

COOPERATING ASSOCIATION
AGREEMENT BETWEEN THE NATIONAL PARK SERVICE

AND

_____, **COOPERATING ASSOCIATION**

ARTICLE I. BACKGROUND AND OBJECTIVES

It is the purpose and intent of the National Park Service (“Service”) to preserve, protect, interpret, and manage the National Park System for the benefit, education, and enjoyment of the people of the United States, as provided for in The National Park Service Organic Act of August 25, 1916.

The Service seeks to provide highest quality informative materials of interpretive, educational, and thematic value relating to the interpretive themes of areas of the National Park System for the benefit of the public.

The Cooperating Association (Association) is incorporated as a nonprofit organization with a stated purpose consistent with providing support and assistance to the interpretive, educational, and research activities of the Service and provides interpretive and educational materials to the visiting public.

It is the objective of this Cooperating Association Agreement (Agreement) between the Service and the Association to work together to provide park visitors with these valuable interpretive and educational materials to facilitate an expanded appreciation of the National Park System.

ARTICLE II. AUTHORITY

Authorities for entering into this Agreement are contained within the National Park Service Organic Act 54 USC 100101(a), 54 U.S.C. 101101, 54 U.S.C. 320101-312106, 54 U.S.C. 312106, 54 U.S.C. 100901, and 43 U.S.C. Sec. 1473a.

ARTICLE III. STATEMENT OF WORK

This Agreement is written in accordance with Director's Order #32 and Reference Manual #32 that encourages and promotes the advancement of a cooperative relationship between the Service and the Association.

A. The National Park Service Agrees To:

Policy, Authorities, Agreement

1. Establish NPS policy and guidance to foster a cooperative relationship with Associations. The director establishes policy. Regional directors provide oversight of the relationship between the Service and the Association. Superintendents manage and support the Association relationship on a daily basis. In addition, the superintendent will work in collaboration with the regional director when appropriate or necessary in administering the Agreement.
2. Designate the Association to serve park(s). The regional director has the authority to designate the Association to serve one or more parks in a region (this authority may not be re-delegated to superintendents) and the director has the authority to designate the Association to serve parks in more than one region. Authority to terminate or sign an Agreement resides with the same respective officials.

3. At least once during the term of the Agreement, the regional director will require a review of the Service/Association relationship. The review will be done in consultation with the Association. Term evaluations should be coordinated by the regional coordinator and/or servicewide coordinator. [See Reference Manual #32 (RM #32) for details when updated.]
4. Review and approve, in writing, proposals for expansion of Association operations in a park unit when such establishment or expansion may impact another Association and/or concession operator in that unit.
5. Approve all donations, or a planned series of donations, of money and/or in-kind goods or services in accordance to Director's Order 21: Donations and Fundraising.
6. Comply with 5 CFR Part 2635, "Standards of Ethical Conduct for Employees of the Executive Branch" when dealing with any Association.
7. Allow field employees to perform work with the Association as part of their official duties, where appropriate and mutually agreed upon by the superintendent and Association.

Working with the Association

8. Assure that Service employees will not serve on the Association board, even in an ex-officio capacity, and may not represent the Association. Service employees may only offer advice on Association decisions affecting the relationship between the Association and the Service.
9. Send appropriate Service representatives to attend and participate in board meetings in an advisory, nonvoting capacity, but not for participation in executive sessions of the Association board unless invited, and then only in an advisory, nonvoting capacity.
10. Through the regional director or their designee, meet with the Association's board and executive director as often as is appropriate to strive for a high quality working relationship and to encourage coordination of activities in support of interpretation and education. The regional director or their designee will meet with Association management at least annually and superintendent(s) are expected to participate along with appropriate park staff.
11. Promote a sustainable business environment. This means the Service will (1) provide reasonably stable and reliable conditions in which the Association can operate effectively; (2) communicate, on a regular basis and in a timely manner, Service operating plans that may affect Association operations; (3) encourage innovation and new product lines that are within the Scope of Sales and that support the park's interpretive mission; (4) streamline processes; and (5) be sensitive to sound Association business practices.

