



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

Glacier Bay National Park and  
Preserve

Box 140  
Gustavus, Alaska 99826

907-697-2232 phone  
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## Prospectus

A Concession Business Opportunity for Sea Kayaking Guide Day Tour Services in  
Glacier Bay National Park



Solicitation # GLBA021-05

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The National Park Service cares for special places saved by the American people so that all may experience our heritage.

Solicitation # GLBA021-05

PROSPECTUS UNDER WHICH A CONCESSION CONTRACT WILL BE AWARDED  
FOR THE OPERATION OF SEA KAYAK GUIDE DAY TOUR SERVICES WITHIN  
GLACIER BAY NATIONAL PARK AND PRESERVE

Date Issued: June 24, 2005

Offers and Any Modifications Must be Received

at:

National Park Service  
Glacier Bay National Park & Preserve  
Attn: Concessions Office  
1 Park Road  
P.O. Box 140  
Gustavus, AK 99826

by:

4:00 p.m.

**August 24, 2005**

Address Questions to:

Mr. David Nemeth  
Glacier Bay National Park & Preserve  
P.O. Box 140  
Gustavus, Alaska 99826  
Phone: 907-697-2624  
Fax: 907-697-2654  
e-mail: david\_nemeth@nps.gov

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## **SECTION 1: BUSINESS OPPORTUNITY**

### **INTRODUCTION**

The National Park Service (NPS) intends to award one concession contract to operate commercially guided sea kayaking day tours out of Bartlett Cove in Glacier Bay National Park & Preserve. The contract term will be from January 1, 2006 through December 31, 2015.

The contracts will authorize daily guided kayak tours that begin and end in Bartlett Cove and do not involve overnight camping.

The contract to be awarded under this prospectus is not an exclusive opportunity to provide sea kayak guide services in Glacier Bay National Park & Preserve. Sea kayak day tours may also be provided by other commercial operators in Glacier Bay. These other guided kayak services are provided under other authorizations and are often, but not always, offered in association with other authorized commercial visitor services. Overnight guided sea kayaking throughout Glacier Bay National Park & Preserve will also be separately authorized. Offerors should understand that this is not an exclusive opportunity to provide guided kayaking services in Glacier Bay National Park and Preserve. However, the NPS does expect that this will be the only guided kayak service that will be authorized to store kayaks and associated equipment at Bartlett Cove.

This prospectus is issued to evoke the widest possible interest from qualified applicants in operating these concession services, and to inform interested parties of the requirements and conditions under which the operations may be conducted. The prospectus is issued under the authority of 36 CFR Part 51.

### **THE NATIONAL PARK SERVICE AND ITS MISSION**

America's National Park Service was created by Congress to "...conserve the scenery and the natural and historic objects and the wild life therein, and to provide for the enjoyment of the same in such a manner and by such means as will leave them unimpaired for the enjoyment of future generations." Additionally, Congress has declared that the National Park System should be, "preserved and managed for the benefit and inspiration of all the people of the United States." The National Park Service has as its overall mission the preservation and public enjoyment of significant aspects of the nation's natural and cultural heritage.

To learn more about the National Park Service, visit our website at [www.nps.gov](http://www.nps.gov). This site includes information about who we are, our mission, NPS policies, and individual parks.

### **GLACIER BAY NATIONAL PARK & PRESERVE**

Glacier Bay National Park & Preserve is located along Southeast Alaska's Inside Passage approximately 65 miles west of Juneau. The focal point of the park is a deep Y-shaped fjord formed by the retreat of massive glaciers over the last 250 years. To the west of this bay looms the Fairweather Mountain Range and beyond this the Gulf of Alaska coastline.

Glaciers within the park continue to shape the land and discharge icebergs into the Bay. The rapid glacial retreat and the ensuing colonization by plants and animals provide a unique opportunity to observe natural processes. In 1980 the Alaska National Interest Lands

Conservation Act (ANILCA) made Glacier Bay a National Park and enlarged it to its present size of 3,355,072 acres. Additional information about the park is available at our web site at: [www.nps.gov/glba/](http://www.nps.gov/glba/). Those interested in submitting proposals are encouraged to review this information.

## THE EXISTING CONCESSION OPERATION

### *Existing Visitor Services.*

Sea kayak guide services are currently being provided by Alaska Discovery, Inc., 5310 Glacier Highway, Juneau, AK 99801, a subsidiary of Mountain Travel/Sobek, under concession contract CC-GLBA009-04. This contract expires December 31, 2005. The current contract authorizes Alaska Discovery to provide both single-day sea kayak tours out of Bartlett Cove and twenty-four overnight guided sea kayaking trips within Glacier Bay from June 1 to September 10, plus additional trips in other marine areas of the park. Throughout this Business Opportunity, when we discuss the existing contract, we are only discussing the portion applicable to guided day tours out of Bartlett Cove.

### *Utilization Data*

The proposal package section of this prospectus requires offerors to develop financial projections based on the business to be operated. Utilization and operating data for those services provided under the existing contract is presented below. This information is provided to assist offerors in developing these projections. Offerors should be cautious in the use of all operating estimates. Although NPS does provide some financial information, offerors are responsible for producing their own prospectus financial analysis and relying on their own assumptions. In 2004, day tours were offered from late May through early September, generally covering the operating season for Glacier Bay Lodge (for information about this Concession operation, see: <http://visitglacierbay.com/>). The advertised price was \$125. These are the services offered under this prospectus.

A summary of use levels, gross receipts and franchise fees is provided in the following table.

Year	Day trip Clients	Day Trips	Day Trip Gross Receipts	Franchise Fee (2%)
2002	610	117	\$ 40,139	\$ 803
2003	571	117	\$ 44,016	\$ 880
2004	356	97	\$ 29,759	\$ 595

The Concessioner was authorized to place two small sheds (totaling about 100 square feet) to store equipment and low racks to store kayaks at Bartlett Cove.

## FUTURE CONCESSION OPERATION

### *Overview of the guided kayaking program in Glacier Bay National Park:*

Day tour guided sea kayaking trips have been offered out of Bartlett Cove, in Glacier Bay National Park since 1993. These services were initially offered as an incidental service associated with overnight guided kayaking services provided by an existing concessioner. As a result of the distinctive nature of this service, the NPS has determined that it would be most

appropriate to authorize this service separately from the overnight guided kayaking services.

A concession contract will be awarded under this prospectus for guided day kayaking trips based out of Bartlett Cove. These trips will be limited to those that begin paddling in Bartlett Cove, do not involve camping and are of less than 12 hours duration. A separate prospectus is being issued for overnight guided kayak services based out of Bartlett Cove.

Over the term of the contract offered here, additional use limits may be implemented.

**Services to be awarded under this prospectus**

The contract will authorize guided day kayak tours from Bartlett Cove.

Offerors should be aware that there is a Backcountry Management Plan currently being developed that could have implications on some aspects of this service.

The Service does not guarantee the economic viability of this opportunity. While the Service expects this opportunity to be economically feasible, the offeror must make its own analysis in this regard.

The minimum franchise fee for the new contract is an annual fee of the greater of \$500 or \$4 per client per user day for day trips from Bartlett Cove. However, offerors may propose a higher franchise fee in accordance with the terms of the prospectus.

**PREFERENCES**

See the Proposal Instructions, Preferred Offeror Determinations, for a description of the preferences applicable to this solicitation.

**LAW, REGULATION, POLICY AND PARK INFORMATION**

NPS Concessions Law, Regulation, Policy and information about Glacier Bay National Park & Preserve can all be accessed via the internet at the following websites. Hardcopies of the law, regulations and policy will be mailed on request. Contact the person listed on the cover of the prospectus with your request.

Links to Referenced Documents	Website
Concessions Management Improvement Act of 1998 (PL 105-391)	<a href="http://www.nps.gov/akso/concessions/home.htm">http://www.nps.gov/akso/concessions/home.htm</a> or <a href="http://www.gpoaccess.gov/index.html">http://www.gpoaccess.gov/index.html</a>
NPS Concession Management Regulations 36 CFR Part 51	<a href="http://www.nps.gov/akso/concessions/home.htm">http://www.nps.gov/akso/concessions/home.htm</a> or <a href="http://www.gpoaccess.gov/index.html">http://www.gpoaccess.gov/index.html</a>
ANILCA Section 1307 Regulations – 36 CFR Part 13, Subpart D	<a href="http://www.nps.gov/akso/concessions/home.htm">http://www.nps.gov/akso/concessions/home.htm</a> or <a href="http://www.gpoaccess.gov/index.html">http://www.gpoaccess.gov/index.html</a>
NPS Management Policies, Chapter 10- Commercial Visitor Services	<a href="http://www.nps.gov/policy/mp/policies.pdf">http://www.nps.gov/policy/mp/policies.pdf</a>
Vessel Quota and Operating Requirements Environmental Impact Statement - Record of Decision	<a href="http://www.giba.ene.com/rod.html">http://www.giba.ene.com/rod.html</a>

Glacier Bay National Park & Preserve website	<a href="http://www.nps.gov/glba">www.nps.gov/glba</a>
Glacier Bay National Park & Preserve Wilderness Visitor Use Management Plan	<a href="http://data2.itc.nps.gov/parks/glba/ppdocuments/ACF63C2.pdf">http://data2.itc.nps.gov/parks/glba/ppdocuments/ACF63C2.pdf</a>
Glacier Bay National Park & Preserve Regulations (summary & links)	<a href="http://www.nps.gov/glba/InDepth/visit/regs.htm">http://www.nps.gov/glba/InDepth/visit/regs.htm</a>
Leave No Trace Camping	<a href="http://www.LNT.org">http://www.LNT.org</a>
Backcountry Sanitation	<a href="http://www.nps.gov/public_health/inter/info/factsheets/fs_bc.htm">http://www.nps.gov/public_health/inter/info/factsheets/fs_bc.htm</a>

## SECTION 2: PROPOSAL INSTRUCTIONS

**Note to Offeror.** The following instructions refer to the person or entity that is submitting a proposal as the “offeror”. When the word “you,” or “your” is used in an instruction, the instruction is referring to the offeror.

