INSERT NEXT YEAR]. If the Organization does not have a valid partner agreement for [INSERT NEXT YEAR], the Organization will not be permitted to return or exchange any unsold current year (insert year) inventory.
 - iii. One return will be allowed per agreement for the preceding calendar year. If the Organization has more than one sales outlet, the Organization will be responsible for condensing all stock into one return.
 - iv. All [INSERT CURRENT YEAR] Pass returns must be received by March 30, [INSERT NEXT YEAR]. Multiple returns from the Organization will not be processed. Returns received after March 30, [INSERT NEXT YEAR] will not be processed.
 - v. All returned Passes must be properly recorded and accounted for (by serial #) when submitted to NPS for processing. Stock that is submitted without proper documentation will be returned to the Organization.
 - vi. In years where there is no change or a decrease in the price of the Passes, returned passes will be replaced on a one-to-one basis for current year stock (for example, ten [INSERT CURRENT YEAR] passes replaced with ten

[INSERT NEXT YEAR] passes). If the price of the Pass increases, the Organization will be responsible for remitting the difference between the price of the old and new passes.

ARTICLE II Term of Agreement

This Agreement will be effective for the period of January 1, [INSERT YEAR] or from the date of the last signature below (whichever is later) through December 31, [INSERT YEAR-TERM OF NO MORE THAN FIVE YEARS] unless terminated earlier by one of the parties pursuant to Article III, below.

ARTICLE III Modification and Termination Clause

- A. This Agreement may be modified only by a written modification signed by the parties.
- B. Either party may terminate this Agreement by providing the other party thirty (30) days advance written notice. Termination may be “for cause” (nonperformance of contractual obligations, including the material and/or repeated failure to follow any of the terms or conditions of this Agreement) or it may be without cause. One party’s waiver of the other party’s nonperformance in one or more instances shall not constitute a waiver of the right of any party to require strict performance in the future.
- C. It is preferable that, before one party provides the other party with notice of its intention to terminate either “for cause” or without cause, the parties meet to discuss the reasons for this action and work amicably to resolve their differences, if any. Such a meeting also may be desirable and effective after such notice is given.
- D. Termination of this Agreement shall not extinguish any obligation hereunder with respect to the Organization’s duty to account for Passes delivered by NPS, to otherwise properly honor and promote relevant limitations on time, transferability, or other Pass attributes, to process and fulfill any order placed by any member of the public prior to termination, or any other obligation expressly non-extinguishable hereunder.
- E. Should the Organization decide to terminate the agreement, Pass stock returned to NPS will be refunded at 50% of the purchase price. If the agreement is terminated and a refund issued to Organization, Organization will not be eligible to participate in the program for a period of three years.
- F. Full refunds of unsold stock may be offered, at the sole discretion of NPS, if NPS terminates the agreement or if the program terminates or changes as a result of fee changes or suspensions, lapses in federal appropriations, program termination or other program modifications.

ARTICLE IV **License**

During the term of this Agreement, NPS grants Organization a limited, nontransferable, non-sublicenseable, nonexclusive license to the Pass names and images attached hereto as Exhibit A [and/or EXHIBIT B...] solely in connection with approved marketing of the Entrance Passes.

ARTICLE V **Representations, Liability and Indemnification**

- A. NPS represents and warrants that it has the right to grant the license herein for all commercial advertising, trade, and promotional uses of the Passes and/or the underlying photographic image used on the Passes. Subject to the following conditions, NPS assumes liability for any third-party infringement claim related to or arising from the representation contained in the foregoing sentence. Organization shall promptly report in reasonable detail each notice or claim of trademark, copyright, or patent infringement.
- B. Except as expressly provided in this Agreement, neither party shall be liable to the other for any indirect, consequential, incidental, exemplary, punitive or special damages, including, but not limited to, any loss of profit or revenue, arising from or in connection with any breach or violation of the agreement or from any action or omission relating to the agreement, whether or not the other party has been advised of the possibility of such damage.
- C. This Section shall survive termination of this Agreement.