Planning

12. Through the superintendent, meet to identify and come to mutual agreement on priorities for the upcoming year, evaluate Service and Association progress toward achieving shared strategic goals, and clarify and implement a process to identify and come to a mutual understanding of how to resolve problems in the relationship between the Service and the Association.
13. Address hours of operation, Association and Service staffing as pertains to Association activities, facility and equipment assignments, new operating procedures, and housing assignments, etc.
14. Work with its non-profit and commercial partners to arrive at reasonable solutions if problems arise. The superintendent or their designee should meet with both the Association and concession operator(s) at least once a year to share information about planned park operations that might have an impact on retail partners and to resolve potential conflicts.

15. Involve the Association, in a manner befitting its role in supporting interpretation, in long-range or comprehensive interpretive planning and the Interpretation and Education Renaissance. Association activities should also be considered in any park commercial services strategies or plans.
16. Substantially involve the Association in the planning and design of new government facilities that house Association facilities by offering the Association the opportunity to review and comment on preliminary and final design plans.

Sales Activities

17. Collaboratively develop a required park-specific Scope of Sales statement between each park and the Association. Where there are both Association and a concession operator(s), the Service must consider the contractual rights of the concession operator(s) when approving the Scope of Sales statement.
18. Approve, in writing, all Association sales items sold under the standard Agreement based on appropriateness, park themes, audiences, interpretive value, accuracy, price points, and quality. Sales items may not encourage or depict inappropriate activities in parks, nor direct visitors to resources protected under the Archeological Resources Protection Act or similar statutes. The superintendent is the approving official.
19. Annually, the superintendent will review and approve, in writing, a complete list of sales items that is provided by the Association.
20. Approve, in writing, all non-recurring operations at temporary outlets such as park special events.
21. Approve in writing, proposed Association operations outside of park boundaries that would be done under the standard Agreement.
22. Through the superintendent, periodically review Association sales activities to ensure that Service interests are addressed.
23. Assure that the contractual rights of concession operators are met when authorizing Association activities.
24. Consider any request to authorize the sale of visitor convenience items under commercial use authorizations or the appropriate legal instrument.
25. Undertake review by the superintendent of off-site sales activities of the Association authorized under this agreement to ensure that Service interests are protected.

Interpretive Activities

26. As required, prepare a separate legal instrument, in collaboration with the Association, to authorize ongoing formal interpretation as defined in Director's Order 6: Interpretation. Informal visitor information services done, as incidental to retail sales, is permissible under the standard Agreement.
27. Define in the park's Long-Range Interpretive Plan, the role of the Association in providing interpretive activities in support of the Service's mission.
28. Develop clear guidelines and standards for assessing the quality of interpretive activity proposals.
29. Be involved in the planning, approval, training, monitoring and evaluation of all activities authorized under this Agreement.

Facilities, Equipment, and Construction

30. Provide the Association with a suitable sales area and other facilities to enable the Association to conduct business. Reserve the right to relocate or withdraw any such facilities (upon reasonable notice) in order to meet the needs of the Service. Sales operations within a park will occur only in the sales areas designated by the superintendent. A list of facilities within a park that the Service designates for Association use must be attached to the Agreement as Exhibit A. The Service will retain copies of the facility assignment(s) consistent with Reference Manual 32.
31. Develop a maintenance and operations plan with the Association for facilities assigned to the Association.
32. Reserve the right to conduct inspections of provided facilities whenever the Service deems appropriate or necessary.
33. Provide the Association with routine maintenance and repair services and utilities in accordance with Director's Order 35B.
34. Review and approve in writing, in advance, Association plans for construction, redesign, or renovation of in-park facilities and require that implementation of such plans are in accordance with the Service's normal design and construction procedures.
35. Deny the use of government postage for Association business.
36. Consistent with Director's Order #44, 412 DM Departmental Manual, Department of the Interior Motor Vehicle Management Handbook, and with approval from the superintendent, allow the use by Association staff of government-owned or leased vehicles, provided that the use is solely for work authorized under this Agreement.