### 1) 36 CFR Part 51

This prospectus is issued under 36 Code of Federal Regulations Part 51. If any part of this Prospectus is inconsistent with 36 CFR Part 51, 36 CFR Part 51 will control.

### 2) Proposal Submission Date

Proposals must be received by NPS by the due date and time and at the address shown on the inside cover of this Prospectus. If you intend to mail a proposal you should do so early enough to ensure receipt by NPS by the due date. You also may deliver your proposal to NPS at this address by the time and date shown on the inside cover of this prospectus. If a proposal is not received by the due date, it will not be considered by NPS.

### 3) Document Delivery Service

Document delivery services, including overnight delivery, to some areas may not provide true overnight delivery. You are encouraged to insure the timely submittal of your proposal by contacting the delivery service of your choice regarding delivery availability for the specific location specified on the front page of this prospectus.

### 4) Proposal Form

A proposal in general must follow the format provided in the Proposal Package.

### 5) Proposal Submission Requirements

- A) **Numbering.** Each page and section of a proposal should be numbered.
- B) **Documents.** The original proposal and three copies in the format outlined in the Proposal Package should be submitted.
- C) **Label.** The copies should be contained in a sealed envelope with the following marked on the envelope:
  - “CONCESSION PROPOSAL - MAILROOM: DO NOT OPEN”
  - The due date specified in the Prospectus for receipt of the proposal by NPS.
  - The name and address of the Offeror.

### 6) Public Availability of Proposals

#### A) **Confidential Information.**

If you believe that a proposal contains trade secrets or confidential commercial and financial information that you do not want to be made public, please include the following sentence on the cover page of each copy of the proposal:

*“This proposal contains trade secrets and/or confidential commercial and financial information that the Offeror believes to be exempt from disclosure under the Freedom of Information Act. The Offeror requests*



*that this information not be disclosed to the public, except as may be required by law.”*

In addition, you must specifically identify what you consider to be trade secret information or confidential commercial and financial information on the page of the proposal on which it appears, and you must include the following sentence on each such page:

*“This page contains trade secrets or confidential commercial and financial information that the Offeror believes to be exempt from disclosure under the Freedom of Information Act, and which is subject to the non-disclosure statement on the cover page of this proposal.”*

#### **B) Public Release.**

Information so identified will not be made public by NPS except in accordance with law.

#### **7) Questions**

If you do not understand something in this prospectus, you must submit your questions in writing to the contact person identified on the cover of the Prospectus, no later than 30 days in advance of the proposal due date. NPS will respond to your question in writing, and will provide the question and response to all other persons who requested a Prospectus. Questions submitted after this date may not be answered.

#### **8) Evaluation of Proposals.**

##### **A) NPS Review.**

In order to select the best proposal, NPS will review each proposal received by the due date under the selection factors stated in this prospectus.

##### **B) Merits of the Proposal.**

For each selection factor, NPS will assign a score that reflects the merits of the proposal under that selection factor in comparison to the other proposals received. The selection factors and range of possible scores are stated in the Proposal Package.

#### **9) Offering the Contracts**

NPS will assign a score to each timely received responsive proposal and identify the proposal with the highest point score as the best proposal. If two or more proposals receive the highest point score, then NPS will select as the best proposal (from among the proposals with the same highest point score) the proposal that NPS determines will, on an overall basis, best achieve the purposes of 36 CFR Part 51. If an ANILCA preferred offeror receives the highest point score they will be offered the contract. If an offeror other than an ANILCA preferred offeror receives the highest point score, the ANILCA preferred offeror with the highest point score, among ANILCA preferred offerors, will be given the opportunity, by amending its proposal, to meet the terms and conditions of the best proposal. The incumbent concessioner, unless it receives the highest point score (if they submitted a timely responsive proposal) will also be given the opportunity, by amending its proposal, to meet the terms and conditions of the best proposal. The contract will be offered in the following order.

- First to the ANILCA preferred offeror if they amended their proposal to meet the terms and conditions of the best proposal.
- If the ANILCA preferred offeror does not meet the terms and conditions of the best proposal or does not timely execute the contract, the contract will be offered to the

incumbent concessioner if it amended its offer to meet the terms and conditions of the best proposal or if its proposal received the highest point score.

- If the incumbent does not amend its proposal to meet the terms and conditions of the best proposal or if its proposal did not receive the highest point score, the contract will be offered to offerors without a preference (including those preferred offerors who did not have an opportunity to amend their proposal, elected not to amend their proposal or their proposal as amended did not meet the terms and condition of the best proposal) starting with the highest remaining point score. If two or more proposals receive the highest point score, then NPS will select as the best proposal (from among the proposals with the same highest point score) the proposal that NPS determines will, on an overall basis, best achieve the purposes of 36 CFR Part 51.

## **10) Preferences (if any)**

There are two types of preferences applicable to this solicitation, as follows:

**A) ANILCA Section 1307.** The Alaska National Interest Lands Conservation Act (ANILCA), Section 1307 (16 U.S.C. 3197) includes provisions concerning persons and entities who are to be given special rights and preferences with respect to providing commercial visitor services in conservation system units in Alaska – Historical Operators and Preferred Operators.

Historical Operator means “the holder of a valid written authorization from the Director to provide visitor services within a park area that on or before January 1, 1979, was lawfully engaged in adequately providing such visitor services in the applicable park area.” (36 CFR 13.81(d)) The National Park Service has determined that the current Concessioner does not qualify as a historical operator under 36 CFR 13.31(d).

Preferred Operator means “a Native Corporation that is determined under 36 CFR 13.85 to be “most directly affected” by the establishment or expansion of a park area by ANILCA, or a local resident as defined in this subpart.” (36 CFR 13.81(h)). Local Resident is defined in 36 CFR 13.81(f).

On June 4, 1997 the National Park Service invited Native Corporations to apply for “most directly affected” status, pursuant to 36 CFR 13.85. Huna Totem Corporation was determined to be a Native corporation “most directly affected” by the establishment of Glacier Bay National Park and Preserve. Other Native Corporations may apply for this same determination in conjunction with this solicitation, pursuant to 36 CFR 13.85(d). See Proposal Package – ANILCA Section 1307 Preferred Operator Application.

Local residents (individuals and corporations) may apply for the Preferred Operator preference in conjunction with this solicitation, pursuant to 36 CFR 13.83(b). See Proposal package – ANILCA Section 1307 Preferred Operator Application.

The Native Corporations determined to be “most directly affected” and local residents have equal preference (36 CFR 13.83(c)).

Proposals from otherwise qualified Preferred Operators that contemplate operating as a joint venture will not be afforded the preferred operator status unless it documents to the satisfaction of the Director that the preferred operator holds the controlling interest in the joint venture. (36 CFR 13.83(d)).

**B) National Park Service Concessions Management Improvement Act.** The National Park Service Concessions Management Improvement Act (P.L. 105-391) also includes a preference for a preferred Offeror to the award of a qualified concession contract. Note that

the definition of Preferred Offeror under this statute and regulation (36 CFR 51.27) is very different than the definition of Preferred Operator under ANILCA Section 1307.

The NPS has determined that the existing concessioner has a right of preference to the award of the concession contract because the anticipated gross receipts are less than \$500,000 for the first year of operation and the existing concessioner otherwise meets the requirements for a right of preference.

See 36 CFR Part 51, Subpart E for a description of how this right of preference is exercised. In general, if the proposal submitted by the existing concessioner is not selected as the best proposal, NPS will advise the existing concessioner of the better terms and conditions of the best proposal that the existing concessioner must match. If the existing concessioner does so (by amendment of its proposal) within the time allowed, it will be further considered (subject to the provision in the next paragraph, below) for award of the concession contract. If it does not, then the offeror that submitted the best proposal will be selected for award of the contract (subject to the preferences and process described under ANILCA Section 1307, above).

