

(3) Land or real property improvements assigned to the Concessioner are no longer necessary for the concession operation.

(c) Effect of Withdrawal

Any permanent withdrawal of assigned Concession Facilities which the Director or the Concessioner considers to be essential for the Concessioner to provide the visitor services required by this Contract will be treated as a termination of this Contract pursuant to Section 15. No compensation is due the Concessioner in these circumstances.

(d) Right of Entry

The Director shall have the right at any time to enter upon or into the Concession Facilities assigned to the Concessioner under this Contract for any purpose he may deem necessary for the administration of the Area.

(e) Personal Property

(1) Personal Property Provided by the Concessioner. The Concessioner shall provide all personal property, including without limitation removable equipment, furniture and goods, necessary for its operations under this Contract, unless such personal property is provided by the Director as set forth in subsection (e)(2).

(2) Personal Property Provided by the Government. The Director may provide certain items of government personal property, including without limitation removable equipment, furniture and goods, for the Concessioner's use in the performance of this Contract. The Director hereby assigns government personal property listed in Exhibit D to the Concessioner as of the effective date of this Contract. This Exhibit D will be modified from time to time by the Director as items may be withdrawn or additional items added. The Concessioner shall be accountable to the Director for the government personal property assigned to it and shall be responsible for maintaining the property as necessary to keep it in good and operable condition. If the property ceases to be serviceable, it shall be returned to the Director for disposition.

(f) Condition of Concession Facilities

The Concessioner has inspected the Concession Facilities and any assigned government personal property, is thoroughly acquainted with their condition, and accepts the Concession Facilities, and any assigned government personal property, "as is."

(g) Utilities

(1) The Director may provide utilities to the Concessioner for use in connection with the operations required or authorized hereunder when available and at rates to be determined in accordance with Applicable Laws.

(2) If the Director does not provide utilities to the Concessioner, the Concessioner shall, with the written approval of the Director and under any requirements that the Director shall prescribe, secure necessary utilities at its own expense from sources outside the Area.

SEC. 9. MAINTENANCE

(a) Maintenance Obligation

Subject to the limitations set forth in Section 8(a)(1) of this Contract, the Concessioner shall be solely responsible for maintenance, repairs, housekeeping, and groundskeeping for all Concession Facilities to the satisfaction of the Director.

(b) Maintenance Plan

For these purposes, the Director, acting through the Superintendent, shall undertake appropriate inspections, and shall establish and revise, as necessary, a Maintenance Plan consisting of specific maintenance requirements which shall be adhered to by the Concessioner. The initial Maintenance Plan is set forth in Exhibit E. The Director in his discretion may make reasonable modifications to the Maintenance Plan from time to time after consultation with the Concessioner. Such modifications shall be in furtherance of the purposes of this Contract and shall not be inconsistent with the terms and conditions of the main body of this Contract.

SEC. 10. FEES

(a) Franchise Fee

(1) For the term of this Contract, the Concessioner shall pay to the Director for the privileges granted under this Contract a franchise fee equal to three percent (3%) of the Concessioner's gross receipts for the preceding year or portion of a year.

(2) Neither the Concessioner nor the Director shall have a right to an adjustment of the fees except as provided below. The Concessioner has no right to waiver of the fee under any circumstances.

(b) Payments Due

(1) The franchise fee shall be due on a monthly basis at the end of each month and shall be paid by the Concessioner in such a manner that the Director shall receive payment within fifteen (15) days after the last day of each month that the Concessioner operates. This monthly payment shall include the franchise fee equal to the specified percentage of gross receipts for the preceding month.

(2) The Concessioner shall pay any additional fee amounts due at the end of the operating year as a result of adjustments at the time of submission of the Concessioner's Annual Financial Report. Overpayments shall be offset against the following year's fees. In the event of termination or expiration of this Contract, overpayments will first be offset against any amounts due and owing the Government and the remainder will be paid to the Concessioner.

(3) All franchise fee payments consisting of \$10,000 or more, shall be deposited by the Concessioner in accordance with Applicable Laws.

(c) Interest

An interest charge will be assessed on overdue amounts for each thirty (30) day period, or portion thereof, that payment is delayed beyond the fifteen (15) day period provided for above. 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.

(d) 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" shall 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 shall 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 shall 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 shall consider the written submissions and any oral presentations made by the Concessioner and the Director and provide its decision on an adjusted franchise fee (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 shall 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 shall continue to make the established franchise fee payments required by this Contract.

SEC. 11. INDEMNIFICATION AND INSURANCE**(a) 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 shall survive the termination or expiration of this Contract.

(b) Insurance in General

(1) The Concessioner shall 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 this Contract as determined by the Director. The initial insurance requirements are set forth below and in Exhibit F. Any changed or additional requirements that the Director determines necessary must be reasonable and consistent with the types and coverage amounts of insurance a prudent businessperson would purchase in similar circumstances. The Director shall approve the types and amounts of insurance coverage purchased by the Concessioner.

(2) 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.

(3) At the request of the Director, the Concessioner shall 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 shall 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.

(c) Commercial Public Liability

(1) The Concessioner shall 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.

(2) This insurance shall 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, as more specifically set forth in Exhibit F. Furthermore, the commercial general liability package shall provide no less than the coverages and limits described in Exhibit F.

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

(4) From time to time, as conditions in the insurance industry warrant, the Director may modify Exhibit F to revise the minimum required limits or to require additional types of insurance, provided that any additional requirements must be reasonable and consistent with the types of insurance a prudent businessperson would purchase in similar circumstances.

(d) Property Insurance

(1) In the event of damage or destruction, the Concessioner will repair or replace those Concession Facilities and personal property utilized by the Concessioner in the performance of the Concessioner's obligations under this Contract.

(2) For this purpose, the Concessioner shall provide fire and extended insurance coverage on Concession Facilities for all or part of their replacement cost as specified in Exhibit F in amounts no less than the Director may require during the term of the Contract. The minimum values currently in effect are set forth in Exhibit F.

(3) Commercial property insurance shall provide for the Concessioner and the United States of America to be named insured as their interests may appear.

(4) In the event of loss, the Concessioner shall use all proceeds of such insurance to repair, rebuild, restore or replace Concession Facilities and/or personal property utilized in the Concessioner's operations under this Contract, as directed by the Director. Policies may not contain provisions limiting insurance proceeds to in situ replacement. The lien provision of Section 12 shall apply to such insurance proceeds. The Concessioner shall not be relieved of its obligations under subsection (d)(1) because insurance proceeds are not sufficient to repair or replace damaged or destroyed property.

(5) Insurance policies that cover Concession Facilities shall contain a loss payable clause approved by the Director which requires insurance proceeds to be paid directly to the Concessioner without requiring endorsement by the United States, unless the damage exceeds \$1,000,000. The use of insurance proceeds for repair or replacement of Concession Facilities will not alter their character as properties of the United States and, notwithstanding any provision of this Contract to the contrary, the Concessioner shall gain no ownership, Leasehold Surrender Interest or other compensable interest as a result of the use of these insurance proceeds.

(6) The commercial property package shall include the coverages and amounts described in Exhibit F.

SEC. 12. BONDS AND LIENS**(a) Bonds**

The Director may require the Concessioner to furnish appropriate forms of bonds in amounts reasonable in the circumstances and acceptable to the Director, in order to ensure faithful performance of the Concessioner's obligations under this Contract.

(b) Lien

As additional security for the faithful performance by the Concessioner of its obligations under this Contract, and the payment to the Government of all damages or claims that may result from the Concessioner's failure to observe any such obligations, the Government shall have at all times the first lien on all assets of the Concessioner within the Area, including, but not limited to, all personal property of the Concessioner used in performance of the Contract hereunder within the Area.

SEC. 13. ACCOUNTING RECORDS AND REPORTS**(a) Accounting System**

(1) The Concessioner shall maintain an accounting system under which its accounts can be readily identified with its system of accounts classification. Such accounting system shall be capable of providing the

information required by this Contract, including but not limited to the Concessioner's repair and maintenance obligations. The Concessioner's system of accounts classification shall be directly related to the Concessioner Annual Financial Report Form issued by the Director.

(2) If the Concessioner's annual gross receipts are \$250,000 or more, the Concessioner must use the accrual accounting method.

(3) In computing net profits for any purposes of this Contract, the Concessioner shall 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

(1) The Concessioner shall submit annually as soon as possible but not later than one hundred twenty (120) days after the last day of its fiscal year a financial statement for the preceding fiscal year or portion of a year as prescribed by the Director ("Concessioner Annual Financial Report").

(2) If the annual gross receipts of the Concessioner are in excess of \$1,000,000, the financial statements shall 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.

(3) If annual gross receipts are between \$500,000, and \$1,000,000, the financial statements shall be reviewed by an independent Certified Public Accountant in accordance with Statements on Standards for Accounting and Review Services (SSARS) and procedures promulgated by the American Institute of Certified Public Accountants.

(4) 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 Financial Reports

Balance Sheet. Within ninety (90) days of the execution of this Contract or its effective date, whichever is later, the Concessioner shall submit to the Director a balance sheet as of the beginning date of the term of this Contract. The balance sheet shall be audited or reviewed, as determined by the annual gross receipts, by an independent Certified Public Accountant.

SEC. 14. OTHER REPORTING REQUIREMENTS

The following describes certain other reports required under this Contract:

(a) Insurance Certification

As specified in Section 11, the Concessioner shall, at the request of the Director, provide the Director with a Certificate of Insurance for all insurance coverages related to its operations under this Contract. The Concessioner shall give the Director immediate written notice of any material change in its insurance program, including without limitation, any cancellation of required insurance coverages.

(b) Environmental Reporting

The Concessioner shall submit environmental reports as specified in Section 6 of this Contract, and as otherwise required by the Director under the terms of this Contract.

(c) Miscellaneous Reports and Data

The Director from time to time may require the Concessioner to submit other reports and data regarding its performance under the Contract or otherwise, including, but not limited to, operational information.

SEC. 15. SUSPENSION, TERMINATION, OR EXPIRATION**(a) Suspension**

The Director may temporarily suspend operations under this Contract in whole or in part in order to protect Area visitors or to protect, conserve and preserve Area resources. No compensation of any nature shall be due the Concessioner by the Director in the event of a suspension of operations, including, but not limited to, compensation for losses based on lost income, profit, or the necessity to make expenditures as a result of the suspension.

(b) Termination

(1) The Director may terminate this Contract 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, including, but not limited to, the requirement to maintain and operate visitor services to the satisfaction of the Director, the requirement to provide only those visitor services required or authorized by the Director pursuant to this Contract, the requirement to pay the established franchise fee, the requirement to prepare and comply with an Environmental Management Program and the requirement to comply with Applicable Laws.

(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 shall 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 15(a).

(4) The Director may terminate this Contract upon the filing or the execution of a petition in bankruptcy by or against the Concessioner, a petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, an assignment by the Concessioner for the benefit of creditors, a 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. The Director may terminate this Contract if the Director determines that the Concessioner is unable to perform the terms of Contract due to bankruptcy or insolvency.

(5) Termination of this Contract for any reason shall be by written notice to the Concessioner.

(c) 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.

(d) Requirements in the Event of Termination or Expiration

(1) In the event of termination of this Contract for any reason or expiration of this Contract, no compensation of any nature shall be due the Concessioner in the event of a termination or expiration of this Contract, including, but not limited to, compensation 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 shall, at the Concessioner's expense, promptly vacate the Area, remove all of the Concessioner's personal property, repair any injury occasioned by installation or removal of such property, and ensure that Concession Facilities are in at least as good condition as they were at the beginning of the term of this Contract, reasonable wear and tear excepted. The removal of such personal property must occur within thirty (30) days after the termination of this Contract for any reason or its expiration (unless the Director in particular circumstances requires immediate removal). No compensation is due the Concessioner from the Director or a successor concessioner for the Concessioner's personal property used in operations under this Contract. However, the Director or a successor concessioner may purchase such personal property from the Concessioner subject to mutually agreed upon terms. Personal property not removed from the Area by the Concessioner in accordance with the terms of this Contract shall be considered abandoned property subject to disposition by the Director, at full cost and expense of the Concessioner, in accordance with Applicable Laws. Any cost or expense incurred by the Director as a result of such disposition may be offset from any amounts owed to the Concessioner by the Director to the extent consistent with Applicable Laws.

(3) To avoid interruption of services to the public upon termination of this Contract for any reason, or upon its expiration, the Concessioner, upon the request of the Director, shall consent to the use by another operator of the Concessioner's personal property, excluding inventories if any, not including current or intangible assets, for a period of time not to exceed one (1) year from the date of such termination or expiration. The other operator shall pay the Concessioner an annual fee for use of such property, prorated for the period of use, in the amount of the annual depreciation of such property, plus a return on the book value of such property equal to the prime lending rate, as published by the Federal Reserve System Board of Governors, effective on the date the operator assumes managerial and operational responsibilities. In such circumstances, the method of depreciation applied shall be either straight line depreciation or depreciation as shown on the Concessioner's Federal income tax return, whichever is less. To avoid interruption of services to the public upon termination of this Contract for any reason or its expiration, the Concessioner shall, if requested by the Director, sell its existing inventory to another operator at the purchase price as shown on applicable invoices.

(4) Prior to and upon the expiration or termination of this Contract for any reason, and, in the event that the Concessioner is not to continue the operations authorized under this Contract after its expiration or termination, the Concessioner shall comply with all applicable requirements of Exhibit G to this Contract, "Transition to New Concessioner." This section and Exhibit G shall survive the expiration or termination of this Contract.

SEC. 16. ASSIGNMENT, SALE OR ENCUMBRANCE OF INTERESTS

(a) This Contract is subject to the requirements of Applicable Laws, including, without limitation, 36 CFR Part 51, with respect to proposed assignments and encumbrances, as those terms are defined by Applicable Laws.

Failure by the Concessioner to comply with Applicable Laws is a material breach of this Contract for which the Director may terminate this Contract for default. The Director shall not be obliged to recognize any right of any person or entity to an interest in this Contract of any nature or operating rights under this Contract, if obtained in violation of Applicable Laws.

(b) The Concessioner shall advise any person(s) or entity proposing to enter into a transaction which may be subject to Applicable Laws, including without limitation, 36 CFR Part 51, of the requirements of Applicable Law and this Contract.

SEC. 17. GENERAL PROVISIONS

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

(b) All information required to be submitted to the Director by the Concessioner pursuant to this Contract is subject to public release by the Director to the extent provided by Applicable Laws.

