

**IOWA DEPARTMENT OF NATURAL RESOURCES  
CONCESSION CONTRACT NUMBER**

**Between**

**IOWA DEPARTMENT OF NATURAL RESOURCES  
And**

IN WITNESS THEREOF, the parties hereto have entered into this Contract on the day and year last specified below.

**DEPARTMENT OF NATURAL RESOURCES**

By \_\_\_\_\_ Date: \_\_\_\_\_  
: \_\_\_\_\_  
[Alex Moon, Deputy Director](#)

**CONCESSIONAIRE**

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

## DNR STANDARD CONTRACT CONDITIONS

This Contract is entered into between the Iowa Department of Natural Resources (DNR) and \_\_\_\_\_ (Concessionaire). The parties agree as follows:

### Section 1 IDENTITY OF THE PARTIES

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**1.1. Parties.** DNR is authorized to enter into this Contract. DNR's address is: Wallace State Office Building, 502 East 9<sup>th</sup> Street, Des Moines, Iowa 50319.

**Concessionaire Name**, a **Concessionaire Legal Entity Type\*** is organized and registered under the laws of the State of **State of Organization**. The Concessionaire's address is: **Concessionaire Address**.

*(\*This can typically be found on the State of Organization Secretary of State website. If an entity type i.e., domestic limited liability company, foreign incorporated company, etc. is not found the Concessionaire is most likely not organized under their state and we must enter into a contract with them as an individual/ "sole proprietor". A "sole proprietor" is an unincorporated business owned entirely by a single person and operated in that person's personal capacity or under a "doing business as" or "dba" name.)*

In the case of an individual/ sole proprietor, please use the following statement: **Concessionaire Name (dba XXX)**, is an individual and sole proprietor located in the State of **State of Residence**. The Concessionaire's address is: **Concessionaire's personal Address**.

**1.2. Project Managers.** Each party has designated a Project Manager, who shall be responsible for oversight and negotiation of any Contract modifications. Any notifications and approvals required by this Contract shall be directed to the project managers identified herein, provided, however, that amendments to this Contract shall require the signature of persons authorized by each organization to execute contracts, which for the DNR may be the Deputy Director of the organization or what is consistent with the DNR's adopted signature policy.

#### DNR Project Manager:

\_\_\_\_\_, Iowa  
Phone:  
Fax:  
Email:

**Concessionaire Project Manager:** \_\_\_\_\_, **Concessionaire Project Manager Title**

Phone:  
Fax:  
Email:

### Section 2 STATEMENT OF PURPOSE

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**2.1 Description of Document.** This document is a contract for operation of a commercial business concession (commercial concession) to provided specified services to the public on state-owned recreational property known as \_\_\_\_\_ located in \_\_\_\_\_ County, Iowa.

**2.2 Purpose.** The Concessionaire, as a private contractor, desires to operate a commercial business concession on state-owned property pursuant to this Contract. Concessionaire desires to provide specified recreational facilities and services to the public for profit. The DNR desires to provide specified recreational facilities and services to the public in an efficient manner with a reasonable charge to the public for their use.

**2.3 Authority for Contract.** The DNR enters into this contract under Iowa Code sections 461A.3 and 461A.4.

### Section 3 DURATION OF CONTRACT

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- 3.1 Term of Contract.** The term of this Contract shall be through , unless terminated earlier in accordance with the Termination section of this Contract. However, this Contract shall not begin until it has been signed by both parties.
- 3.2 Approval of Contract.** The conditions of this Contract shall become effective when the Contract has been signed by both parties or the contract start date has occurred, whichever occurs later.
- 3.3 Amendments.** DNR shall have the sole option to renew and extend this Contract for subsequent periods up to five years at a time by executing a signed Contract Amendment prior to the expiration of this Contract or any subsequent Contract Amendment entered into pursuant to this paragraph. Following a minimum of three years and a maximum of five years of concession operation, the Concessionaire may request that the Contract be renewed pursuant to the provisions of 571 Iowa Administrative Code (IAC) 14.2(2).

## **Section 4 DEFINITIONS**

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**Definitions.** This Contract shall include the following definitions:

“Agency” shall mean Department of Natural Resources (DNR).

“Concessionaire” means a person or firm granted a Contract to operate a concession in a state park or recreation area. The Concessionaire is an independent contractor and not an employee or agent of the DNR.