**C) Relationship between the two preferences.** The rights of preferred operators under ANILCA Section 1307 take precedence over the right of preference granted to existing satisfactory NPS concessioners (36 CFR 18.83(c)).

## **11) Only “Responsive” Proposals will be Considered by NPS.**

### **A) What is a Responsive Proposal?**

A responsive proposal within the meaning of this prospectus is a proposal submitted by the due date that is determined by NPS as agreeing to all of the minimum requirements of the draft concession contract and prospectus and as having provided the information required by the prospectus.

### **B) What is a “non-responsive proposal”?**

A “non-responsive proposal” is a proposal that is not submitted on time, or, does not agree to all of the minimum requirements of the proposed concession contract and prospectus, or, does not provide the information required by the prospectus.

### **C) What happens if a proposal is determined to be non-responsive?**

A non-responsive proposal will not be considered by NPS.

### **D) Does an existing concessioner with a right of preference have to submit a responsive proposal?**

**Yes.** Just like all other offerors, an existing concessioner with a right of preference must submit a responsive proposal in order to be considered for award of a concession contract.

## **12) Congressional Review Period**

Concession contracts issued for a term of more than ten years or where the annual gross receipts are anticipated to exceed \$5,000,000 are required by law to be submitted to the Congress for sixty days before they may be awarded. The new concession contract will not be submitted to the Congress because the term is not more than ten years and the anticipated gross receipts are less than \$5,000,000.

## **13) Important Conditions and Cautions Regarding Submission and Evaluation of Proposals**

**A) Written Information Only.**

All information regarding this prospectus will be issued in writing. No NPS or other government official is authorized to make substantive oral representations relating to this prospectus, and no one may rely on any oral representations made by government officials with respect to this prospectus.

**B) Entire Proposal.**

Your proposal should address all of the selection factors and any related subfactors. Proposals should respond to all questions and provide all requested information. If a question or requested information is not applicable to a proposal, the proposal should state this in response to the question or request for information. The NPS will review the entire Proposal Package to determine whether your proposal in fact accepts without condition the terms and conditions of this Prospectus. If not, your proposal may be considered non-responsive, even though you submitted an unconditional Offeror's Transmittal Letter.

**C) Incorrect Information.**

If you consider a statement or information in the Prospectus is be incorrect, you must submit comments to NPS in writing no later than thirty days prior to the due date for proposals. Comments should be sent to the office named on the inside cover of this prospectus for the receipt of proposals.

**D) Thorough Review.**

The information contained in this Prospectus is provided to allow persons the ability to understand the terms and conditions of the draft concession contract. You are encouraged to thoroughly review the entire prospectus to identify all required information and documents that must be submitted as part of a proposal before beginning to prepare a proposal.

**E) Expanded Facilities or Services.**

Unless this prospectus expressly requests otherwise, offers to expand the scope of facilities, equipment, and/or services to be provided beyond those called for in this Prospectus will not be considered by NPS in the evaluation of proposals.

**F) Additional Benefits to the Government.**

A proposal to provide direct or indirect financial or other benefits to the park area or government that are not within the scope or requirements of the prospectus will not be considered in the evaluation of proposals.

**G) Financial Feasibility.**

All financial commitments made in your proposal will be closely reviewed and analyzed against your financial statements and supporting documents to determine the feasibility of your proposal.

**H) Complete Offer.**

Your proposal must reflect the complete offer that you intend to make. NPS will consider written proposals as the full and final offer in response to the prospectus, and intends to make its selection on the written information provided in proposals. Proposals should be prepared on the assumption that NPS knows nothing about you or your proposal. Proposals

should also be prepared on the assumption that NPS does not have any documents previously provided by you to NPS. This is true even if you are the existing concessioner or operate another NPS concession within the park area or elsewhere. Proposals may not reference information or documents previously provided to NPS. Copies of any information or documents that you wish to be considered must be submitted as part of a proposal.

**I) Amendment or Cancellation of this Prospectus.**

This Prospectus sets forth the terms and conditions under which the concession operation is to be conducted. NPS may amend this Prospectus and/or extend the submission date (prior to the proposal due date). NPS may cancel a solicitation at any time before the award of the draft concession contract if NPS determines in its discretion that this action is appropriate in the public interest. No person obtains legal rights as a result of an amended, extended, canceled or reissued solicitation for this concession contract.

**J) Additional Information.**

NPS may request from any person who submitted a timely proposal a written clarification of its proposal. Clarification refers to making clear any ambiguities that may have been contained in a proposal, but does not include amendment or supplementation of a proposal. You may not amend or supplement your proposal after the submission date unless requested by NPS to do so, and, unless NPS provides all offerors that submitted proposals a similar opportunity to amend or supplement their proposals.

**K) Execution of the New Contract.**

The offeror selected for award of the concession contract must execute the concession contract promptly after selection within the time established by NPS. If the selected offeror fails to execute the concession contract within the time period specified by NPS, the Director will select another proposal for award of the concession contract, or will cancel the solicitation and may resolicit the draft concession contract.

**L) Additional Terms and Conditions.**

NPS may include as terms of the final concession contract appropriate elements of the proposal selected for award of the concession contract. Do not make proposal commitments that you are not prepared to fulfill.

**M) Independent Assessment.**

You are responsible for undertaking an independent assessment of this business opportunity. All of the statements made in this prospectus regarding the nature of the business and its likely future are only opinions of NPS. You may not rely on any representations of NPS in this regard.

**14) Offeror's Transmittal Letter and Accompanying Proposal.**

The proposal you are to submit consists of two parts, an Offeror's Transmittal Letter and accompanying proposal. The formats for these documents are contained in Section 4 of this prospectus.

The Offeror's Transmittal Letter states your acceptance of the terms and conditions of the concession opportunity as set forth in this prospectus. It states that you will comply with the required elements of the contract and related terms of the prospectus. The letter must bear original signatures and be included in your proposal. If submitted by a corporation or other business entity, persons authorized to enter into contracts on behalf of the entity must sign it.

The proposal that accompanies the Offeror's Transmittal Letter is in two parts, A and B.

**15) Who Must Sign the Offeror's Transmittal Letter?**

The Proposal Package is drafted upon the assumption that an Offeror is the same legal entity that will execute the draft concession contract as the Concessioner. If the entity that is to be the Concessioner is not formally in existence as of the time of submission of a proposal, a proposal must demonstrate that the individuals or organizations that intend to establish the entity that will become the Concessioner have the ability and are legally obliged to cause the entity to be financially and managerially capable of carrying out the terms of the contract in accordance with the terms of the offeror's proposal. In addition, the Offeror must unconditionally state and guarantee in its proposal that the Offeror will provide the Concessioner with all funding, management and/or other resources that the proposal offers.

**Please turn to Section 3 to prepare a transmittal letter and proposal.**

## SECTION 3: PROPOSAL PACKAGE

OMB Control # 1024-0125

Expires: 12/31/06

**Note to Offeror:** The following documents refer to the person or entity that is submitting a proposal as the “offeror”. When the word “you,” “your,” “we” or “our” is used in an instruction or in a proposal, the instruction or proposal is referring to the offeror.

### OFFEROR’S TRANSMITTAL LETTER

To: Ms. Tomie Patrick Lee, Superintendent  
Glacier Bay National Park & Preserve  
P.O. Box 140  
Gustavus, AK 99826

Dear Ms. Lee:

We hereby agree to provide visitor services at Glacier Bay National Park in accordance with the terms and conditions specified in the prospectus listed on [www.fedbizopps.gov](http://www.fedbizopps.gov) (solicitation GLBA021-05), and to execute the final Concession Contract without substantive modification (except as may be required by National Park Service pursuant to the terms of the prospectus).

We are enclosing the required "PROPOSAL" which, by this reference, is made a part hereof.

We certify that the information furnished herewith is true to the best of our knowledge and belief. We agree to meet all the minimum requirements of the draft Concession Contract, and the Prospectus, and that we have provided all of the mandatory information specified in the Prospectus.

We certify in accordance with 43 CFR Part 12 regarding debarment, suspension, ineligibility and voluntary exclusion the following:

- Any of the individuals or entities seeking participation in this Concession Contract are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from a public transaction by a federal department or agency.
- Within the three years preceding submission of the Proposal, none of the individuals or entities seeking participation in this Concession Contract have been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, or for violation of federal or state antitrust statutes or for commission of embezzlement, theft, forgery, bribery, falsification of records, making false statements, or receiving stolen property.

- None of the individuals or entities seeking participation in this Concession Contract are presently indicted for or otherwise criminally or civilly charged by a federal, state or local unit of the government with commission of any of the offenses.
- The individuals or entities seeking participation in this Concession Contract have not had one or more public transactions (federal, state or local) terminated for cause or default within the three-year period preceding the submission of the Proposal.

We certify that the information contained in our proposal is true to the best of our knowledge and belief and that we have provided all of the mandatory information specified in the prospectus.