(c) Subconcession or other third party agreements, including management agreements, for the provision of visitor services required and/or authorized under this Contract are not permitted.

(d) The Concessioner is not entitled to be awarded or to have negotiating rights to any Federal procurement or service contract by virtue of any provision of this Contract.

(e) Any and all taxes or assessments of any nature that may be lawfully imposed by any State or its political subdivisions upon the property or business of the Concessioner shall be paid promptly by the Concessioner.

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

(g) This Contract is subject to the provisions of 2 C.F.R. Part 1400, as applicable, 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.

(h) This Contract contains the sole and entire agreement of the parties, except for survival of the Concessioner's commitments as set forth in its Offeror's Transmittal Letter in response to the solicitation for this Contract. 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.

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

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

(k) Waiver by the Director or the Concessioner of any breach of any of the terms of this Contract by the other party shall 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 shall not be deemed to be a waiver of any preceding breach of any term of the Contract.

(l) Claims against the Director (to the extent subject to 28 U.S.C. 2514) arising from this Contract shall be forfeited to the Director by any person who corruptly practices or attempts to practice any fraud against the

United States in the proof, statement, establishment, or allowance thereof within the meaning of 28 U.S.C. 2514.

(m) Nothing contained in this Contract shall be construed as binding the Director to expend, in any fiscal year, any sum in excess of the appropriation made by Congress for that fiscal year or administratively allocated for the subject matter of this Contract, or to involve the Director in any contract or other obligation for the future expenditure of money in excess of such appropriations.

SEC. 18. INTELLECTUAL PROPERTY LICENSE

(a) License Grant

The unique nature of a National Park Service concession blends commercial enterprise with the treasured historic, cultural, and, natural assets that the Director is responsible for protecting. The Director hereby grants to the Concessioner a royalty-free, non-exclusive, non-transferable license to use the marks as listed in Exhibit H ("Marks"), for use solely to carry out the services described under this Contract in manner that promotes National Park Service goals and values as stated herein. The Concessioner has the right to sub-license Marks in order to carry out services described under this Contract upon written approval of the Director and under same or substantially similar terms as contained herein. Any use of any Mark intended to identify the National Park Service, or one of the Concession Facilities, shall inure to the benefit of the National Park Service. This license shall cease upon termination or expiration of the Contract, or as otherwise determined by the Director or by law. This license does not constitute a compensable interest to the Concessioner.

(b) Quality Control and Goodwill

The Concessioner acknowledges that the maintenance of the high quality of the services, materials, products, and merchandise produced, sold or otherwise prepared for public dissemination pursuant to or in order to carry out services required under this Contract, as well as the control by the Director over their nature, quality, and manner of delivery or distribution, are material conditions of this Contract. The Concessioner shall maintain the distinctiveness of the Marks, the image of the National Park Service brand, and the image and high quality of the services, materials, products, and merchandise bearing the Marks licensed herein. Marks may be used and appear together with other marks used in connection with concession-related goods and services but must stand by themselves. The Concessioner shall immediately cease use of a Mark used in association with the services provided under this Contract on request of the National Park Service.

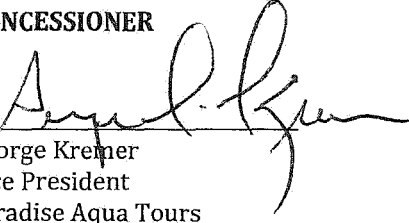
(c) Rights and Ownership

The Concessioner acknowledges that the National Park Service is the sole and exclusive owner of all right, title and interest in and to its Marks, including those licensed under this agreement, as well as to all combinations, forms, and derivatives which must be approved by the Director. The Concessioner further acknowledges, represents and warrants that it has not acquired and shall not acquire (whether by operation of law, by this Contract, or otherwise) any right, title, interest or ownership (collectively "Ownership Rights") in or to any National Park Service Marks or any part thereof. Should any Ownership Rights become vested in the Concessioner, the Concessioner agrees to assign, and hereby assigns, all such Ownership Rights to the Director free of consideration. The Concessioner shall immediately provide and execute all documents reasonably requested by the Director to effectuate and record each such assignment. The Concessioner shall not, during the term or at any time thereafter, do anything which, in the Director's sole judgment, could in any way damage the validity and subsistence of the Marks. The Concessioner shall not attack, dispute, or challenge the National Park Service's Ownership Rights in or to the Marks or the validity of this Contract, nor shall the Concessioner assist others in so doing.

In Witness Whereof, the duly authorized representatives of the parties have executed this Contract on the dates shown below.

CONCESSIONER

UNITED STATES OF AMERICA

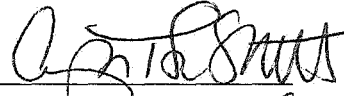
By 
George Kremer
Vice President
Paradise Aqua Tours

By 
Stan Austin
Regional Director, Southeast Region
National Park Service

DATE: Nov. 1, 2016

DATE: Nov. 10, 2016

ATTEST:

By 
Name: CYNTHIA M. SMITH
Title: President
DATE: 11/11/16, 2016

**EXHIBIT A
OPERATING PLAN**

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1) INTRODUCTION

This Operating Plan between Cynthia Smith and George Kremer dba Paradise Aqua Tours (hereinafter referred to as the "Concessioner") and the National Park Service (hereinafter referred to as the "Service") describes specific operating responsibilities of the Concessioner and the Service with regard to those lands and facilities within Virgin Islands National Park (hereinafter referred to as the "Area") that 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, will prevail.

This plan will be reviewed annually by the Service in consultation with the Concessioner and revised as determined necessary by the Service of the Area. 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.

2) MANAGEMENT RESPONSIBILITIES

A) Concessioner

To achieve an effective and efficient working relationship between the Concessioner and the Service, the Concessioner must:

Designate an on-site General Manager who:

- 1) Has the authority and the managerial experience for operating the Concession Facilities and services required under the Contract;
- 2) Must employ a staff with the expertise and training to operate all services authorized under the Contract;
- 3) Has full authority to act as a liaison in all concession administrative and operational matters within the Area; and,
- 4) Has the responsibility for implementing the policies and directives of the Service.

In the absence of the General Manager, the Concessioner must designate an acting General Manager with all of the powers and responsibilities of the on-site General Manager described in subsection A(1).

Contact information: The Concessioner must provide a current list to the Service with all appropriate Concessioner personnel points of contact.

B) Service

The Superintendent manages the Area with responsibility for all operations, including appropriate oversight of concession operations. The Superintendent evaluates performance of concession operations, directly or through designated representatives. This includes:

- 1) The Service provides a current list to the Concessioner of all appropriate Service and Area personnel points of contact.
- 2) Evaluation of Concessioner services and facilities.
- 3) Review and approval of rates charged for all commercial services.

3) GENERAL OPERATING STANDARDS AND REQUIREMENTS

A) Scope and Quality of Services.

The Concessioner must provide all services in a consistent, environmentally sensitive, and high quality manner and must operate in accordance with the operating standards as defined by the Service. The NPS Operational Performance Program provides standards that are service minimums. These standards are referenced in this Operating Plan. The Service expects the Concessioner to make every effort to meet or exceed these standards. The Operating Plan contains additional required operating standards and requirements.

B) Schedule of Operations

- 1) *Schedule of Operations.* The Concessioner must provide the required services for Area visitors on a year-round basis. Minimum operating hours follow:

Location	Minimum Operating Season	Service/Facility	Minimum Operating Hours
Trunk Bay Beach	Year Round	Water Sports Equipment Rental and Instruction and Beach Equipment Rental	9:00 am to 4:30 pm

- 2) *Normal Hours of Concession Service Operations.* The Concessioner must prominently post hours of operation and maintain the minimum hours of operation unless the Concessioner requests changes in writing and approved in advance by the Superintendent. The Service will give reasonable notice of any schedule changes that it may initiate. Weather, natural disasters, special projects to repair infrastructure, and visitation levels may cause specific dates of operation to fluctuate. These changes to operating hours and dates will be set by the Service with reasonable notice given to the Concessioner.
- 3) *Concessioner Request to Close Due to Weather Emergency.* In the event of a weather emergency that requires a sudden unscheduled closure, the Concessioner must obtain the approval through the Service by contacting the Park's Emergency Number (1-866-995-8467). The Concessioner also must notify the Park's Concessions Management Division (or other appropriate Park, Service or Area official) of unscheduled closures, as soon as possible. The Concessioner must immediately notify guests of hazardous water, weather and other conditions that could result in closure or partial closure of services.
- 4) *Emergency Operations.* For 'after hours' emergencies, the Concessioner must prominently display the phone number and location of the nearest telephone as well as other relevant instructions at the Paradise Aqua Tours facilities within Trunk Bay.
- 5) *Pre and Post Season Meetings.* The Concessioner must meet with the Service annually to review the Operating and Maintenance Plans and to discuss planned operations for the upcoming season. The Service will present Service projects potentially affecting the concession operations. The Concessioner and the Service staff will meet to review the performance of the concession operation during the previous season.

C) Rate Determination and Approval Process

- 1) *Rate Determination.* The Service ensures that the Concessioner's rates and charges to the public are commensurate with the level of services and facilities provided by the private sector. The Service evaluates the reasonableness of rates based on current concession management guidelines. Rate approval methods are subject to change.

As used in this Operating Plan, each of the specified methodologies has the same meaning as that set out in the National Park Service Concession Management Rate Administration Guide ("Rate Administration Guide") (a copy which can be obtained by contacting the Service) as it may be amended, supplemented, or superseded throughout the term of this Operating Plan.

Initial rates are set by the Service. The Concessioner must sell the product or service at the approved rate or a lesser amount. The Concessioner may request rate changes for approval. Rate change requests must be provided to the Service for review and approval prior to implementation.

- 2) *Comparability.* The Service uses various methods to establish comparability for rate determination and approval. These may include direct comparability, use of industry pricing guidelines, competitive market declaration, or financial analysis. The appropriate rate method is selected and approved by the Service.

Comparability and other rate studies will be conducted by the Service in accordance with National Park Service guidelines. The Concessioner shall assist the Service in the comparability review process; however, the Superintendent is responsible for the final selection of comparables, industry pricing guidelines, and approval of rates.

Satisfactory comparables, industry pricing guidelines, and rate methods, once established will not ordinarily be changed, unless significant changes occur to the concession operations or the comparable(s) which would make the continued use of the comparable industry pricing guidelines or rate methods inappropriate.

- 3) *Rate Methods by Service. Land based Equipment Rentals.* Rates will be determined based on comparability or other specifically approved rate methods.
- 4) *Rate Requests.* The Concessioner must submit a written request for rate changes by **September 1 of each year**, if the Concessioner wants a rate increase for that year.
- 5) *Approval-Timing.* The Service will approve or disapprove rate requests within 30 days of a written request by the Concessioner.
- 6) *Rate Request Information.* All rate requests must include pertinent information about the rate and product or service proposed. The current Service Rate Approval Guidelines outline the information the Concessioner must include in the request.
- 7) *Approved Rate Posting.* The Concessioner must make available to visitors all approved rates for goods and services. The Concessioner must prominently post all rates for goods and services provided to the visiting public.
- 8) *Rate Compliance.* The Service will check rate compliance during periodic operational evaluations and throughout the year. Approved rates must remain in effect until superseded by written changes approved by the Service.

D) Purchasing

- 1) *Competitive Purchasing.* The Concessioner may purchase from a facility operated or owned by the Concessioner or a parent company, provided the product is comparable in quality and price to like products manufactured by unrelated suppliers.
- 2) *Discounts.* To the extent applicable to the rate approval method in place, the Concessioner must take advantage of all available trade, cash, and quantity discounts and rebates and pass them through to the consumer.
- 3) *Environmental.* The Concessioner must purchase and use Environmentally Preferable products whenever available and feasible.

E) Standards

The Concessioner must ensure the protection of resources, compliance with environmental, public health and risk management requirements, and provide satisfactory services and accommodations for the Area visitor within the Concession Facilities. The Concessioner's operation of facilities and services authorized by the Contract must conform to all Standards defined by Applicable Laws, and the evaluation standards set forth in the current National Park Service Concessioner Review Program, NPS Concession Management Guidelines, and within hospitality industry practices.

F) Evaluations and Contract Compliance

- 1) *Concessioner Monitoring and Inspection Program.*

The Concessioner must inspect and monitor Concession Facilities and services with respect to Applicable Laws, Service policy and standards, authorized rates, life and fire safety, public health, environmental compliance, asset management, responsiveness to visitor comments and compliance with all components of the Contract including its Exhibits and other operational performance as appropriate.

An "inspection" is defined as a documented examination of all equipment, facilities, visitor activities and work processes to determine compliance with service operating standards and safety and occupational health regulations. The Concessioner is responsible for developing and implementing corrective action plans to respond in a timely manner to any operating deficiencies it identifies. The Concessioner must correct deficiencies and complete abatement plans within dates agreed with the Service. Particular inspection and testing requirements are described in other sections of this Operating Plan.

- 2) *National Park Service Concessioner Review Program*

The Service will evaluate the Concession Facilities and services to assess and rate concessioner performance in accordance with the NPS Concession Review Program. This consists of periodic evaluations, contract compliance evaluations, risk management evaluation, asset management evaluation, environmental management evaluation, and public health evaluation. The results of these evaluations are used to prepare an Annual Overall Rating of Concessioner performance. These evaluations are conducted by Service personnel. The Service may request the assistance of third-party subject matter experts. The findings of such experts will be fully incorporated in Service evaluations. The Concessioner must provide full access to management, facilities, documentation, and other resources necessary for the Service to conduct these evaluations. The Concessioner must work with Service officials to prioritize, schedule and correct deficiencies and implement improvement programs resulting from these activities. The Concessioner's performance in addressing deficiencies on schedule and in a timely manner will be a consideration in determining the Concessioner's rating.