ARTICLE VI **Standard Clauses**

- A. Non-Discrimination. During the performance of this Agreement, Organization will not discriminate against any person because of race, color, religion, sex, or national origin, in either their own employment practices, or in marketing and sale of the Passes.
- B. Public Information Release. Neither party will unilaterally publish data regarding the Pass sales or the performance of this Agreement, including without limitation, results of any studies related to the pass program, without consulting with and obtaining approval from the other party; except that NPS may make available the number of passes sold by third party organizations. This obligation shall survive the termination of this Agreement.
- C. Conflict-of-Interest and Reporting. Unless otherwise disclosed, Organization represents and warrants that neither it nor any of its principals, directors, owners, assigns, or affiliates is engaged in any administrative or judicial litigation or other proceeding before or against the U.S. Department of the Interior or the U.S. Department of Agriculture or any of their agencies or bureaus. If Organization, or any of its principals, directors, owners, assigns, or affiliates are or, during the term of this Agreement should become, involved in such a matter

or proceeding before either Department or its agencies or bureaus, Organization shall promptly disclose this. Such involvement will *not* automatically result in termination of this Agreement, but shall be considered based upon its unique facts and circumstances. Organization will provide to NPS a list of contracts or agreements they are party to with the Departments of the Interior or Agriculture or their agencies or bureaus. Should Organization become involved in any additional contracts or agreements with the Department, or its agencies or bureaus, Organization shall promptly disclose this.

- D. Non-Obligation. Nothing herein shall be construed to obligate the U.S. Government to expend any sum in excess or advance of appropriations.
- E. No Third-Party Benefit. The terms and conditions of this Agreement are by and between the parties only and nothing herein is or shall be construed to benefit or be enforceable by any third-party.
- F. Organization may not assign or otherwise transfer this Agreement or any of its rights and obligations under this Agreement or any portion of this Agreement, whether voluntarily or involuntarily, without the prior written approval of NPS.

ARTICLE VII Key Officials, Signatures and Dates

- A. Key officials are essential to ensure maximum coordination between the parties and the work being performed. They are:

For the NPS:

[PARK NAME, PRIMARY CONTACT NAME, ADDRESS, PHONE, EMAIL]

For [ORGANIZATION NAME]

[PRIMARY CONTACT NAME, ADDRESS, PHONE, EMAIL]

- B. Changes in key officials. Neither the NPS nor the Organization may make any permanent change in a key official without written notice to the other party reasonably in advance of the proposed change. The notice will include justification with sufficient detail to permit evaluation of the impact of such change in the scope of work specified within this Agreement. Any permanent change in key officials will be made only by modification of this Agreement.

ARTICLE VIII Miscellaneous

- A. The validity, interpretation and construction of this Agreement, and all other matters related to this Agreement, shall be governed and interpreted in accordance with the laws of the United States of America.

B. This Agreement is the entire Agreement between the parties and supersedes all prior or contemporaneous Agreements, representations or negotiations between the parties.

In Witness hereof, the parties hereto executed this Agreement on the date(s) set forth below.

National Park Service (NPS)

[ORGANIZATION NAME]

Superintendent, National Park Service

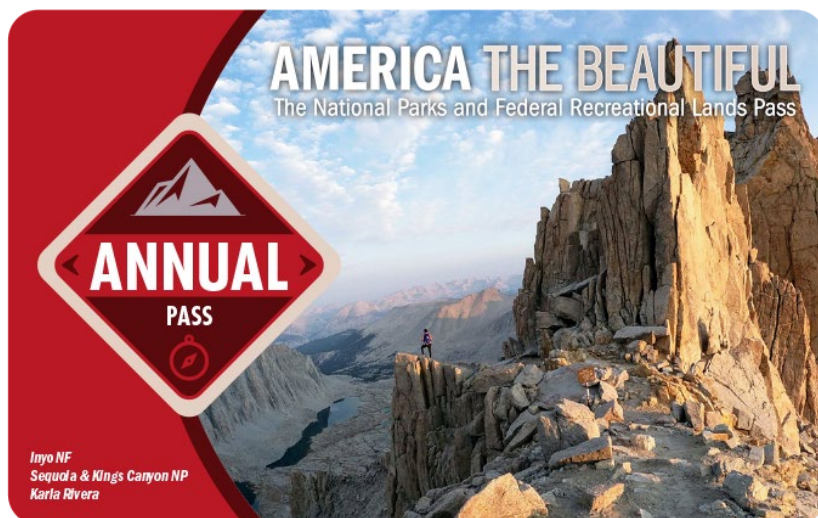
[NAME, TITLE]

Date

Exhibit A

Graphic of “America the Beautiful – the National Parks and Federal Recreational Lands Pass”
and/or Preprinted Receipt

[INSERT CURRENT YEAR’S PASS(ES) AND/OR PREPAID ENTRANCE RECEIPT
GRAPHIC(S)]



National Park Service
U.S. Department of the Interior
Yellowstone
National Park



Entrance Fee \$25

Valid 7 days from date of first use.

Issue Date

Expiration Date

- Pass must have an expiration date above to be valid.
- May be upgraded to a park specific annual pass at this park or Inter-agency Annual pass at any national park.
- Non Transferable.
- Non Refundable.
- Not replaceable if lost or stolen.
- Void if altered or reproduced.



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