“Concession operation” means operating a business within a concession area in a state park or recreation areas included, but not limited to, boat rental, snack-food sales, beach operation, and sale of fishing bait and tackle.

“Contract” and “Contract Declarations & Execution Page” shall mean these DNR Standard Contract Conditions, any Attachments or Exhibits attached to and included as part of these DNR Standard Contract Conditions, and the DAS General Terms and Conditions. “Contract” shall include the first page of these DNR Standard Contract Conditions, which includes the Concessionaire and DNR signatures.

“Contractor” means a Concessionaire as defined in Section 4.

“DAS General Terms and Conditions” shall mean the DAS General Terms and Conditions effective May 1, 2016 and found at <https://das.iowa.gov/procurement/terms-and-conditions>.

“Deliverables” means all of the goods, products, services, work, work product, items, materials and property to be created, developed, produced, delivered, performed or provided by or on behalf of, or made available through, Concessionaire (or any agent, contractor or subConcessionaire of Concessionaire) in connection with this Contract.

“DNR” means department of natural resources.

“Director” means the director of the department of natural resources.

“Friends group or organization” means an organization incorporated under Iowa Code Chapter 504 as a not-for-profit group which has been formed solely for the purpose of promoting and enhancing a particular state park, recreation area, or the Iowa state park system, or any combination of the three.

“Gross Receipts” means the total amount received, excluding sales tax, realized by or accruing to the Concessionaire from all sales, for cash or credit of services, accommodations, materials, or other merchandise pursuant to the rights granted in the Contract including gross receipts of subconcessionaires. All moneys paid into coin-operated devices, except telephones, shall be included in gross receipts.

“New concession” means the right to concession operation in an area that does not currently have a concessionaire or an area where the DNR wishes to invite bids for a mobile type concession operation.

“Newspaper” is as defined in Iowa Code Section 618.3.

“RFP” shall mean the Request for Proposals, Informal Request for Proposal, or Request for Quotes that was issued to solicit the Deliverables that are subject to the Contract including these DNR Standard Contract Conditions.

“Special Contract Attachments” shall mean any Attachments or Exhibits attached to and included as part of these DNR Standard Contract Conditions.

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## **Section 5 CONCESSION PREMISES**

(“Concession Premises”).

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## **Section 6 FACILITIES AND EQUIPMENT FURNISHED BY DNR**

The DNR agrees to furnish the following facilities, property or equipment.

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## **Section 7 SCOPE OF SERVICES**

**7.1 Services.** The Concessionaire shall provide the following services to the public: (“Concession Services”)

### **7.1 Operating Hours.**

- 7.2.1 When Concession Must Be Closed. The Concessionaire shall not provide Concession Services on any day before 5 a.m. or later than 10 p.m., central standard time (CST) or central daylight time, whichever is applicable based on statewide observation, throughout the duration of this contract.
- 7.2.2 Minimum Hours of Service. Concessionaire shall ensure:
  - 7.2.1.1 From the Friday before the national Memorial Day holiday through the day after the national Labor Day holiday each year, boat rental and bait sales shall be available each day from at least 7:00 a.m. to 7:00 p.m. and food services shall be available from at least 11:00 a.m. to 7:00 p.m. each day (CST).
  - 7.2.2.2 Any other regular or extended shortening of operating hours shall be authorized only by amendment of this contract as provided in section 1.15.9 of the DAS General Terms and Conditions, herein. The hours previously stated in this paragraph are minimum. Nothing in this paragraph shall be construed as prohibiting longer operating hours or season, consistent with section 7.2.1.
- 7.2.3 Temporary Shortening of Hours. Whenever concession operating hours are shortened due to adverse weather, lack of public use or any other circumstance, the Concessionaire shall obtain written approval from the DNR prior to the closing of the concession. The District Park Supervisor or District Park Supervisor’s designee may require the Concessionaire to return to normal hours when, in the Supervisor’s or designee’s judgment, the condition causing the decreased use has ended.
- 7.2.4 Duty of Posting Regular Hours. The regular hours of concession operation shall be posted in a conspicuous location, as directed by the District Park Supervisor or the District Park Supervisor’s designee, for public viewing.

### **7.3 Boat Rental.**

- 7.3.1 Types of Vessels. The Concessionaire shall furnish vessels of various types for rental (“operated for hire”) by the public. This can include, but need not be limited to, V-hull or flat-bottom fishing boats, paddleboats or pontoon boats. All vessels operated for hire by the Concessionaire must be currently registered as required by Iowa Code Sections 462A.4 and 462A.5.