Donations, Fundraising, and Aid to NPS

37. Apply DO-21, if the park superintendent agrees that it is in the park's best interest for the Association to fundraise for the benefit of the Service.
38. Consider for acceptance all single donations, or a planned series of donations, of money and/or in-kind goods or services to Service in accordance with DO-21.
39. Follow DO-21 guidance with respect to cause-related marketing and corporate campaigns.
40. Use "Aid to NPS" to support the interpretive, educational, scientific, and historical projects and programs that the Service determines are needed and are consistent with its mission.
41. Request aid from the Association in writing and in a timely fashion. All requests will be prioritized by the Service and appropriate to the Association's mission.
42. Recognize the Association for programs, projects, and publications funded by the Association.
43. Determine jointly with the Association the appropriate level of aid to the Service based upon the nature and extent of the Association's activities and the needs of the Service.
44. Accept Association funding for government personnel salaries or benefits to support temporary employees working on special interpretive, educational, or research projects that are funded by donations and the reimbursement of the salaries and benefits of employees of Harper's Ferry Center, Denver Service Center, and other project-funded employees working directly on media projects or plans donated to the Service by the Association.
45. Complete in a timely manner Association donated and funded projects, with funding accountability to the Association, and a report upon request. Where Association policy allows unused funds to be carried into a new fiscal year and the Service chooses to carry these funds into

a new fiscal year, the Service must notify the Association in a timely manner of its intent to use those funds in the following fiscal year.

B. THE COOPERATING ASSOCIATION AGREES TO:

Policy, Authorities, Agreement

1. Comply with the policies set forth in DO #32 and other policies of the National Park Service.
2. Possess a signed Agreement to operate in areas of the National Park System; or when acting in its capacity as a partner selling goods and services outside the National Park System, including Internet sales.
3. Consider requests from friends groups to sell their merchandise. Friends groups are not authorized to sell goods and services in these same areas except through a special arrangement with the Association and approval of the park superintendent. Goods sold must be consistent with the Association's scope of sales and approved as a sales item by the Service.
4. Provide training and assistance, when appropriate, for activities that the NPS does together with the Association.

Working with the National Park Service

5. Notify the Service of Association board of directors meetings. The Association is encouraged to invite appropriate Service representatives to board meetings and to appropriate committee meetings.
6. Authorize its employees to undertake no government functions or activity on behalf of the Service beyond routine visitor information services unless specifically authorized by the Service.
7. Allow Association employees, when determined eligible, to serve as Volunteers-in-Parks (VIP) to perform park projects (i.e., park clean-up day) under the supervision of Service employees. Such volunteers' time should be counted as Service VIP hours and not reported as Association "Aid to NPS" on the annual report submission.
8. Use the Volunteers-in-Parks (VIP) authority for its intended purpose only and not to circumvent requirements for insurance coverage in the Agreement.
9. Require that Association employees who engage in public contact wear a distinctive uniform or other indication of their role as a partner which clearly distinguishes them from Service employees. Association employees may not wear the Service or other government uniform.

Planning

10. Meet with the Service to identify and come to mutual agreement on priorities for the upcoming year, evaluate Association and Service progress toward achieving shared strategic goals, and clarify and participate in a process to identify how to resolve problems with the relationship between the Service and the Association.
11. Multi-park Associations will propose a manageable and reasonable approach to annual communications with partner parks.
12. In parks in which there is also a concession operator(s), meet together with the Service and concession operator(s) at least once a year to share information about planned park operations that might have an impact on retail partners and to resolve potential conflicts.

Sales Activities

13. Assure that Association sales support the purposes of the Association as stated in their articles of incorporation.
14. Operate only in the sales areas designated by the superintendent.
15. Collaboratively develop a required park-specific Scope of Sales statement with each park.
16. Obtain superintendent written approval for all sales items sold under the Agreement.
17. Display a sign at sales locations that identifies the sales outlet as a non-profit activity of the Service-approved Association for the site. The sign will include an explanation that the Association aids the Service by supporting park interpretive, educational, historical, and scientific activities.
18. Obtain the superintendent's written approval for non-recurring operations at temporary outlets such as a park special event inside park boundaries.
19. Obtain the superintendent's written approval for proposed Association operations outside of park boundaries that are done under the standard Agreement.
20. Inform the NPS when considering operating an off-site sales outlet for another governmental entity.
21. Submit a complete list of sales items to the superintendent for annual review and written approval.
22. Conduct the sales of convenience items under the commercial use authorizations authority or other appropriate legal instrument designated in the National Parks Omnibus Management Act of 1998 (PL 105-391, codified at 54 U.S.C. 101925). The Association will adhere to NPS guidance on the contractual rights of concession operators.
23. Sell only approved items that do not violate the conservation principles of the Service. The sale of original prehistoric or historic artifacts or paleontological specimens is prohibited. Replicas of such artifacts and specimens must be clearly labeled as such.
24. Sell craft items represented as being Indian-made in accordance with the Indian Arts and Crafts Act of 1990 (PL-101-644).
25. Conform to DO-21 donor recognition guidance for corporate sponsorships appearing in items produced for sale by the Association. Items must not contain advertising for a business, brand, product or service.
26. Assure that paid advertising in sales items (i.e., journals with advertising) must be incidental to the interpretive value or message of an item. Advertising or vendor information may not imply endorsement by the Service.