Our proposal is two parts. We agree to the minimum requirements of the draft concession contract as set forth in Part A of our proposal and agree to accept, as part of the final contract any commitments made by us in Part B of our proposal that may be included as terms of the final contract.

We also agree that by submitting this Proposal, we will, if selected for award of the new concession contract:

1. Agree to the minimum requirements of the Prospectus as identified in Part A of this Proposal Package.
2. Complete the execution of the final Concession Contract within thirty working days after it is presented by the National Park Service.
3. Commence operations under the new Concession Contract on the effective date of the new Concession Contract.
4. Operate under the current, Service-approved rates to visitors, as modified by the draft Operating Plan, until such time as the Service may approve amended rates.
5. Provide the entity that is to be the Concessioner under the draft concession contract with the funding, management and other resources described in our proposal.

BY \_\_\_\_\_  
(Type or Print Name) (Date)

\_\_\_\_\_  
Original Signature

TITLE \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_



**CERTIFICATE OF CORPORATE OFFEROR**  
(Offerors who are not corporations should skip this certificate)

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ of the corporation named as Offeror herein; that \_\_\_\_\_, who signed this proposal on behalf of the Offeror, was then \_\_\_\_\_ of said corporation; that said proposal was duly signed for and in behalf of the corporation by authority of its governing body within the scope of its corporate powers.

BY \_\_\_\_\_ (Type or Print Name) \_\_\_\_\_ (Date)

\_\_\_\_\_  
Original Signature

TITLE \_\_\_\_\_

ADDRESS \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### ANILCA SECTION 1307 PREFERRED OPERATOR APPLICATION

Please refer to the ANILCA Section 1307 regulations, referenced in the Business Opportunity, to answer the following questions:

- (1) Is the entity making this offer seeking to be qualified as a local resident, as defined in 36 CFR 13.81(f), for the services offered under this prospectus?

Yes

No

*For individuals:* To qualify as a local resident, each of the following elements must be met and you must provide documentation, as described in the regulations, to establish each element. Check each element which applies:

\_\_\_\_\_ The offeror has lived within the local area<sup>1</sup> for 12 consecutive months before the date this prospectus was issued (see issue date on inside cover);

\_\_\_\_\_ The offeror has maintained their primary permanent residence and business within the local area and;

\_\_\_\_\_ Whenever absent from this primary, permanent residence, the offeror has the intention of returning to it.

Factors demonstrating the location of an individual's primary, permanent residence and business may include, but are not limited to, the permanent address indicated on licenses issued by the State of Alaska, tax returns and voter registration.

*For corporations:*

\_\_\_\_\_ The controlling interest<sup>2</sup> in the corporation is held by an individual or individuals who qualify as local resident(s) (see above).

\_\_\_\_\_ If the offeror is a non-profit corporation, a majority of the board members and a majority of the officers qualify individually as local residents (see above).

- (2) Are you applying for "most directly affected Native corporation" status, as defined in 36 CFR 13.85? *If yes, provide the documentation to support this determination, as described in these regulations.*<sup>3</sup>

Yes

No

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<sup>1</sup> Local area means an area in Alaska within 100 miles of the location within the park area where any of the applicable visitor services are authorized to be provided.

<sup>2</sup> Controlling interest means, in the case of a corporation, an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the business so as to permit the exercise of managerial authority over the actions and operations of the corporation or election of a majority of the board of directors of the corporation. See 36 CFR 13.81(b) for additional information.

<sup>3</sup> Huna Totem Corporation has previously been determined to have "most directly affected" Native corporation status for Glacier Bay National Park & Preserve and does not need to resubmit supporting documentation.

## PROPOSAL

### PART A:

#### Agreement to the Minimum Terms and Conditions

- 1) **All Terms and Conditions.** We agree to comply with all terms and conditions of the draft and final Concession Contract and related prospectus, including compliance with all applicable laws under the terms and conditions specified in the draft concession contract.
- 2) **Approved Rates.** If applicable, we agree to operate at the currently approved rates for this concession operation during the term of the concession contract until such time as a new rate schedule is approved by NPS.
- 3) **Operating Plan.** If applicable, we agree to operate in accordance with the currently approved operating plan for this concession operation during the term of the concession contract until such time as an operating plan is approved by NPS.
- 4) **Equal Employment Opportunity.** We agree to implement an equal opportunity program and comply with the terms of the Equal Employment Opportunity and handicapped access requirements of the concession contract.
- 5) **Insurance.** We agree to meet the insurance requirements of the Concession Contract.
- 6) **Franchise Fee.** We agree to pay at least the minimum franchise fee for the concession contract stated in the prospectus. Any higher fee that we offer is stated under Principal Selection Factor 5 below.

## PART B

### Response to the Requested Information

#### **PRINCIPAL SELECTION FACTOR 1. THE RESPONSIVENESS OF THE PROPOSAL TO THE OBJECTIVES, AS DESCRIBED IN THE PROSPECTUS, OF PROTECTING, CONSERVING, AND PRESERVING RESOURCES OF THE PARK AREA.**

##### **Scoring: 0-5**

**Note to Offeror:** This selection factor is concerned with environmental objectives that relate specifically to the protection of the particular resources of the park area. Environmental objectives for improvement of the natural environment in general (waste reduction, fuel efficiency, recycling, etc.) are addressed under secondary selection factor 1. Please avoid overlap between your response here and your response to secondary selection factor 1.

The NPS objectives for protecting, conserving, and preserving the specific resources of Glacier Bay National Park and Preserve are as follows:

- (a) Preserving the wildlife resources of the park area.
- (b) Preserving the natural environment of the park area.
- (c) Preserving the social environment of the park area.

Further information on these objectives is provided in the prospectus and in the following subfactors.

**Subfactor 1. Wildlife Protection.** Describe how you will conduct your operations to minimize impacts on wildlife.

At a minimum, discuss:

1. Rest area selection, layout and management (e.g. selection of sites away from wildlife use areas, positioning of cooking areas (if used) with appropriate regard to potential wildlife encounters and management of the rest areas to encourage appropriate response to unanticipated wildlife encounters. [for instance, “what will you do if a bear (moose, wolf, etc.) enters your site?”])
2. Food & odor management (e.g. selection, storage, preparation, consumption and clean-up programs beyond minimum park requirements to minimize potential for wildlife impacts due to food and human hygiene products)
3. Describe the orientation and information you will provide to clients that addresses wildlife protection.
4. Describe the training that will be provided to guides regarding protecting wildlife.

**Subfactor 2. The Natural Environment.** Please describe how you will conduct your operations in a manner that will minimize impacts on the natural environment of the park area.

At a minimum, discuss:

1. Rest area management (site manipulation and restoration).
2. Use of campfires: Do you plan to use camp fires? If so, describe when and where this use will occur and how you will minimize campfire impacts.
3. Human waste management. Do you propose any additional measures beyond what is required under existing park regulations (see the web links at the end of the Business Opportunity section) If so, describe.
4. Describe the training that will be provided to guides regarding protecting the natural environment.
5. Describe the orientation and information you will provide to clients that addresses protection of the environment.
6. Natural quiet: Describe any measures you will take to preserve natural quiet.

**Subfactor 3. The Social Environment.** Please describe how you will conduct your operations in a manner that will minimize impacts on other park visitors (dispersal of use, visual impacts, client conduct, route selection, etc.)

**PRINCIPAL FACTOR 2. THE RESPONSIVENESS OF THE PROPOSAL TO THE OBJECTIVES, AS DESCRIBED IN THE PROSPECTUS, OF PROVIDING NECESSARY, APPROPRIATE AND QUALITY VISITOR SERVICES AT REASONABLE RATES.**

**Scoring: 0-5**

**Note to Offeror:** The NPS objectives for necessary and appropriate visitor services at reasonable rates are as follows:

- (a) Visitor services are provided in a safe manner.
- (b) Visitors are provided high quality equipment.
- (c) Visitors receive a quality experience and an appreciation of the resource values of the park area.
- (d) Visitor services rates are reasonable.

**Subfactor 1. Visitor Safety**

1. Describe the policies and procedures you will implement to address the safety of your employees and customers.
2. Describe the safety equipment that will be available and their criteria for use. Examples of safety equipment include paddle floats, signaling devices, radar reflectors and spare paddles.
3. Describe any emergency communications equipment to be carried.
4. Describe the first aid and other safety training (including rescue training for people in

flipped kayaks) that will be provided to employees. Also describe the safety training that will be provided to visitors prior to embarking. Training for visitors should include but not be limited to the dangers of cold water immersion, procedures to be taken if a kayak flips, hypothermia, and proper behavior for moose and bear encounters.

5. Describe how sanitation issues will be addressed in the operation of your proposed service. At a minimum, describe your plan for food preparation (if any) and how you will provide potable water to clients and employees in the field. A link to a checklist describing the U.S. Public Health Service recommendations regarding sanitation issues is included in the Business Opportunity section of this prospectus.
6. There are a variety of approaches to addressing kayak buoyancy, stability, sea-keeping (including keeping water out of the boat) and re-entry following capsize or swamping (including getting water out of the boat). Describe your approach to these issues including equipment, training and experience.