- 7.3.2 Proper Equipping of Vessels. Vessels shall not be permitted to leave the boat rental area or dock without proper equipment as required by Iowa Code Chapter 462A.
- 7.3.3 Boat Inspection. All vessels operated for hire shall be subject to inspection as required by Iowa Code Section 462A.20. Records shall be kept and vessels equipped in accordance with Iowa Code Section 462A.10 and any other applicable state and federal laws. The Concessionaire shall not offer any vessel for hire that is found to be in violation of Iowa Code Chapter 462A.
- 7.3.4 Registration Fees. Registration fees for privately-owned rental vessels are to be paid to the county recorder in the vessel owner's county of residence or, if the owner is a nonresident, in the county of the vessel's principal use. Registration fees for any state-owned vessels furnished for the Concessionaire's use are to be paid to the DNR.

## 7.2 Reserved.

## 7.2 Firewood Sales.

- 7.5.1 Forest Pest Quarantines. In March 2014, the State of Iowa was placed under a U.S. Department of Agriculture (USDA) firewood transport quarantine due to the infestation of Emerald Ash Borer (*Agrilus planipennis*) (EAB), as invasive species from Asia that kills native ash trees. It is illegal to move all ash products and all hardwood firewood from a quarantined area into a non-quarantined area, or vis-versa. It is in direct violation of the USDA Animal Plant and Health Inspection Service (USDA-APHIS) quarantine for anyone, including Concessionaires, to bring firewood in from a quarantined state or county into Iowa and to transport firewood from quarantined counties within Iowa outside of the quarantine area.

There are other quarantines for forest pests besides EAB that currently are not in the State of Iowa. Wood can be moved freely in Iowa. However, wood from parts of Wisconsin or Illinois moving into Iowa may need a compliance agreement for Gypsy moth, Sirex wood wasp, or other pests. These and other quarantined pests vary by state from where the wood is coming. Iowa's State Plant Health Director (USDA-APHIS Plant Protection and Quarantine) can be contacted at 515/251-4083 regarding any questions involving movement of wood between stateliness into Iowa.

- 7.5.2 Firewood Labeling. All firewood that is sold or distributed by the Concessionaire shall follow all firewood labeling requirements established by the Iowa Department of Agriculture and Land Stewardship in 21 IAC 46.16.

## 7.2 Snack Food, Vending Machine and Other Food Services.

- 7.6.1 The Concessionaire shall provide at least 30% of food and beverage choices in vending machines that meet yellow or green criteria from the Nutrition Environment Measures Survey for Vending Machines (NEMS-V). The Concessionaire is also encouraged to offer healthier non-vending machine food and beverage selections at the concession. Healthier is defined as lower in fat, sugar, and calories; increased consumption of fruit and vegetables; and whole-grain products.

## 7.2 Additional Services and Responsibilities. The Concessionaire agrees to do and/or provide the following:

- 7.7.1 All food items, other miscellaneous refreshments, and merchandise for sale.
- 7.7.2 All labor, facilities, and equipment needed to operate the concession and to keep the concession area in a clean and sanitary condition.
- 7.7.3 Utilities to full include full payment of electricity and telephone charges including any deposits required for initiation of services. A telephone is required by this Contract for emergency use.
- 7.7.1 Protection of Public Property and Sanitation.