Interpretive Activities

27. Collaborate with the NPS to negotiate a separate legal instrument(s) to authorize formal interpretation as defined in Director's Order 6: Interpretation. Informal visitor information services done, as incidental to retail sales, is permissible under the standard Agreement.

Facilities, Equipment, and Construction

28. Operate the sales area within a park only in the sales areas designated by the superintendent. A list of facilities within a park that the Service designates for Association use must be attached to

the Agreement as Exhibit A. The Association should retain copies of the facility assignment(s) consistent with Reference Manual 32.

29. Have the Service review and approve, in writing, in advance, Association plans for construction, redesign, or renovation of in-park facilities.
30. Allow the Service to conduct inspections of provided facilities whenever the Service deems necessary.
31. Accept the Service's terms for the provision of routine maintenance and repair services and utilities in accordance with Director's Order 35B, when it is finalized.
32. Transfer to the Service upon completion, buildings constructed by the Association on U.S. Government property.
33. Obtain prior written approval from the superintendent to use a government-owned or leased vehicle.
34. Prohibit employees from using government postage.

Administrative Requirements

35. Obtain and maintain recognition by the Internal Revenue Service of tax exemption status under Section 501(c)(3) of the Internal Revenue Code in order to operate in areas of the National Park System.
36. Make available key financial data at least semi-annually for each park in which they operate, upon the request of the superintendent. In addition to park-level reporting, multi-park Associations with central and support offices must report central office cost center expenses related to Service operations and must have a transparent and consistent system to account for non-park specific expenses and revenues.
37. Submit an annual financial report consisting of the "NPS Form 10-40," IRS Form 990 "(or "990EZ" and "990T", if appropriate), a copy of the year's audited or reviewed financial statement, and a brief narrative of the year's activities and accomplishments. These are submitted to the Servicewide Coordinator in Washington, D.C., and respective officials at the park and regional level.

A financial statement audit is required for Associations with total annual revenue of \$1,000,000 or more; a financial statement review is required for Associations with revenue of \$250,000 up to \$1,000,000; a financial statement compilation is required for Associations with revenue of less than \$250,000. For additional information refer to RM-32.
38. Manage and secure assets including cash. The Association will maintain adequate internal controls and cash management procedures to protect and account for assets.
39. Separately account for and not commingle federal funds with non-federal funds.

Donations, Fundraising, and Aid to NPS

40. Comply with Director's Order #21 when conducting any fundraising activities.
41. Consider acceptance of unsolicited donations for the benefit of the Service per guidance from the superintendent and in accordance with DO-21.
42. Account to the donor for the use of any funds accepted on behalf of the Service.
43. Determine jointly with the Service the appropriate level of aid to the Service based upon the nature and extent of the Association's activities and the needs of the Service,

44. Reserve the right to decline requests for donations not appropriate to its mission.

ARTICLE IV. TERM OF AGREEMENT

The Agreement will be effective for a period of five years from the date of final signature unless it is terminated earlier by one of the parties in accordance with the terms of the Agreement. The Agreement may be renewed for an additional five-year period upon written agreement of the parties prior to expiration.

ARTICLE V. KEY OFFICIALS

These are not the signing officials of this Agreement, but are the contact officials for this Agreement.