- a) **Periodic Operational Evaluations.** The Service will conduct both announced and unannounced periodic evaluations of Concession Facilities and services to ensure conformance to applicable operational standards. The results of these Periodic Operational Evaluations will be incorporated into the Annual Overall Rating. The Service will contact location managers prior to or at the time of facility evaluations so that a representative of the Concessioner can accompany the evaluator. The Service reserves the right to enter the Concessioner's facilities at any reasonable time for any evaluation or when otherwise deemed necessary.
- 1) **Risk Management Program Evaluation.** The Service will annually conduct a comprehensive evaluation of the Concessioners Risk Management Program. This evaluation will consider performance in implementing life and fire safety programs, and operating in accordance with the Concessioner's documented Risk Management Program. Results of any life or fire safety inspections conducted by the Service are also included as a component of this evaluation and rating. This rating will be incorporated into the Annual Overall Rating.
 - 2) **Environmental Management Evaluation.** The Service will conduct an annual evaluation of the Concessioner's Environmental Management Program (EMP). The Service will determine and provide the Concessioner with an environmental management rating based on the evaluation of the Concessioner's operations and documented Environmental Management Plan. The evaluation will consider performance in protecting natural resources, meeting environmental compliance requirements, and operating in accordance with the Concessioner's EMP. Performance in addressing Concessioner environmental audit findings will also be a component of this evaluation. This rating will be incorporated into the Annual Overall Rating.
 - 3) **Asset Management Program Evaluation.** The Service will conduct an annual evaluation of the Concessioner's Asset Management Program. The Service will determine and provide the Concessioner with an asset management rating based on the evaluation of the Concessioner's operations and Maintenance Plan. This rating will be incorporated into the Annual Overall Rating.
 - 4) **Administrative Compliance Evaluation.** The Service will conduct an administrative compliance evaluation and rating. This evaluation will consider such items as timely submission of the annual financial report, timely and accurate submission of franchise fees, and timely submission of proof of general liability insurance, automobile, and workers compensation insurance.
 - 5) **Visitor Comments.** The Service will review visitor comments and complaints on Concessioner services and associated responses. The Service will incorporate these into the Annual Overall Rating.
- b) **Annual Overall Rating.** The Concessioner will receive an annual overall performance rating by **April 1** for the preceding calendar year. The Annual Overall Rating incorporates the Operational Performance, Administrative Compliance, Risk Management, Environmental Management, and Asset Management ratings.
- c) **Other Service Audits and Inspections**
- 1) **Environmental Audit.** The Service may conduct environmental audits to evaluate the Concessioner Facilities and operations with respect to environmental compliance and Best Management Practices in accordance with the current Service Environmental Audit Program

Operating Guide and conformance with the Concessioner's EMP. Concessioner performance in closing audit findings is considered in the annual EMP Evaluation.

- 2) Fire Inspections. The Service may conduct fire, health, and safety inspections at its discretion over the course of the Contract term. Location managers will be contacted at the time of facility inspections so that a Concessioner representative may accompany the Service evaluator.
- 1) Integrated Pest Management Inspections. The Service may conduct integrated pest management inspections of Concessioner facilities and operations which addresses vector control and exclusion practices, pesticide application practices and others.
- 2) Other Inspections. The Service reserves the right to enter the Concessioner's facilities at any reasonable time for any evaluation or when otherwise deemed necessary.
- 3) Interpretive Audit Program. The Service will regularly evaluate the concessioner's interpretive and informational services to ensure appropriateness, accuracy, quality and the relationship of interpretive presentations to Area themes.

G) General Policies

1) Facilities Use

- a) Authorized Use. The Concessioner must use the assigned Concession Facilities for activities or services that directly and exclusively support the services required and authorized by the Contract. The Concessioner must operate in the area assigned and cannot expand the footprint of the operation without written authorization from the Service.
 - b) Smoking Policy. All buildings within the Concession Facilities are designated as non-smoking. A copy of Director's Order 50D regarding the Service's policy on smoking can be found at <http://www.nps.gov/policy/DOrders/DOrder50D.pdf>. The Concessioner must prohibit smoking and the use of tobacco products within 50 feet of the shoreline in either direction.
- 2) Reservations. The Concessioner must provide and service a reservation line capable of accommodating requests for all services for which the Concessioner offers reservations. Reservation services must be available at a minimum, via telephone, mail, fax, and internet. Reservation services will meet all Service accessibility requirements.
- a) Reservations Services. Concession staff must service the reservations telephone line during normal business hours as specified in Section B) Schedule of Operations 1). All reservation personnel must have specific knowledge of and communicate professionally the services and facilities available under the Contract.
- 3) Credit Cards. The Concessioner must honor credit cards, at a minimum Master Card and Visa. The concessioner must utilize EMV compliant terminals/credit card machines. The Concessioner is encouraged to accept debit cards and other types of payment methods at its discretion or at the direction of the Service.
- 4) Lost and Found. The Concessioner must operate its own Lost & Found department in conjunction with the Area's lost and found procedures. If possible, the Concessioner must return items found within the Concessioner Facilities to their owners. Items not returned to their owners within seven days will be turned over to the Service.
- 5) Vehicles
- a) Licensing, Insurance, Maintenance, and Registration
 - The Concessioner must keep all of its vehicular equipment used to perform services under the Contract properly registered, licensed, insured, and maintained in accordance with all Applicable Laws.
 - b) Identification. Concessioner owned vehicles must be identified with the Concessioner name and logo. The Concessioner must submit color schemes (other than for the company logo) and size of graphics to the Service for approval prior to making any changes.
 - c) Parking. The Concessioner must require its employees to park in the areas designated by the Service for such purposes.

6) *Interactions with Wildlife*

- a) The feeding of wildlife within the Area is prohibited. The Concessioner must not encourage the feeding of wildlife within the Concession Facilities and the Area by displaying food in such a manner that may imply approval of the feeding of wildlife. The Concessioner may not maintain any type of bird feeder. The Concessioner may not leave food unattended outdoors.
 - b) The Concessioner must display proper signage informing visitors not to leave unattended food on any outdoor picnic table within the Concession Facilities.
 - c) The Concessioner may not sell merchandise such as plant material or plant seed of any kind within the Area.
 - d) To prevent pest attraction and breeding, the Concessioner must bag all solid waste from its operations and tie and store the bags in sealed containers. Outdoor receptacles must be waterproof, vermin-proof, and covered with working lids. Indoor receptacles should be similarly constructed based on use (i.e., food waste versus office trash). Recycling containers must be waterproof, vermin-proof, and covered with working lids as necessary to maintain the quality of the recyclables for market and to prevent vermin from being attracted to the recycling containers. All solid waste and recycling receptacles must be approved by the Service.
 - e) The Concessioner and its employees must notify the Service immediately regarding any issues with wildlife.
- 7) *Signs.* All signs must be Service-approved, professionally made (and not hand-printed) and securely attached.
- 8) *Visitor Comments.* The Concessioner must make Service-approved comment cards available to visitors in order to measure service and quality standards, product mix, pricing, and overall Area experience. The Concessioner must provide the Service with copies of all guest written comments on a monthly basis. The Concessioner must keep an adequate inventory of comment cards available at an appropriate location within the Concession Facility.
- a) The Concessioner must investigate and respond to all visitor complaints regarding its services **within 10 business days of receipt**. The Concessioner must provide the Service a copy of the initial comment, Concessioner's response, and any other supporting documentation.
 - b) The Concessioner must immediately provide the Service all visitor comments that allege misconduct by Concessioner or Service employees, or that pertain to the safety of visitors or employees or concern the safety of Area resources.
 - c) The Service will forward to the Concessioner any comments and complaints received regarding Concession Facilities or services **within 10 business days of receipt**. The Concessioner must investigate, contact complainer/commenter and the Service, and provide the Service with an initial response to any complaints **within 10 business days of receiving comments or complaints forwarded by the Service**. The Concessioner must provide a copy of all responses to the Service.

H) **Human Resource Management**

- 1) *Employee Identification and Appearance.* The Concessioner must ensure that all employees in direct contact with the public wear standardized clothing with a personal nametag. Employees must be neat and clean in appearance and must project a hospitable, positive, friendly, and helpful attitude. Attire must be clean and in good condition (no tears, holes, stains or excessive fading).
- 2) *Firearms*
 - a) Concessioner employees may not carry firearms while on duty or at any time they are within the Area. The Service, in its sole discretion, may grant exceptions to this prohibition upon consideration of a written request from the Concessioner's General Manager with a thorough explanation of the basis of the request. The Concessioner must have written approval from the Service before implementing any exception to this policy.
 - b) **Firearms Policy.** **Within 60 days after the effective date of the Contract**, the Concessioner must develop and provide to the Service its firearms policy, which will address firearms within Concession

Facilities. The Concessioner may make employment conditional on compliance with its policy on firearms in shared employee quarters or other Concession Facilities.

3) *Employee Hiring Procedures*

- a) Staffing Requirements. The Concessioner must hire a sufficient number of employees to ensure satisfactory visitor services throughout all operating seasons. The Concessioner must attempt to offer its employees a full-time work schedule whenever possible. Prior to employment, the Concessioner must inform employees of salary, schedules, holiday pay, overtime requirements, and the possibility that less-than-full-time employment may occur during slow periods.
- b) Drug-free Awareness and Testing Program. The Concessioner must provide its employees with a statement of its policies regarding drug and alcohol abuse and conduct educational program(s) for its employees to deter drug and alcohol abuse. The Concessioner's policies and programs must conform with Applicable Laws. The Concessioner must require any employee who is in a safety-sensitive position such as equipment operators and drivers, food and beverage employees, or other security-sensitive positions to participate in a Service-approved drug-testing program. The Concessioner must make results of drug testing available to the Service upon request.
- c) Background Checks. The Concessioner must establish hiring policies that includes appropriate background checks on employee hires as appropriate to the position. The Concessioner may coordinate with the Service to assist in securing background information prior to hiring new employees. These may include: wants/warrants check, local criminal history check, federal criminal records check, national multi-jurisdictional database and sexual offender search, social security number trace, and driving history check. The Concessioner must not hire an employee with any active wants or warrants (current fugitive from justice). The Concessioner will submit these policies for review and approval by the Service prior to implementation, including any updates or amendments that substantially change the previously reviewed and approved policies.
- d) Driver Requirements. Drivers of Concessioner-owned vehicles used in operations under the Contract must have a valid state/territory operator's license for the size and class of vehicle driven.
- e) Service Employees. The Concessioner must not employ in any status the spouse or dependents of the Superintendent, Deputy Superintendent, Concessions Management staff, Safety or Public Health Sanitarian. The Concessioner must not employ any other Service employee, his/her spouse, minor children, or any other household member without the prior written approval of the Superintendent.
- f) Training. The Concessioner must provide appropriate job training and orientation to each employee prior to duty assignments and working with the public. Training must include all those required by Applicable Laws. The Service periodically audits Concessioner training sessions. The Concessioner will maintain records of appropriate training as set forth below and will provide those records to the Service upon request. The Concessioner must provide appropriate training as follows:
 - 1) *Orientation*. The Concessioner must provide mandatory employee orientation for all new employees and inform employees of Area regulations and requirements that affect their employment, safety, and activities while working and residing in the Area. Training will include guidance on how employees can positively present the Area and Area partners to the public, as well as how to effectively report and respond to visitor comments and concerns.
 - 2) *Concessions Management*. The Concessioner will provide managers and staff adequate reference materials and resources, including but not limited to the Service Periodic Concession Evaluation standards and the Concession Contract and its exhibits such as, land assignment maps, and the Operating Plan.
 - 3) *Environmental and Risk Management Training*. The Concessioner must provide environmental and risk management training to employees as required by Applicable Laws and in accordance with its Environmental Management and Risk Management Programs.
 - 4) *Interpretive Training*. The Concessioner must provide interpretive skills training for all employees who provide interpretive, educational, or instructional programs, safety orientation information and services. Direction and emphasis on this program must incorporate the Service's Long Range Interpretive Plan, which is available from the Service. Service Interpretive staff is available to work with the Concessioner to improve the methods of preparing and

presenting effective interpretive information. The Service evaluates interpretive visitor services to ensure appropriateness, accuracy, and the relationship to Area interpretive themes.

- 5) *Employee Handbook*. The Concessioner must develop a written Employee Handbook including the policies of the Concessioner and the regulations and policies of the Service. The Employee Handbook must be developed and provided to the Service for review and approval prior to distribution to employees **within 60 days after the effective date of the Contract**. Updates to the handbook must be submitted to the Service for a 30-day review period before issuing to employees.

I) Interpretive Services

1) Personal Interpretive Services

- a) Employee Knowledge. Employees must demonstrate their knowledge of the Service, its mission and values and the cultural and natural resources in the Area. Concessioner staff must utilize appropriate interpretive techniques in their interactions with visitors when performing such functions as giving directions, and answering basic Area questions. New employees should acquire this information within 30 days of being hired.
- b) Service Involvement. The Service staff may advise and assist the Concessioner in the development of interpretive materials.

2) Non-Personal Interpretive Services

- a) Locations. The Concessioner must make appropriate areas within the Concession Facilities, both interior and exterior locations, available to provide Area interpretive and safety messages in various mediums, including bulletin boards and kiosks.
- b) Area Information. The Concessioner must make Area informational handouts available at the site of each operation. The Concessioner must provide a container or box to collect documents for re-use and/or recycling. The Concessioner must coordinate the types and numbers of materials needed annually with the Interpretation and Visitor Services Division. The Concessioner may also provide digital interpretive messages.

4) RISK MANAGEMENT PROGRAM

The Concessioner must develop, implement, and maintain a Risk Management Program (RMP). The RMP will consist, at a minimum, of the following:

- 1) Risk Management Plan. The Concessioner must develop, implement, and maintain a Risk Management Plan as part of its RMP that is in accordance with the Occupational Safety and Health Act and Director's Order#50B, Occupational Safety and Health Program. The Concessioner will make an initial submittal and request for acceptance of a written Risk Management Plan to the Service within **120 days after the effective date of the Contract**, and will submit any revisions by **September 30th of each following year** thereafter. The Concessioner must update its Risk Management Plan to comply with Applicable Laws and to reflect any changes in facilities, operations, roles and responsibilities and/or procedures.
- 2) Emergency Response Plans. The Concessioner must provide plans and procedures, equipment and training to employees to effectively respond to releases of hazardous substances for the purpose of stopping the release in accordance with Applicable Laws as defined in 29 CFR 1910.120. These must include, as applicable by regulation, an Emergency Action Plan and Emergency Response Plan. A Spill Prevention Control and Countermeasure (SPCC) Plan may also be required. These plans must be submitted to the Park **within 120 days after the effective date of the Contract** and as updated. These stand-alone planning requirements must also be referenced as key parts of the Concessioner's RMP and EMP. Emergency response equipment must be provided as appropriate and must be maintained in good condition. The Concessioner must submit to the Park their Hazard Communication Plan, prepared in accordance with 29 CFR 1910.1200, **within 120 days of Contract effective date**. This plan must be referenced as part of the Concessioner's RMP.
- 3) Safety Representative. The Concessioner must designate one employee as the safety representative **within 60 days of the Contract effective date** and update this information as necessary. This person must have the authority to make decisions within the assigned area in regard to safety concerns.