### **Subfactor 2. Equipment**

- a. Kayaks: Describe, in detail, the kayaks that you will provide as well as the associated equipment (i.e. spray skirts, paddles, rubber boots, etc.) Do not include equipment listed above under the safety subfactor. Include the quantity, quality, age, condition and type of equipment in the description. The NPS also prefers that clients have sufficient gear options to fit their individual skill levels and interests (e.g. providing both single kayaks and double kayaks), and that clients be able to reserve a specific kayak or type of kayak upon booking.
- b. Rudders: If applicable, describe the rudder system on kayaks to be used. (The NPS prefers that clients have the *option* of using a kayak with a rudder.)
- c. Paddles: Describe the paddles to be used in detail with specific attention to any variety in size and design.
- d. Gear: Describe all supplemental gear including emergency supplies (tent, thermal protection, etc. if carried). The NPS prefers high quality gear, appropriate for the range of environmental conditions found in the area.
- e. Describe your equipment maintenance, replacement and upgrade program. The NPS prefers a program which provides gear that is well maintained, that focuses on replacement for functional reasons (rather than cosmetic) and that includes an active consultation, evaluation and testing program for equipment upgrades.

Note: In Principle Selection Factor 4, you will be asked to identify equipment by items and groups of items and the approximate value or cost by item or group of items.

### **Subfactor 3. Quality of the Visitor's Experience**

- a. Describe the types of kayak trips that you plan to offer, including sample itineraries, menus (if food is provided) and any group size limits (other than as provided in the draft contract).
- b. Staffing: Provide a staffing plan including the number and skills of employees.

### **Subfactor 4. Reasonable Rates**

Provide your proposed rates and reservation/cancellation policies. Include copies of current advertisement leaflets, client price, or other published literature. The National Park Service will evaluate the rates and associated policies to determine whether they are reasonable for the services offered and comparable to rates and policies of similar services in Southeast Alaska.

**(Note to Offeror:** The rates you propose must also be reflected in your financial projections submitted in response to principal selection factor 4. Please note that any proposed rate schedule is not binding on NPS. All rates to be charged the public are subject to NPS approval in accordance with NPS rate approval guidelines.)

**PRINCIPAL FACTOR 3. THE EXPERIENCE AND RELATED BACKGROUND OF THE OFFEROR, INCLUDING THE PAST PERFORMANCE AND EXPERTISE OF THE OFFEROR IN PROVIDING THE SAME OR SIMILAR VISITOR SERVICES AS THOSE TO BE PROVIDED UNDER THE CONCESSION CONTRACT.**

**Scoring: 0-5**

**Note to Offeror:** In the event that you (the offeror that signed the Offeror's Transmittal Letter) are not the legal entity that is to be the Concessioner under the final Concession Contract, please explain your relationship to the proposed Concessioner and provide the information described below with respect to both you and the proposed Concessioner as applicable.

**Subfactor 1. Who is the Offeror?**

- a. For information purposes, please state your legal make-up (individually-owned, partnership, joint venture, corporation, limited liability company.)
- b. For information purposes, please state your relationship, if any, to any superior and/or subordinate organizations. For example, state whether you are a subsidiary of another company or operate independently.

**Note to Offeror:** Please use the Business Organization and Credit form contained in this section of this prospectus for this purpose.

**Subfactor 2. Organization and Personnel**

- a. Describe the principal lines of authority within your business organization. If an organization chart is appropriate for the size of your operation, please provide an organization chart as well.
- b. Please state the function of all identified key positions (including duties, number of people supervised, estimated hours per week performing role, etc.).
- c. Please state the decision-making authority of on-site managers and identify the

person with whom NPS will deal regarding day-to-day operations and issues.

**Subfactor 3. Experience**

State in detail your overall background and experience in the operation of guided sea kayaking, making particular note of your experience guiding trips in places with extreme weather conditions comparable to the conditions in Alaska. State how long you have been providing these services. Include your experience managing both administrative and operational aspects of a guiding business.

**Subfactor 4. Background**

Have you ever been charged with violating any federal, state, or local criminal statute or regulation relating to guiding, land use or the environment for the period beginning five years prior to the date this prospectus was issued through the present?



**BUSINESS ORGANIZATION INFORMATION**  
**USE THIS FORM IF YOU ARE A PARTNERSHIP OR SOLE PROPRIETOR**

<b>Name of Entity</b>	
<b>Address</b>	
<b>Telephone Number</b>	
<b>Fax Number</b>	
<b>Email Address</b>	
<b>Contact Person</b>	
<b>Title</b>	
<b>Tax ID #</b>	
<b>Form of Business:</b>	<input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietor
<b>Years in Business</b>	

OWNERSHIP			
Names And Addresses Of Each Partner Or Sole Proprietor	Percentage of Ownership	Current Value of Business	Role in Providing Concession Services

**BUSINESS ORGANIZATION INFORMATION**  
**USE THIS FORM IF YOU ARE A CORPORATION**

*Complete separate form for the submitting corporation and the parent corporation (include all partners in a joint venture).*

<b>Name of Entity</b>	
<b>Address</b>	
<b>Telephone Number</b>	
<b>Fax Number</b>	
<b>Email Address</b>	
<b>Contact Person</b>	
<b>Title</b>	
<b>Tax ID#</b>	
<b>State of Incorporation</b>	
<b>Date of Incorporation</b>	

<b>OWNERSHIP</b>	<b>NUMBER AND TYPE OF SHARES OR PERCENTAGE OF OWNERSHIP</b>	<b>CURRENT VALUE OF INVESTMENT</b>
Names and Addresses of those with controlling interest or key principals of corporation		
<b>Total of All</b>		
<b>Total Shares Outstanding</b>		

<b>CORPORATE OFFICERS AND BOARD OF DIRECTOR</b>	<b>ADDRESS</b>	<b>TITLE AND/OR AFFILIATION</b>

**PRINCIPAL FACTOR 4. THE FINANCIAL CAPABILITY OF THE OFFEROR TO CARRY OUT ITS PROPOSAL.**

**Scoring: 0-5**

**Note to Offeror:** In the event that you are not the legal entity that is to be the concessioner under the concession contract, please explain your relationship with the proposed concessioner and provide the information described below with respect to both you and the proposed concessioner as applicable.

**Section 1. The Availability of Funds to Operate the Concession.**

Subfactor 4a. Please list in the table below the property, by item or groups of items (such as kayaks, personal flotation devices, supplies, office equipment, etc.) with monetary value over \$500 that you will be using for this operation.

Personal Property Items	Quantity	Total Value	Currently Own? (yes/no)

Subfactor 4b. Please estimate the amount of money that you will need to begin operating the business. Only provide estimates for those items that you need to acquire in order to begin operating. Do not include items that you already own. For cash, estimate the amount of cash that you will need to have available (after purchasing equipment; supplies; and “other”) in order to begin operating the business. Please use the form below to provide your estimates.

Equipment   \$ \_\_\_\_\_

Supplies   \$ \_\_\_\_\_

Cash   \$ \_\_\_\_\_

Other (Describe on separate page)               \$ \_\_\_\_\_

  

**TOTAL FUNDS NEEDED                                       \$ \_\_\_\_\_**

Subfactor 4c. Please state the source of the needed funds estimated above.

Subfactor 4d. Please document your ability to obtain these funds (or that you already have them). The documentation must be sufficient to convincingly demonstrate to NPS that the funds are available to you. For example, provide bank statements that demonstrate that you have the funds in hand, or, provide an appraisal of any of your assets that will be sold to obtain the funds, or, if you intend to borrow all or part of the funds, provide a commitment letter from the source of the borrowed funds. If you intend to borrow the funds, please explain in detail the financial arrangements of the loan.

## **Section 2 – Current Financial Position of the Offeror**

Subfactor 4e. Provide copies of your financial statements for the two most recent fiscal years. If financial statements have been audited, include the related audit report, notes to the financial statements and similar explanatory material. For sole proprietors, the financial statement will be a personal financial statement and should include both an income statement and a balance sheet. An income statement lists all of your income and expenses for your most recent fiscal year. A balance sheet lists everything that you own and everything that you owe as of the last day of the fiscal year. If you are unable to provide a balance sheet as of the last day of the fiscal year, you may provide a balance sheet as of the day that you apply.

Subfactor 4f. Credit Information

- 1) List any Foreclosures, Bankruptcies, Transfers in Lieu of Foreclosure and/or Work-Out/Loan Modification Transactions during the *past 10 years*. (If none, so indicate.) Include the name of the property, the city and state, the property type, the approximate loan amount, the lender, and the year of the event. Include an explanation of circumstances, including resolution, bankruptcy plan, and/or other documentation as appropriate.
- 2) Describe any pending litigation or current lawsuits that will materially impact your financial position if adversely resolved.
- 3) Provide a current credit report for the entity submitting the proposal.