National Park Service:	Servicewide Coordinator for Cooperating Associations, WASO Regional Coordinators for Cooperating Associations Park Coordinators for Cooperating Associations
Cooperating Association:	Executive Director or Business Manager

ARTICLE VI. LIABILITY

The Cooperating Association shall:

- (A) Procure comprehensive general liability insurance from a responsible company or companies with a minimum limitation of One Million Dollars (\$1,000,000) per person for any one claim, and an aggregate limitation of Three Million Dollars (\$3,000,000) for any number of claims arising from any one incident. The policies shall name the United States as an additional insured, shall specify that the insured shall have no right of subrogation against the United States for payments of any premiums or deductibles due thereunder, and shall specify that the insurance shall be assumed by, be for the account of, and be at the insured's sole risk. Prior to beginning the work authorized herein, the Cooperating Association shall provide the Service with confirmation of such insurance coverage; and
- (B) Pay the United States the full value for all damages to the lands or other property of the United States caused by such person or organization, its representatives, or employees; and
- (C) Indemnify, save and hold harmless, and defend the United States against all fines, claims damages, losses, judgment, and expenses arising out of, or from, any omission or activity of such person, organization, its representatives, or employees.

ARTICLE VII. SUSPENSION AND TERMINATION

The Service reserves the right to suspend an Agreement when, in the Service's sole judgment, suspension is necessary to prevent fraud or malfeasance, to protect public health and safety, or to prevent harm to Service resources.

If either party fails to observe any of the terms and conditions of this Agreement, the other party may terminate this Agreement for cause. Prior to termination, a written notice must be given of the alleged breach with a cure period provided to address the alleged breach. Should the recipient party fail to take appropriate action to cure the breach, then a thirty (30) days written notice of termination may be given, or such other alternative action agreed to by the parties.

The National Park Service may terminate this Agreement for the convenience of the government, at any time. To the extent practicable, before the Service terminates for convenience, the Service agrees to

evaluate its relationship with the Association, including consulting with the Association board chair, and determine that termination of the Agreement is in the best interest of the United States. The Association shall receive written confirmation of the termination within 5 working days following the termination.

Where an Agreement authorizes an Association to operate in multiple park units, and the Service determines that an Association's operation in a particular unit must be terminated, the Agreement will continue to govern the relationship between the Service and the Association with respect to Association operations in the remaining park units.

ARTICLE VIII. REQUIRED CLAUSES

A. **NON-DISCRIMINATION:** The parties shall abide by the provisions of Executive Order 11246, as amended; shall be in compliance with the requirements of Title VI of the Civil Rights Act of 1964, as amended (78 Stat. 252; 42 U.S.C. § 2000d et seq.); Title V, section 504 of the Rehabilitation Act of 1973 (87 Stat. 394, 29 U.S.C. § 794, as amended), the Age Discrimination Act of 1975 as amended (89 Stat. 728; 42 U.S.C. § 6101); and with all other federal laws and regulations prohibiting discrimination on the grounds of race, color, national origin, disability, religion, or sex in employment and in providing of facilities and services to the public.

B. **ANTI- DEFICIENCY ACT:** Pursuant to the Anti-Deficiency Act, 31 U.S.C. § 1341(a) (1), nothing herein contained shall be construed as binding the United States to expend in any one fiscal year any sum in excess of appropriations made by Congress for this purpose, or to involve the United States in any contract or other obligation for the further expenditure of money in excess of such appropriations.

C. **INTEREST OF MEMBERS OF CONGRESS:** Pursuant to 41 U.S.C. § 22, Interest of Member of Congress, "No Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon."

D. **LOBBYING PROHIBITION:** The parties shall abide by the provisions of 18 U.S.C. § 1913 Lobbying with Appropriated Monies, which states:

No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member of Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined under this title or imprisoned not more than one year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment.

E. **SEVERANCE OF TERMS AND COMPLIANCE WITH APPLICABLE LAW:** The parties shall comply with all applicable laws and regulations. This Agreement is subject to all laws, regulations and rules governing National Park Service administered property, whether now in force or hereafter enacted or promulgated. Nothing in the Agreement shall be construed as in any way impairing the general powers

of the National Park Service for supervision, regulation, and control of its property under such applicable laws, regulations, and rules.

If any term or provision of this Agreement is held to be invalid or illegal, such term or provision shall not affect the validity or enforceability of the remaining terms and provisions. Meeting the terms of this Agreement shall not excuse any failure to comply with all applicable laws and regulations, whether or not these laws and regulations are specifically listed herein.

Article IX. SPECIAL PROVISIONS

None

Article X. Authorizing Signatures

Agreed between the parties this _____ day _____.

National Park Service

Cooperating Association

Regional Director

Chairperson, Board of Directors