- 4) Acknowledgement of Risk. The Concessioner may require clients participating in activities or renting equipment to sign an Acknowledgement of Risk form. All such forms must comply with Service requirements (as these may be amended during the term of the Contract). The Concessioner may not require Area visitors to indemnify or hold harmless the Concessioner.
 - a) The Service approved sample Visitor's Acknowledgement of Risk form is available from the Service.
 - b) The Concessioner must submit to the proposed Visitor's Acknowledgement of Risk form to the Service at least **30 days in advance of any proposed changes** in the form. If no Visitor's Acknowledgement of Risk form will be used, the Concessioner must advise the Superintendent of this intention. The Concessioner may not request or require guests participating in activities to sign a liability waiver form, insurance disclaimer, and/or indemnification agreement.
- 5) Concession Guest and Employee Accident/Injury Annual Analysis. An annual summary listing guest and employee injury/accident types shall be provided to the Service. The summary may include additional information as required by the Service. The summary will compare the present year to the same data from the previous year.
- 6) Service. The Service is the authority having jurisdiction for program review. The Service may conduct inspections as necessary.

5) HURRICANE PLAN

The Concessioner must develop and submit a Hurricane Plan to the Service for review and approval **within 90 days following the effective date of the Contract**. The Concessioner's Hurricane Plan must be consistent with the Area's Hurricane Plan. The Concessioner must review its Hurricane Plan annually, make revisions as needed, and provide the Service with the updated Hurricane Plan. The Service may request the Concessioner's participation in the review/revision of the Area's Hurricane Plan. The Concessioner must comply with all applicable provisions of both the Area and Concessioner's Hurricane Plans.

6) UTILITY RESPONSIBILITIES

A) Concessioner

- 1) The Concessioner must encourage conservation of energy, water, and other resources through policies, programs, and goals. The Concessioner must participate in energy audits and incentives if offered by its power provider.
- 2) The Concessioner will be responsible for reimbursing the Park for electricity used at the watersports rental facility at Trunk Bay. An electric meter will be used to determine actual usage. Billing statements for electricity use will be issued by the Service to the Concessioner each month. The Concessioner will be responsible for making prompt payments to the Service within 30 days of receipt of the Bill of Collection.

B) The National Park Service

- 1) The Service operates and manages the potable water and wastewater systems at Trunk Bay Beach areas and will be responsible for providing potable water to the concessioner.
- 2) The Concessioner is responsible for solid waste disposal include separation, recycling and disposal of solid waste all of which must be conducted and accomplished outside the Area.
- 3) The Service will bill the Concessioner for water services based on the amount of total water delivered to Concession Facilities in accordance with Applicable Laws, to include without limitation, Service policy which requires that utility rates charged to the Concessioner reflect actual costs incurred by the Services. Payments for water and sewage must be made within 15 days of receipt of the water and sewer invoice.
- 4) The Service reviews its operating costs for utility systems and services annually and notifies the Concessioner in writing of the new rates 90 days prior to new rates becoming effective. Rates will be based on the preceding fiscal year's actual costs.

- 5) The Service may cease to provide a particular utility service if such service is commercially available and the Service decides to switch to a commercial utility.

7) PROTECTION AND EMERGENCY SERVICES

A) Law Enforcement

- 1) *Service.* The Park Service provides resource, employee and visitor protection, including responding to emergencies involving public safety, civil disturbances, and violations of the law. The Service will conduct law enforcement patrols within the Concession Facilities and respond to violations of Federal laws and regulations. Territorial officials may be called to assist in some matters, but this will be accomplished through the office of the Chief Ranger or his/her authorized representative.
- 2) *Dangerous Surf Advisory.* On days that the Service implements "Dangerous Surf Advisory" or Red Flag warnings, the Concessioner will be notified and snorkel and other water sports equipment rentals must be suspended until the Service removes the warning.

B) Emergency Medical Care

- 1) The Virgin Islands Emergency Medical Service will provide emergency response medical services to the Concessioner in accordance with paragraph (c) below.
- 2) The Concessioner must maintain an emergency phone for after-hours reporting.
- 3) The Concessioner must immediately use "911" reporting procedures in the event of any emergency or serious injury sustained by employees or visitors in the Concession Facilities or during operations. After using the "911" reporting procedures, the Concessioner must contact the Service to report the incident through the Service's Emergency Phone Line at (866) 995-8467 at the Service Headquarters, or by any other means necessary to make the Service aware of the incident.
- 4) The Concessioner is strongly urged to encourage its employees to attend CPR offered within the local area. All Concessioner employees must be trained in proper emergency reporting procedures per the Emergency Action Plan and must be instructed to provide essential information, e.g. a call back number at their location.
- 5) The Concessioner must maintain basic first aid supplies at all Concession Facilities. All employees must be certified in standard First Aid. At least one Concession employee in each facility certified in standard First Aid must be available to respond to incidents within Concession Facilities and concession operations during operating hours.
- 6) The Concessioner must provide the Service an Emergency Action Plan by 60 days after the start of the contract.

8) PUBLIC RELATIONS

A) Required Notices

The following notices must be prominently posted at all Concessioner cash registers and payment areas:

This service is operated by (Concessioner's name), a Concessioner under contract with the U.S. Government and administered by the National Park Service. The Concessioner is responsible for conducting these operations in a satisfactory manner. Prices are approved by the National Park Service.

Please address comments to: Superintendent
Virgin Islands National Park
1300 Cruz Bay Creek
St. John, VI 00830
VIIS_SUPERINTENDENT@nps.gov

This is a facility operated in an area under the jurisdiction of the U.S. Department of the Interior. No discrimination by segregation or other means in the furnishing of accommodations, facilities, services, or privileges on the basis of race, creed, color, ancestry, sex, age, disabling condition or national origin is permitted in the use of this facility. Violations of this prohibition are punishable by fine, imprisonment, or both.

B) Public Statements

The Concessioner must refer all media inquiries concerning operations within the Area, questions about the Area, or concerning any incidents occurring within the Area to the Service. This includes all media interviews.

C) Advertisements and Promotional Material1) *Promotional Material*

- a) Website. The Concessioner must operate and manage a website that outlines available services and amenities. The Concessioner must provide up-to-date information, such as weather conditions or service and facility use disruption, for visitors. The Concessioner must submit a mock-up of the website for Service approval. The Concessioner must provide information to the Service to enable the Service to provide links on the Area's website to the Concessioner's website.
- b) Distribution. The Concessioner must distribute the Area newspaper and brochure to visitors if made available by the Area.
- c) Approval. Before the Concessioner uses any promotional material, the Concessioner must submit the proposed promotional material to the Service for review and approval prior to use. This comprises all promotional material, including website information and social media. The Concessioner must contact the Service well in advance to establish specific time frames for each review. The Concessioner must remove all unapproved promotional material from circulation at the request of the Service.
- d) Changes. The Concessioner must submit all promotional media (including websites) changes and layout to the Service for review **at least 30 days prior to projected need** or printing dates. The Service will make every effort to respond to minor changes to brochure and other texts within 15 days. Longer periods may be required for major projects or where Service staff assistance is required to help develop the product. The Concessioner should contact the Service well in advance to establish specific time frames for each review.
- e) Material. The Concessioner is encouraged to publish all advertisements and promotional material using soy-based inks on minimum 30% post-consumer material paper and tree-free products and double-sided.

2) *Advertisements*

- a) Advertisements must include a statement that the Concessioner is authorized by the Service and the Department of the Interior to serve the public within Virgin Islands National Park.
- b) Advertisements for employment must state that the Concessioner is an equal opportunity employer.

3) *Use of National Park Service Authorized Concessioner Mark (Mark)*

- a) Approved Mark. The Service has an approved Mark it allows concessioners to use to advertise the official relationship between the Service and the Concessioner. The Mark consists of the official NPS Arrowhead and the words "Authorized Concessioner."
- b) Authorized Users. The Concessioner is authorized to use the Mark at the start of the Contract in accordance with the approval procedures below. The Concessioner must receive a superior, satisfactory, or marginal rating in the previous Annual Overall Review to use the Mark following the first year of the Contract.
- c) Authorized Uses of the Mark. The Concessioner may use the Mark in publications, written advertising, brochures, web-based information, interpretive materials, broadcasts (television, film or other audio/visual), associated with required or authorized services; facility signs designed, constructed, or commissioned for official Concessioner functions or purposes; and signs placed on visitor transportation systems, vessels and aircraft.
- d) Prohibited Uses of the Mark. The Concessioner may not use the Mark on merchandise, souvenirs, and clothing presented for sale to the public; Concessioner employee uniforms; or Concessioner

equipment and transportation equipment not specifically providing required or authorized visitor services.

- e) Artwork, Layout, and Use. The Concessioner must use the official artwork provided by the Service. Layout and use must be in accordance with the Authorized Concessioner Mark Guidelines available on the NPS Commercial Services web site under the Concessioner Tools tab.
 - f) Approval Procedures. The Concessioner must submit a written request to the Service for approval to use the Mark. The submittal must include proposed applications and sample layouts. The Concessioner may not use the Mark until the Service has approved the request and the Concessioner's proposed layouts in writing.
- 4) *Visitor Comments*. The Service will review visitor comments, comment cards, and complaints on Concessioner services and associated responses. These may be incorporated into the Annual Overall Rating.
 - 5) *Volunteers in Park (VIP) Program*. The Concessioner must allow its employees to participate in the Service's Volunteers in Parks (VIP) program. More information on the Service VIP Program can be found at the NPS main website.

9) SPECIFIC OPERATING STANDARDS AND GUIDELINES

A) General

The Concessioner must provide all services in a consistent, environmentally-sensitive, and high quality manner and will operate in accordance with the operating standards as defined by the Service. The operating standards provided by the Service Concession Guidelines, RM-48 (as amended, supplemented, or revised throughout the term of the Contract) are considered service minimums. The Service is in the process of updating its operating standards. These revised standards are adopted where specified in this Operating Plan. Where service operating standards for Area are different than from those in the Service standards, they are noted as exceptions in this Operating Plan. In the event of inconsistencies between the standards and the requirements in the Operating Plan, the Operating Plan requirements shall prevail.

B) Watersports Equipment Rentals

- 1) The Concessioner will rent the required watersports equipment per the Contract. The equipment includes snorkel and other watersports equipment rentals to include a variety of beach and lounge chairs, umbrellas, snorkel belts, and inflatable vests.
- 2) The standard rental agreement will include a statement to be signed by the renter indicating that the renter will use the equipment in the authorized manner and in the permitted areas.
- 3) Equipment will be maintained in accordance with manufacturer recommendations and checked for proper operation prior to each rental. Copies of manufacturer recommendations will be provided to the Service upon request.
- 4) The Concessioner will be allowed to charge a deposit for any visitor who wishes to pay cash for the rental. The terms and amount of the deposit must be approved by the Service.
- 5) The Concessioner will not be allowed to rent snorkel and other watersports equipment during the periods of Dangerous Surf Advisory / Red Flag Warnings implemented by the Park.
- 6) The Concessioner will provide for visitors routinely scheduled rental gear operational lessons to include, at a minimum, the following:
 - a) Orientation of the beach to include safety instructions and resource protection
 - b) Operational use of rental equipment
- 7) The Concessioner will provide a space for the rental transactions and storage structures for the beach and watersports equipment.

10) REPORTING REQUIREMENTS

A) Concessioner Operational Reports

The Concessioner must provide the Service with all supporting documentation for all operational reports upon request.

- 1) *Management Listing and Organizational Hierarchy.* The local General Manager must provide the Service with an accurate, current list which identifies key Concessioner management and supervisory personnel by department with their job titles, and office and emergency phone numbers, **immediately upon award of Contract** and subsequently by **October 1 of each year** of the Contract. The Concessioner must notify the Service of any change in key management personnel and update the list as needed to maintain an accurate roster of Concessioner management and supervisory personnel.
- 2) *Incident Reports.* For the incidents below, the Concessioner must immediately use "911" reporting procedures. After using the "911" reporting procedures, the Concessioner must immediately contact and report the incident to the Area's Dispatch Center, the Chief Rangers Office, Service or Park Headquarters, and any other means necessary to make the Service aware of the emergency.
 - a) Any watersports accidents by renters resulting in property damage, personal injury, or death
 - b) Any fatalities or incidents involving personal injury or property damage which could result in a tort claim against the United States; property damage over \$500
 - c) Any injury sustained by a visitor or employee in a Concession Facility, and all medical emergencies shall be reported promptly to the NPS Dispatcher. All employee and/or visitor illness complaints will be promptly reported to the appropriate Park District Ranger so that thorough investigating procedures can be completed as necessary.
 - d) Any incident that affects the Area's natural and/or cultural resources
 - e) All suspected or known regulatory or criminal violations
 - f) Other incidents that may affect Area resources (e.g., fires, hazardous material spills, food storage) or that involve an actual or potential violation of state and federal law
 - g) A summary of all incidents occurring during the month shall be included in the consolidated month-end report.
- 3) *Human Illness Reporting.* The Concessioner must immediately report any suspected outbreak of human illness, whether employees or guests, to the Service. A suspected outbreak of human illness is two or more persons with common symptoms that could be associated with contaminated water or food sources, or other adverse environmental conditions. Reports shall be made by telephone to the area's Safety Officer with a follow up e-mail to the Safety Officer, Chief of Commercial Visitor Services, and the Chief Ranger.

B) Monthly Asset Monitoring Report

The Concessioner must provide a monthly Asset Monitoring Report to the Service. The following information will be included in this report. The report will be due to the Service **by the 15th day of the following month.**

- 1) Financial and Operational Statistics. The Concessioner will provide operational statistics and financial information for each revenue-producing outlet. The statistics and information will be provided in a mutually agreed upon format (see Operational Reports by Use, below).
- 2) Franchise Fee Payments. The Concessioner will provide documentation to the Service demonstrating proof of required franchise fee payments as described in Section 11 of the Contract within 15 days of any remittance.
- 3) Visitor Comments. The Concessioner must provide to the Service tabulated summaries of all visitor comments 15 days after the end of the month, including a year-to-date tabulation.

C) Operational Reports by Use

The Concessioner must include all operational statistics for the Concession Facilities in the monthly Asset Monitoring Report. An annual summary report will be due **May 1st of each year** of the Contract, unless

otherwise agreed upon by the Service. The Concessioner must provide this data in a concise spreadsheet form approved by the Service. Separate revenue and non-revenue data will be provided for all applicable areas.