## **Section 3 - Demonstrate the financial feasibility of your proposed operation.**

Subfactor 4g. Estimate the amount of income and expenses for the proposed guided kayaking operation. Provide this estimate by completing the prospective income statement on the following page. The prospective income statement is a form to use to estimate the income and expenses for the proposed operation. Blank lines are included on the prospective income statement if you need to provide estimates for expense categories that are not listed. (Describe the categories on the blank lines.) Only revenues and expenses related to the services authorized by the contract (inside the park) are to be included in your prospective income statement, not other services outside the park.

Explain the assumptions that you used in developing your estimates. More detail is preferred over less. At a minimum, provide:

Revenue

- The estimated number of trips per proposed trip type, and the estimated number of clients by trip.
- The estimated revenue per proposed trip. (If the estimated revenue is not the total of client rates for the estimated number of clients, explain the reason for the difference and how you calculated it.)

#### Expenses

Provide the basis for estimating your expenses (such as your past expenses or quotes provided to you)

PROSPECTIVE INCOME STATEMENT FORMAT

Annually for Term of Contract

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6</u>	<u>Year 7</u>	<u>Year 8</u>	<u>Year 9</u>	<u>Year 10</u>
<b>Gross Receipts</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Salaries & Wages	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Payroll Taxes & Benefits	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Operating Supplies	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Office Expenses	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Depreciation & Amortization	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Repair & Maintenance	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Insurance	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Advertising	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Interest	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Legal & Accounting	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Car & Truck Expenses	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Travel, Meals & Entertainment	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
<b>NPS Franchise Fees</b>	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
<b>Total Expenses</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
<b>Net Income</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

**PRINCIPAL FACTOR 5. THE AMOUNT OF THE PROPOSED FRANCHISE FEE AND/OR OTHER FORMS OF FINANCIAL CONSIDERATION TO NPS.**

**Scoring: 0-4**

**Subfactor 1. The proposed franchise fee.**

**Note to Offeror:** The minimum annual franchise fee for the draft contract is:

**the greater of \$500 or \$4.00 per client per day**

A client day is defined as a calendar day or portion of a calendar day in which a client is on Glacier Bay National Park & Preserve land or water.

As stated in the draft contract included in this prospectus, these fees will be adjusted annually in accordance with the Department of Labor's Consumer Price Index, All Urban Consumers.

The offer of a higher franchise fee is generally beneficial to the NPS, and, accordingly, generally will result in a higher score under this selection factor. However, consideration of revenue to the United States is subordinate to the objectives of protecting, conserving, and preserving resources of the park area and of providing necessary and appropriate visitor services to the public at reasonable rates.

Please state the franchise fee you offer as a dollar amount per client day.

\$\_\_\_\_\_ per client per day

**Category III Contract**

**United States Department of the Interior  
National Park Service**

Glacier Bay National Park & Preserve

**Day Tour Sea Kayak Guide Services**

Concession Contract No. CC-GLBA021-06

\_\_\_\_\_  
[Name of Concessioner]

\_\_\_\_\_  
[Address, including email address and phone number]

\_\_\_\_\_  
Doing Business As

Covering the Period \_\_\_\_\_ through \_\_\_\_\_



This Contract is between the National Park Service and \_\_\_\_\_ (hereinafter referred to as “Concessioner”), a [Include only one:] [Corporation][Partnership][Sole Proprietorship] , d.b.a. \_\_\_\_\_ under the authority of 16 U.S.C. 1 et. seq., including 16 U.S.C. 5901 et seq., and other laws that supplement and amend these laws. The Director and the Concessioner agree:

### **Sec. 1. Term of Contract**

This Contract will be from \_\_\_\_\_ until its expiration on \_\_\_\_\_.

### **Sec. 2. Services and Operations**

#### **(a) Required and Authorized Visitor Services**

The Concessioner must provide the following required Visitor Services within the Area: day tour sea kayaking guide services for the public within Glacier Bay National Park & Preserve. Offer at least one scheduled sea kayak day tour from Bartlett Cove daily from the Friday before Memorial Day to Labor Day.

The Concessioner may provide the following authorized Visitor Services within the Area:

- Guiding hiking associated with the guided sea kayaking services.
- The sale or rental of equipment and clothing associated for its conduct to participants in the activity.

#### **(b) Operation, Maintenance and Quality of Operation**

The Concessioner must provide, operate and maintain the Visitor Services in accordance with this Contract in a manner considered satisfactory by the Director, including the nature, type and quality of the Visitor Services. The Concessioner's authority to provide Visitor Services under the terms of this Contract is nonexclusive. The Concessioner's operations and contract compliance will be evaluated on at least an annual basis.

No government owned personal property is assigned to the Concessioner.

#### **(c) Operating Plan**

The Director will establish and revise, as necessary, after consultation with the Concessioner, specific requirements for the operations of the Concessioner under this Contract in the form of an Operating Plan. The initial Operating Plan is attached to this Contract as Exhibit B.

#### **(d) Rates**

All rates and charges to the public by the Concessioner for Visitor Services must be reasonable and appropriate and must be approved by the Director.

#### **(e) No Capital Improvements**

The Concessioner may not construct any Capital Improvements upon Area lands.

### **Sec. 3. Concessioner Personnel**

- (a) The Concessioner must ensure that its employees are hospitable and exercise courtesy and consideration in their relations with the public.
- (b) The Concessioner must establish appropriate screening, hiring, training, safety, employment, termination and other policies and procedures.
- (c) The Concessioner must review the conduct of any of its employees whose action or activities are considered by the Concessioner or the Director to be inconsistent with the proper administration of the Area and enjoyment and protection of visitors and must take such actions as are necessary to correct the situation.
- (d) The Concessioner must maintain, to the greatest extent possible, a drug free work environment.

### **Sec. 4. Environmental**

The Concessioner must utilize appropriate best management practices (practices that apply the most current and advanced means and technologies available to the Concessioner to undertake and maintain a superior level of environmental performance reasonable in light of the circumstances of the operations conducted under this Contract) in its provision of Visitor Services and other activities under this Contract.

### **Sec. 5. Fees**

#### (a) Franchise Fee

- (1) The Concessioner must pay a franchise fee to the Director as follows: \_\_\_\_\_

*[To be inserted in the final contract. The minimum fee is described in the Business Opportunity. Offerors may propose a higher fee in their response to Principal Selection Factor 5 in the Proposal Package.]*

- (2) The franchise fee will be adjusted annually according to the national “Consumer Price Index – All Urban Consumers” (CPI) published by the U.S. Department of Labor. Fees will be adjusted each year and then rounded to the nearest five cents.

- (3) The Concessioner has no right to waiver of the fee under any circumstances.

#### (b) Payments Due

- (1) The franchise fee is due on November 1 of each year.
- (2) All franchise fee payments consisting of \$10,000 or more, will be deposited electronically by the Concessioner in the manner directed by the Director.
- (3) If adjustments need to be made to the franchise fee payment due to adjustments to the reported gross receipts at the time of submission of the Concessioner’s Annual Financial Report, or for any other reason, the adjustments will be made as follows:

(i) Additional payments will be made at the time of submission of the Concessioner's Annual Financial Report.

(ii) Overpayments will be offset against the following year's fees.

(c) Interest

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

## **Sec. 6. Insurance**

The Concessioner must obtain and maintain during the entire term of this Contract at its sole cost and expense, coverage necessary to fulfill the obligations of this Contract. The insurance requirements are set forth in Exhibit D.

## **Sec. 7. Records and Reports**

(a) Accounting System

(1) The Concessioner must maintain an accounting system under which its accounts can be readily identified with its system of accounts classification. Such accounting system must be capable of providing the information required by this Contract. The Concessioner's system of accounts classification must be directly related to the Concessioner Annual Financial Report Form issued by the Director.

(2) If the Concessioner's annual gross receipts are \$500,000 or more, the Concessioner must use the accrual accounting method.

(3) The Concessioner must 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

The Concessioner must submit annually as soon as possible but not later than March 1 a financial statement for the preceding fiscal year or portion of a year as prescribed by the Director ("Concessioner Annual Financial Report").

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

(2) If annual gross receipts are between \$500,000, and \$1,000,000, the financial statements must be reviewed 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 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 Reports

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

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

**Sec.8. Suspension, Termination, or Expiration**

(a) Termination and Suspension

(1) The Director may temporarily suspend operations under this Contract in whole or in part or terminate this Contract in writing 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.

(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 will 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 8(a).

(b) Requirements in the Event of Suspension, Termination or Expiration

(1) In the event of suspension or termination of this Contract for any reason or expiration of this Contract, no compensation of any nature will be due the Concessioner, including, but not limited

to, compensation for personal property, or 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 must, at the Concessioner's expense, promptly vacate the Area, remove all of the Concessioner's personal property, and repair any injury caused by removal of the property. This removal must occur within thirty (30) days (unless the Director in particular circumstances otherwise determines). Personal property not removed from the Area will be considered abandoned property subject to disposition by the Director, at full cost and expense of the Concessioner.