By the 15th of the following month, the Concessioner must provide to the Service the total monthly revenue broken out by beach shop snorkel rentals and tour group rentals.

D) Summary of Initial and Recurring Due Dates

The following summarizes all reporting requirements, and details other reports, plans, payments, and inspections that will be the responsibility of the Concessioner.

SUMMARY INITIAL AND RECURRING DUE DATES			
Title	Schedule	Due Date	Reference
Initial Requirements			
Emergency Action Plan	Initial	Within 120 days after the effective date of the Contract	Operating Plan, Sec. 4) 2)
Balance Sheet	Initial	Within 90 days after the effective date of the Contract starting Nov. 1	Contract
Risk Management Plan	Initial/ Annually	Within 120 days after the effective date of the Contract; updates due by September 30 each year	Operating Plan, Sec. 4) 1)
Hurricane Plan	Initial	Within 90 days after the effective date of the Contract	Operating Plan, Sec. 5)
Employee Handbook	Initial	Within 60 days after the effective date of the Contract; updates provided 30 days before issuing to employees	Operating Plan, Sec. 3) H) 3) f) 5)
Firearms Policy	Initial	Within 60 days after the effective date of the Contract	Operating Plan, Sec. 3) H) 2) b)
Annual			
Annual Financial Report	Annually	Not later than 120 days after the last day of the Concessioner's fiscal year	Contract
Schedule of Operations	Annually	No later than September 1	Operating Plan, Sec. 3) B)
Rate Approvals	Annually	No later than September 1	Operating Plan, Sec. 3) C) 4)
Annual Overall Rating	Annually	By April 1 of the following year	Operating Plan, Sec. 3) F) 2) b)
Management Listing	Initial/ Annually	Upon Contract award; By October 1 and when significant changes occur	Operating Plan, Sec. 10) A) 1)
Certificates of Insurance and VI Business License	Annually	30 days after renewal dates	Contract
Merchandise Approval/Selection Process	Annually	By September 1	Operating Plan, Sec.
Operational Reports	Annually/ Monthly	By May 1 of each year; by the 15th day of the following month	Operating Plan, Sec. 10) C)
Monthly			
Franchise Fee Payments	Monthly	By the 15th day after the last day of each month of operation	Contract, Sec.
Asset Monitoring Report	Monthly	By the 15th day of the following month	Operating Plan, Sec. 10) B)
Other			
Promotional Material	As Necessary	At least 30 days prior to projected need	Operating Plan, Sec. 8) C) 1) C)

Note: Per the Contract, the Service from time to time may require the Concessioner to submit other reports and data regarding its performance under the Contract or otherwise, including, but not limited to, operational information.

Effective Nov 10, 2016

EXHIBIT B**NONDISCRIMINATION****SEC. 1 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, sexual orientation, gender identity, 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, sexual orientation, gender identity, 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, sexual orientation, gender identity, 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 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 contracts by the Concessioner.

(c) Facilities

(1) Definitions: As used herein:

- (i) Concessioner shall mean the Concessioner and its employees, agents, lessees, sublessees, and contractors, and the successors in interest of the Concessioner;
- (ii) 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:

- (i) 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, sexual orientation, gender identity, age, national origin, or disabling condition;
- (ii) discriminating by segregation or other means against any person.

SEC. 2 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;
- (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

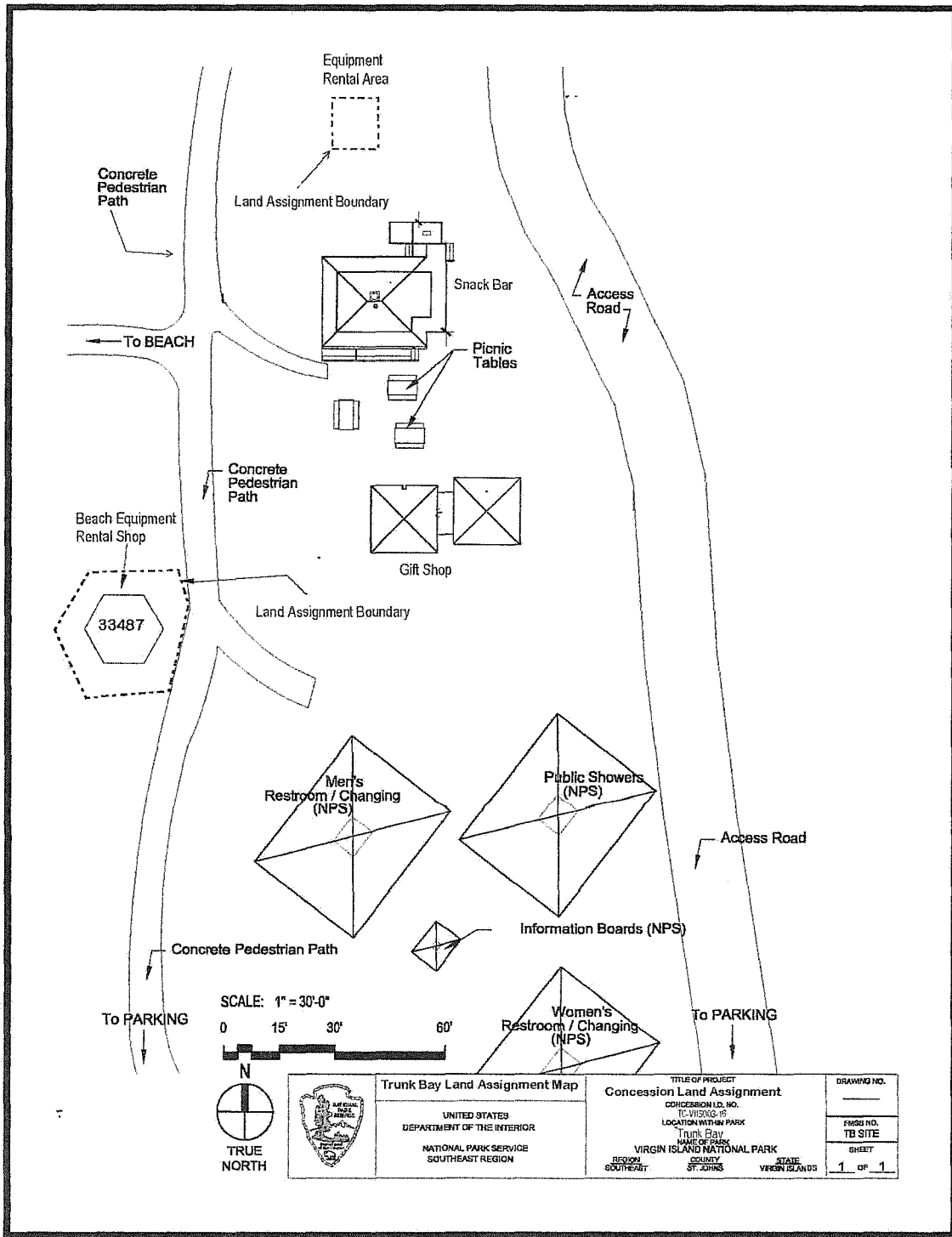
A Concessioner shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not require a Concessioner to make each of its existing facilities or every part of a facility accessible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

EXHIBIT C

ASSIGNED LAND AND REAL PROPERTY IMPROVEMENTS (CONCESSION FACILITIES)

Land Assigned

Land is assigned in accordance with the boundaries shown on the following map[s]:



Real

V8.2013

Property Improvements Assigned

The following real property improvements are assigned to the concessioner for use in conducting its operations under this Contract:

FMSS Asset Code	FMSS Asset Description	FMSS Asset Type	Unit of Measure	Date Built or Installed	Historic (Y or N)	Insurance Replacement Value
33487	Beach Equipment Rental Shop	4100	100 SF	1994	No name	\$ 41,267

** Please note: The lack of value for an asset in the column for Insurance Replacement Value does not relieve the Concessioner of its obligation to insure the asset according to the terms of this Contract.*

Approved, effective Nov 10, 2016


By: 
Stan Austin
Regional Director
Southeast Region

EXHIBIT D**ASSIGNED GOVERNMENT PERSONAL PROPERTY**

Government personal property is assigned to the Concessioner for the purposes of this Contract as follows:

Water Rescue Board

Approved, effective Nov 10, 2016

By: 

Stan Austin
Regional Director
Southeast Region

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EXHIBIT E MAINTENANCE PLAN

INTRODUCTION

This Maintenance Plan between Cynthia Smith and George Kremer dba Paradise Aqua Tours (hereinafter referred to as the "Concessioner") and the National Park Service (hereinafter referred to as the "Service") sets forth the Maintenance responsibilities of the Concessioner and the Service with regard to those lands and facilities within Virgin Islands National Park (hereinafter referred to as the "Area") that are assigned to the Concessioner for the purposes authorized by the Contract. In the event of any apparent conflict between the terms of the Contract and this Maintenance Plan, the terms of the Contract, including its designations and amendments will prevail. Full compliance with the requirements of this Maintenance Plan is required in order to satisfy the Concessioner's Maintenance obligations under the terms of the Contract.

This plan will remain in effect until superseded or amended. It will be reviewed annually by the Superintendent in consultation with the Concessioner and revised as determined necessary by the Superintendent of the Area. Revisions may not be inconsistent with the terms and conditions of the main body of the Contract. Any revisions must be reasonable and in furtherance of the purposes of this Contract.

PART A – GENERAL STANDARDS

1) General Concession Facilities Standards

Pursuant to the Contract, the Concessioner is solely responsible for the Maintenance of all Concession Facilities to the satisfaction of the Service. Compliance with the terms of this Maintenance Plan is required for this purpose.

The Concessioner must conduct all Maintenance activities in compliance with Applicable Laws. Applicable Laws include, but are not limited to Service standards, DOI and NPS Asset Management Plans, NPS Management Policies, manufacturer recommendations and specifications and those otherwise defined in the Contract.

2) Definitions

In addition to the defined terms contained or referenced in the Contract, the following definitions apply to this Maintenance Plan.

Asset – Real Property that the Service desires to track and manage as a distinct identifiable entity. It may be a physical structure or grouping of structures, land features, or other tangible property that has a specific service or function such as an office building, lodge, motel, cabin, residence, campground, marina, etc.

Capital Improvement - A Capital Improvement is a structure, fixture, or non-removable equipment provided by the Concessioner pursuant to the terms of this Contract.

Component – A portion of an Asset or system.

Component Renewal/Replacement (CR) – The planned Replacement of a Component at the end of its Useful Life. Component Renewal/Replacement examples include the replacement of roofs; electrical distribution systems; heating and cooling systems; pavement replacement for roads, parking lots and walkways; and the rehabilitation of windows and/or replacement of windows and doors. Component Renewal/Replacement includes the deconstruction of the existing Component and Replacement with a new Component of equal capability and performance. These actions recur on a periodic cycle of greater than seven years.

Concession Facilities - Concession Facilities, as defined in the main body of the Contract, are all Area lands assigned to the Concessioner under the Contract and all real property improvements assigned to the Concessioner under the Contract.

Contract – The agreement (as it may be amended from time to time) to which this Maintenance Plan is attached, including all attachments, exhibits or incorporated provisions of the agreement.

Deferred Maintenance (DM) – Maintenance that was not timely or properly conducted. Continued Deferred Maintenance will result in Deficiencies.

Deficiencies – Defects in an Asset or Component that results when Maintenance is not performed in a timely manner. Deficiencies may not have immediately observable physical consequences, but when allowed to accumulate uncorrected, lead to deterioration of performance, loss of Asset value, or both.

Environmentally Preferable - Products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, productions, manufacturing, packaging, distributions, reuse, operations, maintenance, or disposal of a product or service. Product considerations include, but are not limited to, the environmental impacts of the product's manufacture, product toxicity, and product recycled content including post consumer material, amount of product packaging, energy or water conserving features of the product, product recyclability and biodegradability. These include those products for which standards have been established for federal agency facilities and operations.

Facility Operations – Operational actions performed by the Concessioner on a recurring basis that meet daily operational needs of Concession Facilities. Typical work performed under Facility Operations includes janitorial and custodial services, snow removal, operation of utilities, and grounds keeping. Certain Facility Operations requirements may be included in Exhibit A (Operating Plan) to the Contract.

Feasible - The ability to provide the equipment, materials or procedures that are required because they are technically possible, economically reasonable, appropriate for the location and the use identified, and consistent with industry best management practices.

Hazardous Substance – Any hazardous waste, hazardous chemical or hazardous material as defined under 40 Code of Federal Regulations (CFR), Part 261, US Occupational Safety and Health Administration (OSHA) in 29 CFR 1910.1200 or 40 CFR 171, respectively.

Hazardous Waste - Any waste defined as such under 40 CFR 261 – 265.

Maintenance – The maintenance of Concession Facilities as described in this Maintenance Plan. Maintenance includes, but is not limited to, actions taken under the following maintenance categories: Component Renewal/Replacement; Recurring Maintenance; Facility Operations; Preventive Maintenance; and Repair.

Personal Property – Manufactured items of independent form and utility including equipment and objects solely for use by the Concessioner to conduct business. Personal Property includes, without limitation, removable equipment, furniture and goods, necessary for Concessioner operations under the Contract. Personal Property may be Government assigned property.

Preventive Maintenance – Planned, scheduled periodic maintenance activities that is performed weekly, monthly, quarterly, semi-annually, or annually on selected Assets or Components, typically including, but not limited to, inspection, lubrication, and adjustment.

Recurring Maintenance – Planned work activities that reoccur on a periodic cycle of greater than one year to sustain the useful life of an Asset or Component. Typical projects include, but are not limited to painting, pump and motor replacement, cleaning, repair and replacement of lighting, engine overhaul, replacement of carpeting, and refinishing hardwood floors.

Repair – Work undertaken to restore damaged or worn out Assets or Components to a fully functional operating condition.

Replacement – Exchange or substitution of one Asset or Component for another that has the capacity to perform the same function at a level of utility and service equivalent to the original Asset or Component.

Solid Waste - Discarded household and business items such as product packaging, grass clippings and other green waste, furniture, clothing, bottles, food scraps, newspapers, white goods and other appliances. It is more commonly referred to as trash, garbage, litter, or rubbish. The term "solid waste," as used in this Maintenance

Plan, does not include sewage, septic sludge, hazardous waste, universal waste and miscellaneous maintenance wastes such as used oil, tires and lead-acid batteries.

Sustainable Design - Design that applies the principles of ecology, economics, and ethics to the business of creating necessary and appropriate places for people to visit, live in or work. Development that has a sustainable design sites lightly on the land, demonstrates resource efficiency, and promotes ecological restoration and integrity, thus improving the environment, the economy and society.

Sustainable Practices/Principles - Those choices/decisions, actions and ethics that will best achieve ecological/biological integrity; protect qualities and functions of air, water, soil, and other aspects of the natural environment; and preservation of human cultures. Sustainable practices allow for use and enjoyment by the current generation, while ensuring that future generations will have the same opportunities.

Useful Life – The serviceable life of an Asset or Component.

Universal Waste – Any waste as defined under 40 CFR § 273. These include but are not limited to mercury-containing materials such as thermostats, mercury containing lamps such as fluorescent, high intensity discharge, sodium vapor, mercury vapor, lamps, cathode ray tubes (CRTs) from computers and televisions, nickel-cadmium and sealed lead-acid batteries and waste pesticides.

Waste Prevention - Any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

Waste Reduction - Preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

3) Concessioner Responsibilities

A) In General

- (1) The Concessioner must undertake Maintenance of Concession Facilities to the satisfaction of the Service, including, without limitation, compliance with the requirements of this Maintenance Plan.
- (2) All Maintenance must be undertaken in accordance with Applicable Laws, including without limitation, applicable building and safety codes. All personnel conducting Maintenance must have the appropriate skills, experience, licenses and certifications to conduct such work.
- (3) The Concessioner, where applicable, must submit project plans to the Service that are stamped by a Professional Engineer or Registered Architect licensed in the applicable State.
- (4) The Concessioner, where applicable, must obtain the appropriate permits required by State or local law, U.S. Environmental Protection Agency, and other regulatory agencies and provide copies of the permits to the Service.
- (5) The Concessioner must conduct Maintenance activities in a manner that, to extent feasible, minimizes environmental impact and utilizes principles of preventive maintenance, waste prevention and reduction, sustainable design and sustainable practices/principles and incorporates best management practices.
- (6) The Concessioner must comply with the Americans with Disabilities Act and the Architectural Barriers Act guidelines where applicable.
- (7) The Concessioner will not construct or install Capital Improvements.
- (8) The Concessioner may perform emergency repairs without prior Service approval as long as appropriate documentation follows within one business day.

B) Environmental, Historic, and Cultural Compliance

- (1) Certain Maintenance actions may be subject to compliance procedures under the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), and other laws as part of a planning process that allows the Service to ensure that all Concessioner activities meet the requirements of Applicable Laws for natural and cultural resource protection.
- (2) The Concessioner in cooperation with the Service will determine what environmental compliance may be required for particular Maintenance actions.
- (3) Any proposed Maintenance actions that require review under these procedures must be submitted to the Superintendent by the Concessioner in the format required.
- (4) The Concessioner may be required to prepare an environmental assessment, environmental impact statement, or related documents at its expense for certain Maintenance actions. The Service will advise the Concessioner on proper process and procedure.

4) Maintenance Tracking

- A) The Concessioner must schedule and track completion of all of the Concessioner's Maintenance actions and associated expenditures in an electronic format acceptable to the Service that is capable of effectively providing the Service the Maintenance information required by this Maintenance Plan.
- B) The Concessioner must provide the Service with requested Maintenance information on a frequency determined by the Service in an electronic format defined by the Service. This information may include, but is not limited to: (1) outstanding Deferred, Recurring, Preventive, scheduled, and unscheduled Maintenance and Component Renewal by Asset; and (2) budgeted and actual expenditures by Asset for Deferred, Recurring, Preventive, scheduled, and unscheduled Maintenance **and Component Renewal**. The Service, in consultation with the Concessioner, will define the specific requirements for providing requested information, including data export formats, required fields, and data structure.

5) Concessioner Inspections

The Concessioner must conduct annual inspections of Concession Facilities to determine compliance with this Maintenance Plan and to develop future Maintenance requirements.

6) Annual Concessioner Maintenance Plan (ACMP).

The Concessioner must provide the Service on an annual basis (for Service review and approval) a proposed Annual Concessioner Maintenance Plan for the next calendar year applicable to all Concession Facilities. The Concessioner must deliver the proposed revised ACMP to the Superintendent on or before December 1 of each year. The ACMP must include the following information.

A) Maintenance Action Information

The ACMP must include the following Maintenance action information:

- (1) Preventive Maintenance (PM). The proposed ACMP must include PM actions, procedures and schedules that ensure proper Preventive Maintenance of all Concession Facilities. At a minimum, the PM actions, procedures and schedules must include summary procedures for each Asset, including, but not limited to, roofs, building envelopes, and mechanical equipment.
- (2) Recurring Maintenance. The ACMP must include Recurring Maintenance actions, procedures and schedules for Recurring Maintenance to be performed.
- (3) Scheduled Repair. The proposed ACMP must include actions, plans and procedures for scheduled Repair of Concession Facilities.
- (4) Unscheduled Repair. The ACMP must include a service call procedure and method to prioritize service calls for unscheduled Repairs.
- (5) Component Renewal/Replacement. The proposed ACMP must include actions, plans and procedures for Component Renewal/Replacement.
- (6) A description of the Deferred Maintenance (and any resulting Deficiencies) that are to be cured under the terms of the proposed ACMP.

- (7) Inspection plans and procedures that demonstrate how the Concessioner will oversee the conduct of Maintenance during the next calendar year.

B) Projected Maintenance Expenditures

The ACMP must also include the Concessioner's estimated expenditures associated with the proposed ACMP, including, without limitation, a breakout of labor, materials, contracted services, and indirect costs on an Asset basis applicable to each maintenance category set forth above.

7) Service Responsibilities

Nothing in this Maintenance Plan will be construed as requiring the Service to conduct Maintenance of Concession Facilities of any kind except as otherwise expressly stated by the terms of this Maintenance Plan. Part B of this Maintenance Plan may describe certain Service responsibilities for particular elements of Maintenance of Concession Facilities. Any approval or consent given by the Service of any plan, permit, report, inspection, or any other consent or approval given by the Service under this Maintenance Plan does not relieve the Concessioner or the Concessioner's contractors of any responsibility for any errors or omissions or from the responsibility to comply with the requirements of this Maintenance Plan or the Contract.

A) Service Inspections

The Service from time to time (as determined necessary by the Service but no less than annually) will inspect the condition of Concession Facilities and the progress and quality of Maintenance activities. The Concessioner must provide qualified personnel to accompany the Service when Concession Facilities inspection is performed.

B) Evaluation of Concessioner Maintenance

The Service will provide the Concessioner with an annual evaluation of Concession Facilities. The evaluation will be based, among other matters, on the application of the National Park Service Facility Condition Standards during facility inspection. The evaluation will be provided to the Concessioner as a record of Concession Facilities condition documenting the Concessioner's compliance with its obligation to perform all necessary Maintenance, including, without limitation, Annual Concessioner Maintenance Plan (ACMP) actions. The findings and results of the evaluation will become part of the basis of evaluating Concessioner performance under the "NPS Concessioner Annual Overall Rating" program.

PART B – PARK REQUIRED CONCESSIONER RESPONSIBILITIES

1) Concessioner Responsibilities**A) General**

- (1) The Concessioner must maintain and perform repairs to the interior of the Concession Facility except as noted under "Service Responsibilities." The Concessioner must conduct litter abatement as noted in this section.
- (2) *Environmental Practices*
 - (a) Preventive Maintenance. The Concessioner must use preventive maintenance to prevent environmental impacts before they occur.
 - (b) Equipment and Materials. Where feasible and available, the Concessioner must use products or materials that are less toxic, contain post-consumer recycled content, are naturally or minimally processed products, and use other materials that have additional environmentally preferable attributes. The Concessioner must minimize use of hazardous chemicals in its operations.
 - (c) Contractors. The Service encourages the Concessioner to conduct business with companies that provide cleaner technologies and safer alternatives to toxic and hazardous materials.
 - (d) Purchasing. The Concessioner must purchase environmentally friendly cleaners and other products whenever appropriate.

B) Facility Maintenance

The following are guidelines in addition to those previously identified in this plan:

- (1) *Qualified Personnel*. The Concessioner must perform all maintenance and repair work using qualified personnel as defined by applicable codes.
 - (a) All personnel conducting repair and maintenance work on assets must have the appropriate skills, experience, licenses (as applicable), and certifications (as applicable) to conduct such work.
- (2) *Specifications*. The Concessioner must perform repairs or replacements in accordance with Service specifications, industry standards, and applicable manufacturer's guidelines and are subject to Service approval.
- (3) *Access to Concession Facilities*. The Superintendent and/or his or her designated representative will have access to all Concession Facilities in the Area at any time and without notice to conduct evaluations and other required inspections.
- (3) *Painting*. Unless required more frequently per the manufacturer's recommendation o, the Concessioner must paint interior paintable surfaces on a regular cycle not less than once every seven (7) years. Paint products must be of a quality that is approved by the Service. Whenever possible, the Concessioner must utilize reprocessed, low volatile organic content (VOC), latex coatings when technically feasible and appropriate. When oil based paints are used, the Concessioner must minimize solvent use by means of thinner settling and reuse whenever possible.
- (4) *Interior*. The Concessioner must ensure that all interior spaces are clean, properly illuminated, and well maintained, including the following:
 - a) Walls and Ceilings. The Concessioner must maintain walls and ceilings free of damage and with a fresh appearance.
 - b) Windows. The Concessioner must keep windows clean and unbroken and grouting clean and in good repair.
 - c) Flooring. The Concessioner must keep floors clean and free of stains. The Concessioner must keep vinyl floor coverings clean, waxed or buffed, free of cracks, chips, and worn places. The Concessioner must keep masonry or flagstone grouting clean and in good repair and wood floors clean and waxed or otherwise sealed.

- d) Interior Lighting. The Concessioner must maintain interior lighting as appropriate for its use.
- Where feasible and appropriate, the Concessioner must replace incandescent light fixtures with energy conserving fluorescent fixtures and incandescent exit lighting with light emitting diode (LED) fixtures.
 - Where feasible and appropriate, the Concessioner must install photo and motion sensors for lighting systems.
- (5) *Telephone*. The Concessioner must repair and maintain on-premises telephone equipment and wiring on the user side of the connections and panels.

C) Utilities

- (1) *Electrical*. V.I. Water and Power Authority maintains the primary electrical lines within the Area. Any changes to the utility system require written approval from the Service.
- (a) The Concessioner must repair or replace, as directed by the Service, all electrical system damage occurring within the interior of the Concession Facilities, unless caused by the actions of a Service employee or a Service contractor.
 - (b) The Concessioner must repair or replace, as directed by the Service, all electrical damage occurring on the exterior or beyond the Concession Facilities that result from actions of the Concessioner's employees or its contractors.
 - (c) The Concessioner must ensure that all electrical circuits under its control meet, at a minimum, the National Electric Code.
- (2) *Water and Sewer*
- (a) The Concessioner must maintain and repair hot water heaters, faucets, and spigots.
 - (b) The Concessioner must repair or replace, as directed by the Service, any water or sewer system damage within the interior of the Concession Facilities, unless caused by the actions of a Service employee or a Service contractor.
 - (c) The Concessioner must repair or replace, as directed by the Service, any water or sewer system damage occurring on the exterior or beyond the Concession Facilities that results from actions of the Concessioner's employees, or its contractors.

D) Signs

- (1) The Concessioner must install, maintain, and replace all interior and exterior signs relating to its operations and services within its Concession Facilities. Examples include signs identifying the location of functions (when attached to Concessioner-operated buildings or on grounds assigned to the Concessioner), signs identifying operating services and hours, and signs identifying the Concessioner's rules or policies.
- (2) The Concessioner must prepare signs of a permanent nature in a professional manner, appropriate for the purpose they serve, and consistent with Service guidelines, including, if available, the Padre Island National Seashore Sign Standards.
- (3) All sign designs and installations require the approval of the Service.

E) Solid Waste Disposal

- (1) To prevent pest attraction and breeding, all solid waste from the Concessioner's operations must be adequately bagged, tied and stored in sealed containers.
- (2) *Receptacles*
- The Concessioner must provide clean and well maintained indoor receptacles.

F) Hurricane Preparation and Repair

The Concessioner must secure all equipment, supplies and inventory and replace or repair damage to the interior of the Concession Facilities.

2) Service Responsibilities

A) Water and Sewer

- (1) The Service maintains all primary water and sewer mains in the Area.

- (2) The Service provides bacteriological monitoring and chemical analysis of potable water as required by all Applicable Laws.
- (3) The Service provides water and wastewater services to the Concession Facilities and charges the Concessioner for these services in accordance with current Service guidelines.
- (4) The Service will review operating costs for utility systems and services annually and will notify the Concessioner in writing by November 1 of the rates for the upcoming year effective January 1 – December 31.

B) Meters

The Service will install and maintain the water meter for the Concession Facilities. The Service will install and maintain the electrical meter. The Service will fund the installation costs of the electrical meter.

C) Signs

The Service maintains all regulatory, traffic control, or information signs that serve the interest of the Park; examples include information signs along roadways, directional signs along trails, and interpretive signing.

D) Solid Waste

Unless otherwise provided in this Maintenance Plan, the Service will not provide garbage collection for the Concessioner. The Concessioner is responsible for the daily removal of garbage collected from their operation. .

E) Fire Extinguisher

The Service will provide and annually test the fire extinguishers within the Concession Facilities.

F) Alarm

The Concessioner can install an alarm system and will be responsible for the installation and monitoring fees.

PART C – CONCESSIONER ENVIRONMENTAL RESPONSIBILITIES

The following Concessioner environmental responsibilities are specified for Maintenance. Park-required Concessioner responsibilities provided in Part B may provide more specific and/or additional environmental requirements. When in conflict, responsibilities described in Part B supersede those identified in this part.

A) General Air Quality

- 1) The Concessioner will minimize impacts to air quality in maintenance under this contract through the use of appropriate control equipment and practices.
- 2) The Concessioner will use diesel fuel/heating oil containing no more than 500 parts per million (ppm) sulfur (i.e., low sulfur fuel) accepted as permitted by the Service.
- 3) The Concessioner will not use halon fire suppression systems except as permitted by the Service.

B) Environmentally Preferable Products, Materials and Equipment

- 1) The Concessioner will use products, materials and equipment that are environmentally preferable where feasible in maintenance. Environmentally preferable maintenance related products, materials and equipment include but are not limited to re-refined oils, re-tread tires, bio-based lubricants, low-toxicity cleaners and chemical additives for toilets, low-toxicity and recycled antifreeze, safe alternatives to ozone-depleting substances for HVAC equipment, construction and building materials with recycled content, and alternative fuel vehicles.
- 2) The concessioner will use polystyrene as little as possible and may not use polystyrene that contains chlorofluorocarbons.