**Sec. 9. Assignment, Sale or Encumbrance of Interests**

This Contract may not be assigned [e.g. sold] or encumbered [e.g. mortgaged] without the approval of the Director in accordance with 36 CFR Part 51 with respect to proposed assignments and encumbrances.

**Sec. 10. General Provisions – See Addendum 1**

Addendum 1 attached to this Contract is made a part of this Contract.

By:  
CONCESSIONER:

UNITED STATES OF AMERICA

\_\_\_\_\_  
(Title) (Company Name)

\_\_\_\_\_  
Superintendent, Glacier Bay National Park & Preserve

Date: \_\_\_\_\_

Date: \_\_\_\_\_

[Corporation]

Attest

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Attachments:

Addendum 1 – General Provisions

- Exhibit A – Nondiscrimination
- Exhibit B – Operating Plan
- Exhibit C - Reserved
- Exhibit D – Insurance

## ADDENDUM 1 GENERAL PROVISIONS

### 1. Definitions.

The following terms used in this Contract will have the following meanings, which apply to both the singular and the plural forms of the defined terms:

- (a) "Applicable Laws" means the laws of Congress governing the Area, including, but not limited to, the rules, regulations, requirements and policies promulgated under those laws, whether now in force, or amended, enacted or promulgated in the future, including, without limitation, federal, state and local laws, rules, regulations, requirements and policies governing nondiscrimination, protection of the environment and protection of public health and safety.
- (b) "Area" means the property within the boundaries of Glacier Bay National Park & Preserve.
- (c) "Days" means calendar days.
- (d) "Director" means the Director of the National Park Service, and his duly authorized representatives.
- (e) "Exhibit" means the various exhibits, which are attached to this Contract, each of which is hereby made a part of this Contract.
- (f) "Gross Receipts" means the total amount received or realized by, or accruing to, the Concessioner from all sales for cash or credit, of services, accommodations, materials, and other merchandise made pursuant to the rights granted by this Contract, commissions earned on contracts or agreements with other persons or companies operating in the Area, and gross receipts earned from electronic media sales, but excluding:
  - (1) Intracompany earnings on account of charges to other departments of the operation (such as laundry);
  - (2) Charges for employees' meals, lodgings, and transportation;
  - (3) Cash discounts on purchases;
  - (4) Cash discounts on sales;
  - (5) Returned sales and allowances;
  - (6) Interest on money loaned or in bank accounts;
  - (7) Income from investments;
  - (8) Income from subsidiary companies outside of the Area;
  - (9) Sale of property other than that purchased in the regular course of business for the purpose of resale;
  - (10) Sales and excise taxes that are added as separate charges to sales prices, gasoline taxes, fishing license fees, and postage stamps, provided that the amount excluded will not exceed the amount actually due or paid government agencies;
  - (11) Receipts from the sale of handicrafts that have been approved for sale by the Director as constituting authentic American Indian, Alaskan Native, Native Samoan, or Native Hawaiian handicrafts.

All monies paid into coin operated devices, except telephones, whether provided by the Concessioner or by others, must be included in gross receipts. However, only revenues actually received by the Concessioner from coin-operated telephones must be included in gross receipts. All revenues received from charges for in-room telephone or computer access must be included in gross receipts.

- (g) "Superintendent" means the manager of the Area.

- (h) “Visitor Services” means the accommodations, facilities and services that the Concessioner is required and/or authorized to provide by this Contract.

## 2. Legal and Regulatory Compliance

This Contract, operations under it by the Concessioner, and its administration by the Director, are subject to all Applicable Laws. The Concessioner must comply with all Applicable Laws in fulfilling its obligations under this Contract at the Concessioner's sole cost and expense. The Concessioner must give the Director immediate written notice of any violation of Applicable Laws by the Concessioner, including its employees, agents or Contractors, and must promptly correct any violation.

## 3. Services and Operations

- (a) All promotional material, regardless of media format (i.e., printed, electronic, broadcast media), provided to the public by the Concessioner in connection with the services provided under this Contract must be approved in writing by the Director prior to use. All such material will identify the Concessioner as an authorized Concessioner of the National Park Service, Department of the Interior.
- (b) The Concessioner will provide Federal employees reduced rates, in accordance with guidelines established by the Director, when conducting necessary official business. Complimentary or reduced rates and charges may otherwise not be provided to Federal employees by the Concessioner except to the extent that they are equally available to the general public.
- (c) The Director and Comptroller General of the United States, or any of their duly authorized representatives, will have access to the records of the Concessioner as provided by the terms of Applicable Laws.
- (d) Subconcession or other third party agreements, including management agreements, for the provision of Visitor Services required and/or authorized under this Contract, whether in consideration of a percentage of revenues or otherwise, are not permitted.
- (e) The Concessioner will ensure that any protected sites and archeological resources within the Area are not disturbed or damaged by the Concessioner's activities. Discoveries of any archeological resources by the Concessioner will be promptly reported to the Director.

## 4. Environmental Data, Reports, Notifications, and Approvals

- (a) Inventory of Hazardous Substances and Inventory of Waste Streams. The Concessioner must submit to the Director, upon request, an inventory of hazardous chemicals used and stored in the Area by the Concessioner. The Concessioner must obtain the Director's approval prior to using any extremely hazardous substance, as defined in the Emergency Planning and Community Right to Know Act of 1986, in operations under this Contract. The Concessioner must also submit to the Director, upon request, an inventory of all waste streams generated by the Concessioner under this Contract.
- (b) Reports. The Concessioner must submit to the Director copies of all documents, reports, monitoring data, manifests, and other documentation required under Applicable Laws to be submitted to regulatory agencies. The Concessioner must also submit to the Director any

environmental plans for which coordination with Area operations are necessary and appropriate, as determined by the Director in accordance with Applicable Laws.

- (c) Notification of Releases. The Concessioner must give the Director immediate written notice of any discharge, release or threatened release (as these terms are defined by Applicable Laws) within or at the vicinity of the Area (whether solid, semi-solid, liquid or gaseous in nature) of any hazardous or toxic substance, material, or waste of any kind, including, without limitation, building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product.
- (d) Notice of Violation. The Concessioner must give the Director in writing immediate notice of any written threatened or actual notice of violation from other regulatory agencies of any Applicable Law arising out of the activities of the Concessioner, its agents or employees.
- (e) Communication with Regulatory Agencies. The Concessioner must provide timely written advance notice to the Director of communications, including without limitation, meetings, audits, inspections, hearings and other proceedings, between regulatory agencies and the Concessioner related to compliance with Applicable Laws concerning operations under this Contract. The Concessioner must also provide to the Director any written materials prepared or received by the Concessioner in advance of or subsequent to any such communications. The Concessioner must allow the Director to participate in any such communications. The Concessioner must also provide timely notice to the Director following any unplanned communications between regulatory agencies and the Concessioner.
- (f) Cost Recovery for Concessioner Environmental Activities. If the Concessioner does not promptly contain and remediate an unauthorized discharge or release arising out of the activities of the Concessioner, its employees, agents and Contractors, as set forth in this section, or correct any environmental self-assessment finding of non-compliance, in full compliance with Applicable Laws, the Director may, in its sole discretion and after notice to the Concessioner, take any such action consistent with Applicable Laws as the Director deems necessary to abate, mitigate, remediate, or otherwise respond to such release or discharge, or take corrective action on the environmental self-assessment finding. The Concessioner will be liable for and must pay to the Director any costs of the Director associated with such action upon demand. Nothing in this section precludes the Concessioner from seeking to recover costs from a responsible third party.

## 5. Fees

### (a) 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” will 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 will 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 will 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 will 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 will 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 will continue to make the established franchise fee payments required by this Contract.

## 6. 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 will survive the termination or expiration of this Contract.

## 7. 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. The Director may terminate this Contract if the Director determines that the Concessioner is unable to perform the terms of Contract due to such bankruptcy or insolvency action.

#### 8. Additional Provisions

- (a) This Contract contains the sole and entire agreement of the parties. 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.
- (b) This Contract does not grant rights or benefits of any nature to any third party.
- (c) The invalidity of a specific provision of this Contract will not affect the validity of the remaining provisions of this Contract.
- (d) Waiver by the Director or the Concessioner of any breach of any of the terms of this Contract by the other party will 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 will not be deemed to be a waiver of any preceding breach of any term of the Contract.
- (e) No member of, or delegate to, Congress or Resident Commissioner will be admitted to any share or part of this Contract or to any benefit that may arise from this Contract but this restriction will not be construed to extend to this Contract if made with a corporation or company for its general benefit.
- (f) This Contract is subject to the provisions of 43 CFR, Subtitle A, Part 12, Subpart D, 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.

**Exhibit A**  
**Nondiscrimination**

*Section I: 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, 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, 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, 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:

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

- (a) 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, age, national origin, or disabling condition;
- (b) Discriminating by segregation or other means against any person.