C) Hazardous Substances

- (1) The Concessioner will minimize the use of hazardous substances for maintenance purposes under this Contract where feasible.
- (2) The Concessioner will provide secondary containment for hazardous substances storage where there is a reasonable potential for discharge to the environment. At a minimum, the Concessioner will provide secondary containment for hazardous substances located in outside storage areas and in interior storage areas in the proximity of exterior doorways or floor drains, on docks or vessels.
- (3) The Concessioner will provide an inventory of hazardous substances to the Service annually in accordance with Section 6(d)(1) of the Contract. The inventory will identify each substance, location and amounts stored.

D) Hazardous, Universal and Other Miscellaneous Maintenance Wastes

- (1) The Concessioner will minimize the generation of hazardous, universal and miscellaneous maintenance waste where feasible.
 - 1) The Concessioner will recycle hazardous, universal, and miscellaneous maintenance wastes, where feasible, including but not limited to, used oil, used oil contaminated with refrigerant, used solvents, used antifreeze, paints, used batteries, and used fluorescent lamps (including CFLs).
- 2) Concessioner will obtain approval from the Service for hazardous, universal, and miscellaneous maintenance waste storage area siting and designs.
- 3) If the Concessioner is a conditionally exempt small quantity generator (CESQG) as defined in federal regulations, it will follow small quantity generator (SQG) regulations related to container labeling, storage, accumulation times, use of designated disposal facilities, contingency planning, training, and recordkeeping.
- 4) The Concessioner will manage universal wastes (i.e., storage, labeling, employee training, and disposal) in accordance with federal universal waste regulations irrespective of hazardous waste generator status.

- 5) The Concessioner will address hazardous, universal and miscellaneous maintenance wastes in its inventory of waste streams which is required annually in accordance with Section 6(d)(1) of the Contract. The inventory will identify each waste type, locations stored, amount generated annually, amount typically generated per month and amount typically stored on site at any one time.

E) Pest Management

- (1) The Concessioner will conduct any pesticide management activities in accordance with NPS Integrated Pest Management (IPM) procedures contained in NPS 77 and the Park IPM Plan. These procedures include but are not limited to Park approval before the use of any chemical pesticides by the Concessioner or its contractor, proper pesticide storage, application and disposal, and pesticide use reporting.

F) Solid Waste

- (1) Litter Abatement
 - A) The Concessioner will develop, promote and implement a litter abatement program and provide litter free messages on appropriate materials and in appropriate locations.
 - B) The Concessioner will keep all Concession Facilities free of litter, debris, and abandoned equipment, vehicles, furniture, and fixtures.
- 2) Solid Waste Storage and Collection and Disposal
 - (a) The Concessioner is responsible for providing, at its own expense, an effective system for the collection, storage and disposal of solid waste generated by its facilities and services as well as the solid waste generated by the visiting public at its facilities.
 - A) To prevent pest attraction and breeding, all solid waste from the Concessioner's operations will be adequately bagged, tied and stored in sealed containers.
 - B) Solid waste collection and disposal will be conducted on a schedule approved by the Service, at a rate as necessary to prevent the accumulation of waste.
 - C) Solid waste that is not recycled will be properly disposed at an authorized sanitary landfill or transfer station.

G) Solid Waste Receptacles

- (1) The Concessioner will locate its solid waste containers (i.e., cans, "roll-off" containers/dumpsters, etc.) conveniently and in sufficient quantity to handle the needs of its operations. The Concessioner will not allow waste to accumulate in containers to the point of overflowing.
 - 1) Outdoor receptacles must be waterproof, vermin-proof, and covered with working lids. Indoor receptacles should be similarly constructed based on use (i.e., food waste versus office trash).
 - 2) The Concessioner will keep its receptacles clean, well maintained, painted in Service-approved colors, and serviceable; containers must be clearly signed; sites must be free of spills, waste, and odors. All solid waste containers will remain closed when containers are not in use.
 - 3) Concessioner bulk solid waste storage/accumulation facilities will be screened from the public.

H) Solid Waste Source Reduction and Recycling

- (1) The Concessioner will implement a source reduction program designed to minimize its use of disposable products in its operations. Purchase and reuse of materials is encouraged where feasible as the first choice in source reduction.
 - 1) The Concessioner is encouraged to reuse materials where allowable under Applicable Laws where the collection of the materials will not present public health, safety or environmental concerns. Opportunities include the reuse of retail product packaging.
 - 2) The Concessioner will develop, promote and implement a recycling program that fully supports the efforts of the Service for all Park specified materials. These may include but may not be limited to paper, newsprint, cardboard, bimetals, plastics, aluminum and glass. It may also include large items such as computers and other electronics, white goods and other bulky items and others.

- 3) The Concessioner will make recycling receptacles available to the public and Concession employees.
- 4) Recycling containers will be waterproof, vermin-proof and covered with working lids as necessary to maintain the quality of the recyclables for market and to prevent vermin from being attracted to the recycling containers. Containers must be clearly signed; sites must be free of spills, waste, and odors. It is encouraged that lids are provided with openings or holes sized to limit the types of materials deposited and to minimize contamination in recycling containers.
- 5) The Concessioner will remove all recyclables from the Area and transport them to an authorized recycling center. The Concessioner may contract with an independent vendor, with the approval of the Service, to provide recycling services.

I) Solid Waste Inventory

- 1) The Concessioner will address solid waste in its inventory of waste streams which is required annually in accordance with Section 6(d)(1) of the Contract. The inventory will identify waste types including trash, each category of recyclables, green waste, construction debris, and other solid waste streams. The inventory will specify amount generated by weight, annually.

J) Water and Energy Efficiency

- (1) The Concessioner will consider water and energy efficiency in all facility management practices and integrate water-conserving and energy conserving measures whenever feasible.
- (2) In addition to meeting standards established in accordance with Applicable Laws, Concession Facilities equipment and practices will be consistent with water and energy efficiency standards established for federal facilities and operations where feasible.
- (3) As new technologies are developed, the Concessioner will assess these opportunities and integrate them into existing operations where feasible and there is the potential for increased efficiency, reduced water or energy consumption, or reduced impacts on the environment.

K) Wastewater

- (1) The Concessioner will minimize impacts to water quality in maintenance under this contract through the use of appropriate control equipment and practices.
- (2) The Concessioner will prevent discharges to the sanitary sewer system that could result in pass through of contaminate or that could interfere with the operation of the sanitary wastewater treatment system.
- (3) The Concessioner will minimize the storage of equipment and materials on the Assigned Facilities in a manner that would cause storm water contamination (i.e., storage outside without weather protection).

PART D – CONCESSIONER REPORTING RESPONSIBILITIES

1) Reporting Requirements

The following chart summarizes the plan and reporting dates established by Parts A, B and C of this Maintenance Plan.

Report or Plan	Schedule	Due Date
Part A – Annual Concessioner Maintenance Plan (ACMP)	Annual	November 1
Part C – Pesticide Use Approval(s)	Annual	November 15
Part C – Inventory of Hazardous Substances	Annual	November 15
Part C - Inventory of Waste Streams	Annual	November 15

Supplement – ANNUAL WORKPLAN

None

EXHIBIT F

INSURANCE REQUIREMENTS

SEC. 1. INSURANCE REQUIREMENTS

The Concessioner shall 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. No act of the Concessioner, its agents, servants, or employees may impair any and all insurance coverage provided for the benefit of, or evidenced to the Service. The Concessioner must ensure that its insurance carriers provide the Service, solely for the benefit of the Service, **an unconditional 30 days advance notice** of cancellation in coverage or policy terms for all property insurance. The Concessioner must provide the Service with a 30-day notice of cancellation on all liability and workers' compensation insurance policies.

The amounts of insurance, limits of liability, and coverage terms included are not intended as a limitation of the Concessioner's responsibility or liability under the Contract, but rather an indication as to the minimum types, amounts, and scope of insurance that the Service considers necessary to allow the operation of the concession at the Area. Nevertheless, if the Concessioner purchases insurance in addition to the limits set forth herein, the Service will receive the benefit of the additional amounts of insurance without cost to the Service.

SEC. 2. LIABILITY INSURANCE

The Concessioner must maintain the following minimum liability coverages, all of which, unless noted herein, are to be written on an occurrence form of coverage. The Concessioner may attain the limits specified below by means of supplementing the respective coverage(s) with excess or umbrella liability as explained below.

(a) Commercial General Liability

- (1) The Concessioner must obtain coverage for bodily injury, property damage, contractual liability, personal and advertising injury liability, and products and completed operations liability. The Concessioner must provide the following minimum limits of liability:

General Aggregate	\$2,000,000
Products and Completed Operations Aggregate	\$2,000,000
Per Occurrence	\$1,000,000
Personal and Advertising Injury Liability	\$1,000,000
Medical Payments	\$1,000
Damage to Premises Rented to You	\$1,000

- (2) The liability coverages may not contain the following exclusions/limitations:

Athletic or Sports Participants
 Products/Completed Operations
 Personal & Advertising Injury exclusion or limitation
 Contractual Liability
 Explosion, Collapse and Underground Property Damage exclusion
 Total Pollution exclusion

- (3) Pollution liability insurance coverage must be included for injuries resulting from smoke, fumes, vapor, or soot, or other contaminants arising from equipment used to heat the building or from a hostile fire.

- (4) If the policy insures more than one location, the general aggregate limit must be amended to apply separately to each location.

(b) Automobile Liability

The Concessioner must provide coverage for bodily injury and property damage arising out of the ownership, maintenance or use of "any auto," Symbol 1, including garage operations for products and completed operations. Where there are no owned autos, coverage will be provided for "hired" and "non-owned" autos, "Symbols 8 & 9." Garagekeepers' liability is to be included on a "direct" basis for all Concessioner operations handling, parking or storing automobiles owned by others for a fee.

Combined Single Limit Each Accident Minimum statutory automobile liability requirements in the US Virgin Islands

(c) Excess Liability or Umbrella Liability

The Concessioner may use an Excess or Umbrella Liability policy to achieve the commercial general liability and automobile liability limits set forth above. The limit of liability under the excess policy must be in an amount that together with the subordinate policy limit meets the minimum limit of liability required.

The Concessioner is not required to provide excess liability or umbrella liability coverage, but may use it to supplement any insurance policies obtained to meet the minimum requirements of the Contract. If maintained, the Concessioner will provide coverage for bodily injury, property damage, personal injury, 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 Umbrella Liability policy.

(d) Liquor Liability (not applicable)

The Concessioner must provide coverage for bodily injury and 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.

Each Common Cause Limit	\$
Aggregate Limit	\$

(e) Watercraft Liability (or Protection and Indemnity)

The Concessioner must provide coverage for bodily injury and property damage arising out of the use of any watercraft.

Each Occurrence Limit	\$ 1,000,000
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Marina liability shall be maintained at the same each occurrence limit if the Concessioner operates a marina.

Tower's liability shall be maintained at the same each occurrence limit if the Concessioner tows or transports non-owned vessels by water.

(f) Marina Operator's Legal Liability (not applicable)

Coverage will be provided for damage to property in the care, custody or control of the Concessioner.

Any One Loss

\$

(g) Environmental Impairment Liability (not applicable)

The Concessioner will provide coverage for bodily injury and property damage arising out of pollutants or contaminants on-site and off-site and for cleanup.

Each Occurrence or Each Claim Limit	\$
Aggregate Limit	\$

(h) Aircraft Liability (not applicable)

The Concessioner must provide coverage for bodily injury (including passengers) and property damage arising out of the use of any aircraft.

Each Person Limit	\$
Property Damage Limit	\$
Each Accident Limit	\$

The Concessioner must maintain airport liability insurance at a limit of at least \$ _____ if the Concessioner maintains landing facilities for use by third parties. Hangerkeeper's liability shall be maintained at a limit sufficient to cover the maximum estimated value of non-owned aircraft in the Concessioner's care, custody or control if the Concessioner provides aircraft storage to third parties.

(i) Garage Liability (not applicable)

This coverage is required for any operations in which the Concessioner services, handles or repairs automobiles owned by third parties. Coverage will be provided for bodily injury, property damage, personal or advertising injury liability arising out of garage operations (including products/completed operations and contractual liability) as well as bodily injury and property damage arising out of the use of automobiles.

Each Accident Limit - Garage Operations (Other than Covered Autos)	\$
Aggregate Limit-Garage Operations	\$
Covered Auto Limit (each accident)	\$
Garagekeepers' Liability	
Personal Injury Protection (or equivalent no-fault coverage)	\$
Uninsured Motorists	\$
Personal & Advertising Injury Limit	
Fire Legal Liability "per fire"	\$

If owned vehicles are involved, liability coverage should be applicable to "any auto" ("Symbol 21"), otherwise coverage applicable to "hired" and "non-owned" autos ("Symbols 28 & 29") should be maintained.

(j) Care, Custody and Control – Legal Liability, i.e. Innkeeper's Liability (not applicable)

Coverage will be provided for damage to property in the care, custody or control of the Concessioner.

Any one Guest	\$
Any One Loss	\$

(k) Professional Liability, e.g. dive instructor, massage therapist

The Concessioner must maintain, or cause professionals working on its behalf to maintain, professional liability insurance for all professional services provided by or on behalf of the Concessioner.

Each Occurrence Limit	\$1,000,000
Aggregate Limit	\$2,000,000

(l) Special Provisions for Use of Aggregate Policies

The general aggregate under the Commercial General Liability policy must apply on a "per location" basis. The Certificate of Insurance required herein will note compliance with this aggregate provision.

(m) Deductibles/Self-Insured Retentions

The Concessioner's self-insured retentions or deductibles on any of the above described liability insurance policies (other than umbrella liability, environmental impairment liability or professional liability, if maintained) may not exceed \$5,000 without the prior written approval of the Director. Deductibles or retentions on umbrella liability, environmental impairment liability and professional liability may be up to \$25,000.

(n) Workers' Compensation and Employers' Liability

The Concessioner must obtain coverage that complies with the statutory requirements of the state(s) in which the Concessioner operates. The employer's liability limit will not be less than the statutory limit for the workers compensation coverage.

If the Concessioner's operations include use of watercraft on navigable waters and employ persons in applicable positions, a Maritime Coverage Endorsement must be added to the Workers' Compensation policy, unless coverage for captain and crew is provided in a Protection and Indemnity policy.

If the Concessioner conducts its operations in proximity to navigable waters and employ persons in applicable positions, United States Longshore and Harbor Workers' Compensation Act coverage must be endorsed onto the Workers' Compensation policy.

SEC. 3. PROPERTY INSURANCE**(a) Building(s) and Contents Coverage**

Amount of insurance (buildings): Full replacement value as listed in Exhibit C without deduction.

Amount of insurance (contents): Full replacement value without deduction.

Amount of insurance (inventory): Full replacement value without deduction.

- (1) Insurance shall cover buildings, structures, improvements & betterments, and contents for all Concession Facilities, as more specifically described in Exhibit C of this Contract.
- (2) Coverage shall apply on an "all risks" or "special coverage" basis and shall include earthquake coverage if the Concession Facilities are located within Seismic Zones 3 or 4.
- (3) The policy shall provide for loss recovery on a replacement value basis without deduction.
- (4) The amount of insurance must represent no less than 100% of the replacement cost value of the insured property. The Concessioner must insure inventory for 100% of the replacement cost of the products held for sale.

- (5) The vacancy restriction and unoccupied restriction, if any, must be eliminated for all property that will be vacant beyond any vacancy or unoccupied time period specified in the policy.
- (6) The Concessioner must maintain flood coverage at least at the maximum limit available in the National Flood Insurance Program (NFIP) or the total replacement cost of the property, whichever is less, if the Concession Facilities are partially or fully within a Special Flood Hazard Area (Flood Zones A or V as identified by the Federal Emergency Management Agency).
- (7) The Concessioner must maintain earthquake coverage (if applicable) at the maximum limit available not to exceed 100% replacement value, without a deductible greater than 5% of the property value, or its equivalent in whole dollars.
- (8) The coinsurance provision, if any, shall be waived or suspended by an agreed amount clause.
- (9) The Concessioner must provide coverage on a blanket basis for real and personal property.
- (10) Ordinance or law, demolition, and increased cost of construction. Coverage shall be maintained with a limit of not less than 20% of the building replacement costs listed in Exhibit C, each for the increased cost of construction and for the cost to replace the undamaged portion of a building ordered torn down by the appropriate authorities.

(b) Boiler & Machinery/Equipment Breakdown Coverage

- (1) Insurance shall apply on the comprehensive basis of coverage including all objects within the Concession Facilities.
- (2) The policy shall provide a limit at least equal to the full replacement cost for all covered objects in the highest valued Concession Facilities location, plus 20% on a replacement cost basis.
- (3) No coinsurance clause shall apply.
- (4) The Concessioner must provide coverage on a blanket basis.
- (5) If insurance is written with a different insurer than the building(s) and contents insurance, both the property and boiler insurance policies must be endorsed with a joint loss agreement.
- (6) The Concessioner must maintain ordinance or law, demolition, and increased cost of construction coverage.

(c) Inland Marine Coverage

- (1) Insurance shall apply to all boats, office trailers, equipment, storage racks and docks owned or rented by the insured, unless otherwise covered by building and contents coverage or provided for as part of a Watercraft Liability (or Protection and Indemnity) policy.
- (2) Coverage shall apply to direct damage to covered property.
- (3) The Concessioner must maintain flood coverage and earthquake coverage as described above.
- (4) The Concessioner must maintain coverage while covered property is in transit or away from the insured's premises.
- (5) No coinsurance clause shall apply.

(d) Builders Risk Coverage

- (1) Insurance shall cover buildings or structures under construction pursuant to the terms of the Contract and include coverage for property that has or will become a part of the project while such property is at the project site, at temporary off-site storage, and while in transit. Coverage also must apply to temporary structures such as scaffolding and construction forms.
- (2) Coverage shall apply on an "all risks" or "special coverage" basis.
- (3) The policy shall provide for loss recovery on a replacement cost basis.
- (4) The amount of insurance should represent no less than 100% of the replacement value of the property in the process of construction.
- (5) No coinsurance clause shall apply.
- (6) Any occupancy restriction must be eliminated.
- (7) Any collapse exclusion must be eliminated.

(e) Business Interruption and/or Expense

Business interruption insurance is required on all property policies, and Boiler and Machinery policies. Business interruption insurance and extra expense insurance covers the loss of income and continuation of fixed expenses in the event of damage to or loss of any or all of the Concession Facilities. Extra expense insurance covers the extra expenses above normal operating expenses to continue operations in the event of damage or loss to covered property. The Concessioner must calculate the minimum coverage provided as follows:

Anticipated annual gross revenue from operations	\$ _____
Less non-continuing expenses	(\$ _____)
Annual Total	\$ _____
Divided by 12	\$ _____
Times the number of months estimated to rebuild or repair the Concession Facilities	\$ _____
Minimum Coverage	\$ _____

(f) Deductibles

Property insurance coverages described above may be subject to deductibles as follows:

- (1) Direct damage deductibles shall not exceed the lesser of 10% of the amount of insurance or \$50,000 (except flood coverage and earthquake coverage may be subject to deductibles not exceeding 5% of the property value for flood, windstorm and earthquake).
- (2) Extra expense deductibles (when coverage is not combined with business interruption) shall not exceed \$50,000.

(g) Required Clauses

- (1) Loss Payable Clause: A loss payable clause, similar to the following, must be added to Buildings and Contents, Boiler and Machinery, and Builders Risk policies:

"In accordance with Concession Contract No. ___ dated ___, between the United States of America and [the Concessioner] payment of insurance proceeds resulting from damage or loss of structures insured under this policy is to be disbursed directly to the Concessioner without requiring endorsement by the United States of America, unless the damage exceeds \$1,000,000."

SEC. 4. CONSTRUCTION PROJECT INSURANCE

Concessioners entering into contracts with outside contractors for various construction projects, including major renovation projects, rehabilitation projects, additions or new structures must ensure that all contractors retained for such work maintain an insurance program that adequately covers the construction project.

The insurance maintained by the construction and construction-related contractors shall comply with the insurance requirements stated in the Contract including this Exhibit (for commercial general liability, automobile liability, Workers' Compensation and, if professional services are involved, professional liability). Except for Workers' Compensation insurance, the interests of the Concessioner and the United States shall be covered in the same fashion as required in the commercial operator insurance requirements. The amounts and limits of the required coverages shall be determined in consultation with the Director taking into consideration the scope and size of the project.

SEC. 5. 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), unless otherwise authorized by the Service.
- (2) All insurers for all coverages must have a Best's Financial Size Category of at least VII according to the most recent edition of Best's Key Rating Guide (Property-Casualty edition), unless otherwise authorized by the Service.

SEC. 6. THIRD PARTY INSURANCE

Concessioners entering into contracts with third parties for various services or activities that the Concessioner is not capable of providing or conducting, must ensure that each third party retained for such work maintain an insurance program that adequately covers the activity and comply with all the requirements applicable to that party's own insurance.

SEC. 7. CERTIFICATES OF INSURANCE

All certificates of insurance required by this Contract shall 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, shall provide the Director with a complete copy of any of the insurance policies (and all endorsements thereto) required herein to be maintained by the Contract including this Exhibit.

The certificate of insurance shall contain a notation by the Concessioner's insurance representative that the insurance coverage represented therein complies with the provisions of the Contract, including this Exhibit.

SEC. 8. STATUTORY LIMITS

In the event that a statutorily required limit exceeds a limit required herein, the Concessioner must maintain the higher statutorily required limit, which shall be considered as the minimum to be maintained. In the event that the statutorily required limit is less than the limits required herein, the limits required herein apply.

EXHIBIT G
TRANSITION TO A NEW CONCESSIONER

SEC 1. GENERAL

The Director and the Concessioner hereby agree that, in the event of the expiration or termination of this Contract for any reason (hereinafter "Termination" for purposes of this Exhibit) and the Concessioner is not to continue the operations authorized under this Contract after the Termination Date, the Director and the Concessioner in good faith will fully cooperate with one another and with the new concessioner or concessioners selected by the Director to continue such operations ("New Concessioner" for purposes of this exhibit), to achieve an orderly transition of operations in order to avoid disruption of services to Area visitors and minimize transition expenses.

SEC. 2. COOPERATION PRIOR TO THE TERMINATION DATE

At such time as the Director may notify the Concessioner that it will not continue its operations upon the Termination of this Contract, the Concessioner, notwithstanding such notification, shall undertake the following tasks.

(a) Continue Operations

The Concessioner shall continue to provide visitor services and otherwise comply with the terms of the Contract in the ordinary course of business and endeavor to meet the same standards of service and quality that were being provided previously with a view to maintaining customer satisfaction.

(b) Continue Bookings

(1) The Concessioner shall continue to accept all future bookings for any hotel, lodging facilities, or other facilities and services for which advance reservations are taken. The Concessioner shall not divert any bookings to other facilities managed or owned by the Concessioner or any affiliate of the Concessioner. The Concessioner shall notify all guests with bookings for any period after the Termination Date that the New Concessioner will operate the facilities and services.

(2) Promptly following notification to the Concessioner by the Director of the selection of the New Concessioner, the Concessioner shall provide the New Concessioner with a copy of Concessioner's reservation log for visitor services as of the last day of the month prior to the selection of the New Concessioner. The Concessioner thereafter shall update such log on a periodic basis (but no less frequently than 30 days) until the Termination Date. The reservation log shall include, without limitation, the name of each guest, and the guest's address, contact information, dates of stay, rate quoted, amount of advance deposit received, and confirmation number, if applicable.

(c) Designating a Point of Contact and Other Actions

(1) The Concessioner shall designate one of the Concessioner's executives as the point of contact for communications between the Concessioner and the New Concessioner.

(2) The Concessioner shall provide the New Concessioner with access to all Concession Facilities, including "back-of-house areas". The Concessioner also shall provide the New Concessioner copies of the keys to all Concession Facilities.

(3) The Concessioner shall provide the Director and the New Concessioner full access to the books and records, licenses, and all other materials pertaining to all Concession Facilities and the Concessioner's operations in general.

(4) The Concessioner shall provide the Director and the New Concessioner with copies of all maintenance agreements, equipment leases (including short-wave radio), service contracts, and supply contracts,

including contracts for on-order merchandise (collectively "contracts"), and copies of all liquor licenses and other licenses and permits (collectively "licenses").

(5) The Concessioner shall allow the New Concessioner to solicit and interview for employment all of the concessioner's salaried and hourly employees, including seasonal employees, through a coordinated process implemented by the Concessioner.

(6) The Concessioner shall not enter into any contracts or agreements that would be binding on any Concession Facilities or concession operations in general after the Termination Date without the prior written agreement of the New Concessioner.

(d) Financial Reports

Within 30 days after receipt of the notification of the selection of the New Concessioner, The Concessioner shall provide the New Concessioner with a financial report with respect to the operation of the Concession Facilities and the Concessioner's operations in general as of the last day of the month prior to receipt of such notification. The Concessioner, thereafter, shall update such financial report on a periodic basis (but no less frequently than 30 days) until the Termination Date. Such financial report shall include, at a minimum: a balance sheet for the Concession Facilities, if any; a schedule of pending accounts payable; and a schedule of pending accounts receivable.

(e) Personal Property List

The Concessioner shall provide the New Concessioner with a complete, detailed, and well-organized list of physical inventory, supplies, and other personal property owned or leased by the Concessioner in connection with its operations under the Contract (including a list of such items that are on order) The Concessioner must provide the list to the New Concessioner within 30 days following receipt of the notification of the selection of the New Concessioner. The Concessioner, thereafter, shall update the list on a monthly basis. The Concessioner shall designate those items that the Concessioner believes are essential to maintaining the continuity of operations or the special character of the concession operations. The Concessioner shall assist the New Concessioner in reviewing and validating the list.

(f) Other Information and Reports

The Concessioner shall provide the New Concessioner with all other information and reports as would be helpful in facilitating the transition, including, without limitation, a list of maintenance records for the Concessioner's operations for the period of one year prior to notification of the selection of the New Concessioner. The Concessioner must also provide complete information on the following to the New Concessioner: utilities, including gas and electric; telephone service; water service; and specific opening and closing procedures. The Concessioner must provide all such information within 30 days after receipt of notification of the selection of the New Concessioner and update the information periodically (but no less frequently than 30 days) until the Termination Date.

(g) Other Cooperation

The Concessioner shall provide the Director and the New Concessioner with such other cooperation as reasonably may be requested.

SEC. 3. COOPERATION UPON THE TERMINATION DATE

Upon the Termination Date, the Concessioner shall undertake the following activities.

(a) Transfer of Contracts and Licenses

The Concessioner shall cooperate with the transfer or assignment of all contracts and licenses entered into by the Concessioner that the New Concessioner elects to assume.

(b) Reservation Systems

The Concessioner shall cooperate with the transfer of reservation information by:

- (i) Providing the New Concessioner with an update of the reservation log through the Termination Date;
- (ii) Disconnecting its operations from the Concessioner's centralized reservation system, if any; and
- (iii) Assisting the New Concessioner in transitioning to the New Concessioner's reservation system.

(c) Fees and Payments

No later than 10 days after the Termination Date, the Concessioner shall provide the Director with an itemized statement of all fees and payments due to the Director under the terms of the Contract as of the Termination Date, including, without limitation, all deferred, accrued, and unpaid fees and charges. The Concessioner, within 10 days of its delivery to the Director of this itemized statement, shall pay such fees and payments to the Director. The Concessioner and the Director acknowledge that adjustments may be required because of information that was not available at the time of the statement.

(d) Access to Records

The Concessioner shall make available to the Director for the Director's collection, retention, and use, copies of all books, records, licenses, permits, and other information in the Concessioner's possession or control that in the opinion of the Director are related to or necessary for orderly and continued operations of the related facilities and services, notwithstanding any other provision of this Contract to the contrary.

(e) Removal of Marks

The Concessioner shall remove (with no compensation to Concessioner) all items of inventory and supplies as may be marked with any trade name or trademark belonging to the Concessioner within 30 days after Termination.

(f) Other Cooperation

The Concessioner shall provide the Director and the New Concessioner with such other cooperation as reasonably may be requested.

EXHIBIT H
INTELLECTUAL PROPERTY LICENSED MARKS

WORD MARKS / PARK IDENTIFIERS

Virgin Islands National Park

Cinnamon Bay

Cinnamon Bay

Trunk Bay

Hassel Island

Reef Bay

St. John's Plantation

Annaberg Plantation

Annaberg Sugar Plantation

Creque Marine Railway

Maho Bay

Pasquereau Estate

Leinster Bay Estate

Brown Bay