#### *Section II: 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 B Operating Plan

**Note to Offeror: You are asked in the proposal package to supply specific operational information including, but not limited to, information regarding safety and environmental protection. Operational practices provided in your offer and accepted by the Superintendent will be incorporated into the final operating plan. The provisions below represent the minimal operational requirements for this activity.**

### I. Introduction

A. This Operating Plan will serve as a supplement to Concession Contract CC-GLBA021-06. It describes specific operating responsibilities of the Concessioner and the Service with regard to those lands utilized by 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, shall prevail.

B. This plan will be reviewed annually by the Superintendent in consultation with the Concessioner and revised as determined necessary by the Superintendent of the Area. Any revisions shall not be inconsistent with the main body of the Contract. Any revisions must be reasonable and in furtherance of the purposes of the Contract.

### II. Annual Required Reports

A. In addition to other reports that may be required by the Contract, the Concessioner will provide the Superintendent the following reports annually:

Report	Due
Annual Financial Report	March 1
Certificate of Insurance	By startup of operations and as renewed
Concessioner's Roster of Employees	April 15
Schedule of trips and itineraries	April 15
Activity report	September 30

### III. Operations

#### A. General Operating Provisions

1. Each trip is no more than 12 hours duration and involves no camping on shore;
2. Participants use hand propelled watercraft such as sea kayaks (specific craft subjects to Superintendent's approval);
3. Each trip is guided by one or more employees of the concessioner.
4. The Concessioner is authorized to provide land transportation between Gustavus and Bartlett Cove for necessary transportation associated with providing guided sea kayaking services.
5. Concessioner will maintain a log of all trips at the Park's Visitor Information Station. Prior to departure, the Concessioner will provide the number of clients, kayaks, guides, departure time, itinerary and anticipated return time. On return, the Concessioner will close out the trip and provide the actual return time.

6. Equipment must be approved in advance by the Superintendent.
7. The Concessioner may not install improvements or other property within the park without express written approval from the Superintendent. Kayaks and associated equipment may be stored at a site designated by the Superintendent. If such site is authorized, the Concessioner is responsible for maintaining the site as directed by the NPS. The currently designated site is along the shoreline, approximately 100 meters northeast of the Bartlett Cove Public Use Dock. At this site, the Concessioner is authorized to leave up to three racks for storing sea kayaks and up to three sheds for storing associated equipment. These improvements are not capital improvements, as defined in 36 CFR 51.51.
8. Liquor sales are not authorized.

B. Trip Allocation and Scheduling

1. The Superintendent may specify the number of daily or seasonal trips authorized.

C. Resource Protection

1. The group size may not exceed 12 people, including guides and clients without written approval of the Superintendent.
2. All trash and garbage will be carried out of the park.
3. All use areas will be returned to as natural condition as possible.
4. Materials, supplies, or equipment of any type will not be cached or stored ashore without prior written approval by the Superintendent.

D. Visitor Safety

1. Life jackets of the appropriate size must be available for all passengers, including adults and children, engaged in any boating activity.

**Additional elements of your offer related to safety which are found acceptable by the NPS will be incorporated here.**

E. Quality of Visitor Services

1. Rates – A detailed listing of proposed rates must be submitted annually. The National Park Service recognizes that rates may include services in addition to those provided under this contract. Therefore, the rate submission shall also include an explanation of how the rates will be allocated to activities authorized under the contract for purposes of preparing annual financial reports (see definition of gross receipts in the General Provisions section of the Contract).
2. Concessioner Interpretive Program – The NPS expects the Concessioners to enhance the visitor's experience through the sharing of a wide range of information with clients. The Concessioner shall provide clients with information regarding the purpose and significance of Glacier Bay National Park & Preserve.
3. Complaints – The Service will send complaints or comments regarding Concessioner operations to the Concessioner for investigation and response within 30 days. The Concessioner will provide a copy of the response to the Superintendent. The Concessioner will provide the Superintendent copies of all written comments received from clients concerning services provided under this contract within 30 days of receipt.

## **Exhibit D Insurance Requirements**

### **I. General**

The Concessioner must 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. The Director will approve the types and amounts of insurance coverage purchased by the Concessioner.

At the request of the Director, the Concessioner must, 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 must 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.

From time to time, as conditions in the insurance industry warrant, the Director may modify this Exhibit, provided that any additional requirements must be reasonable and consistent with the types of insurance a prudent businessperson would purchase in similar circumstances.

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.

### **II. Liability Insurance.**

The Concessioner must 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.

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

This insurance must 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. The following Liability Coverages and limits are to be maintained at a minimum, all of which are to be written on an occurrence basis only. The Concessioner may attain the limits specified below by means of supplementing the respective coverage(s) with Excess or Excess "Umbrella" Liability. Furthermore, the commercial general liability package must provide no less than the coverages and limits described.

#### **A. Commercial General Liability - \$300,000**

1. Coverage will be provided for bodily injury, property damage, personal or advertising injury liability

Kayaks must be listed on the general liability policy (and must include Contractual Liability and Products/Completed Operations Liability).

Bodily Injury and Property Damage Limit



Products/Completed Operations Limit  
Personal Injury & Advertising Injury Limit  
General Aggregate  
Fire Damage Legal Liability ``per fire"

2. The liability coverages may not contain the following exclusions/limitations:
  - a. Athletic or Sports Participants
  - b. Products/Completed Operations
  - c. Personal Injury or Advertising Injury exclusion or limitation
  - d. Contractual Liability limitation
  - e. Explosion, Collapse and Underground Property Damage exclusion
  - f. Total Pollution exclusion
  - g. Watercraft limitations affecting the use of watercraft in the course of the concessioner's operations (unless separate Watercraft coverage is maintained)
3. If the policy insures more than one location, the General Aggregate limit must be amended to apply separately to each location, or, at least, separately to the appropriate NPS location(s).

**B. Automobile Liability**

Coverage will be provided for bodily injury or property damage arising out of the ownership, maintenance or use of ``any auto," Symbol 1. (Where there are no owned autos, coverage applicable to ``hired" and ``non-owned" autos, ``Symbols 8 & 9," will be maintained.)

Bodily injury and property damage (combined)

Each Accident Limit

Up to 5 passengers	\$300,000 per occurrence
6 to 12 passengers	\$500,000 per occurrence
13 to 20 passengers	\$750,000 per occurrence
21 to 50 passengers	\$1,500,000 per occurrence

If state requirements exceed these limits, the coverage will meet the state requirements.

**C. Liquor Liability**

Coverage will be provided for bodily injury or 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.

Liquor sales are not authorized.

**D. Watercraft Liability (or Protection & Indemnity if watercraft is larger than 26 feet) (if applicable)**

Coverage will be provided for bodily injury or property damage arising out of the use of any watercraft.

Each Occurrence Limit

Up to 5 passengers	\$300,000
6 to 12 passengers	\$500,000
13 to 20 passengers	\$1,000,000

21 to 50 passengers                      \$1,500,000

E. Aircraft Liability not applicable

Coverage will be provided for bodily injury or property damage arising out of the use of any aircraft.

Each Person Limit  
Property Damage Limit  
Each Accident Limit

F. Excess Liability or Excess “Umbrella” Liability

This coverage is not required, but may be used to supplement any of the above Liability coverage policies in order to arrive at the required minimum limit of liability. If maintained, coverage will be provided for bodily injury, property damage, personal 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 Excess “Umbrella” Liability policy.

G. Care, Custody and Control--Legal Liability (Describe Specific Coverage)

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

Any One Loss

H. Environmental Impairment Liability

Coverage (if requested by the Director) will be provided for bodily injury, personal injury or property damage arising out of pollutants or contaminants (on site and/or offsite).

Each Occurrence or Each Claim Limit  
Aggregate Limit

I. Special Provisions for Use of Aggregate Policies.

At such time as the aggregate limit of any required policy is (or if it appears that it will be) reduced or exhausted, the concessioner may be required to reinstate such limit or purchase additional coverage limits.

J. Self-Insured Retentions. Self-insured retentions on any of the above described Liability insurance policies (other than Excess “Umbrella” Liability, if maintained) may not exceed \$5,000.

K. Workers Compensation and Employers' Liability.

Coverage will comply with the statutory requirements of the state(s) in which the concessioner operates.

III. 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).
2. All insurers for all coverages must have a Best's Financial Size Category of at least VIII according to the most recent edition of Best's Key Rating Guide (Property-Casualty edition).
3. All insurers must be admitted (licensed) in the state in which the concessioner is domiciled.

#### IV. Certificates of Insurance.

All certificates of Insurance required by this Contract must 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, must provide the Director with a complete copy of any of the insurance policies (or endorsements thereto) required herein to be maintained by the concessioner.

#### V. Statutory Limits

In the event that a statutorily required limit exceeds a limit required herein, the higher statutorily required limit will be considered the minimum to be maintained.