- 7.7.4.1 The Concessionaire shall protect all state property from damage by the Concessionaire, the Concessionaire's employees, the public, or other elements, to the maximum extent reasonably possible. All vessels utilized by the Concessionaire for rental or other purposes, when present on DNR property, shall be secured from unauthorized use at all times. No trees or other vegetation may be removed or other natural features of the concession area disturbed without written permission of the DNR. Application of chemical herbicide must have prior written approval by the DNR and must be applied by a licensed person.
- 7.7.4.2 The Concessionaire shall see that all buildings used, as set forth in this Contract, are kept in a clean and sanitary condition and that the ground within the concession area is mowed at the proper time. No modifications to any concession area or structures are to be undertaken without prior written approval from the DNR.
- 7.7.4.3 All rubbish, garbage, and debris that may accrue due to the operation of the concession shall be collected from the concession area and adjacent parking lots and placed in containers by the Concessionaire. However, the DNR shall be responsible for emptying the containers.
- 7.7.4.4 The Concessionaire shall work with park staff to recycle items including, but not limited to, glass, paper/cardboard, metal cans, and certain plastics as much as reasonably possible. The Concessionaire is also encouraged to participate in any other recycling programs that are available locally.
- 7.7.4.5 Storage of fuel, oil, and other possible hazardous contaminants shall be in approved containers capable of catching any spilled material. All containers shall be clearly labeled as to the contents inside the container.
- 7.7.2 Management by Concessionaire or Responsible Designee. The Concessionaire or a responsible agent, who shall be at least nineteen (19) years of age or older, shall be in active charge and be on the premises of the concession at all times that the concession is open for business. The Concessionaire shall provide the District Park Supervisor with a current list of names, addresses and telephone numbers of the person(s) in charge of the daily operation of the concession.
- 7.7.3 Employees. The Concessionaire acknowledges that from a public viewpoint, Concessionaire employees are direct representatives of the DNR. Therefore, Concessionaire shall require all employees to conduct themselves in a professional manner befitting a DNR State employee. Professional requirements include, but are not limited to the following:
  - 7.7.6.1 All Concessionaire employees, agents, and volunteers shall use appropriate language and actions at all times.
  - 7.7.6.2 All Concessionaire employees, agents, and volunteers who come into contact with the public shall be neat, clean and either in uniforms identifiable by the public or a wear a name tag identifiable by the public.
  - 7.7.6.3 If, at any time, the DNR shall be of the opinion that any employee, agent or volunteer of the Concessionaire has violated a law or park rule, performed inappropriate customer service, or engaged in improper conduct on the Concession Premises, the DNR shall notify the Concessionaire. The Concessionaire shall take appropriate action to correct the employee, agent or volunteer related problem, including discharge of employee, agent, or volunteer or reassigning such employee, agent, or volunteer to duties not related to the Contract. DNR reserves the right to suspend or remove an employee, agent or volunteer from the Concession Premises if the Concessionaire is not available to handle the situation.
- 7.7.4 Maintenance Responsibility.

- 7.7.6.1 Concessionaire's Maintenance Responsibilities. The Concessionaire shall adequately maintain all DNR-provided facilities and equipment. Concessionaire shall complete all necessary minor repairs or replacements (value of \$250 or less) at no cost to the state. Concessionaire shall notify the DNR of any other non-minor replacements and repairs that are necessary, and the parties shall agree in writing how the parties will manage the particular repair(s) or replacement(s), keeping in mind the DNR may be bound by competitive bidding laws as they relate to public improvement projects. [\[insert general maintenance expectations here\]](#)
- 7.7.6.2 Replacement of Damaged Property. The Concessionaire acknowledges and agrees that the DNR will not replace any property on the Concession Premises that is damaged or otherwise becomes inoperative. Any equipment (personal property) furnished by the DNR will be provided in serviceable condition and shall be returned to the DNR by the Concessionaire in the same condition.
- 7.7.6.3 The DNR represents that the premises are in fit condition for use by the Concessionaire. Acceptance of the Concession Premises by the Concessionaire shall be construed as Concessionaire's acknowledgement that the premises are in good state of repair and in good sanitary condition. Concessionaire shall surrender the premises at the end of the contract term, or any renewal thereof, in the same condition as when the Concessionaire took possession, allowing for reasonable use and wear and damage by Acts of God, including fires and storms.
- 7.7.6.4 Partial destruction of the Concession Premises shall not render this contract void or voidable, nor terminate it except as herein provided. If the Concession Premises are partially destroyed during the term of this contract, the DNR may repair or replace them when such repairs or replacement can be done within state funding limitations within one year of the partial destruction. Written notice of the intention of the DNR to repair or replace shall be given to the Concessionaire within 120 days after any partial destruction. Concession fees may be reduced proportionately to the extent to which the repair operations interfere with the business conducted on the premises by the Concessionaire. If the repairs or replacement cannot be made in one year and if the DNR does not elect to make them within a reasonable time, either party shall have the option to terminate this lease without prejudice.
- 7.2 Exclusive Rights.** Pursuant to the provisions of 571 IAC 14.5(3), this Contract gives the concessionaire exclusive rights to conduct a concession operation providing services identified in Section 7.1 on the state area defined as . The concessionaire must have DNR approval prior to allowing other vendors to do business in the defined area. This provision does not prohibit DNR from allowing non-competitive type vendors in the defined area during a DNR-sponsored event.
- 7.3 Stop Services.** In addition to its other remedies described herein, DNR shall have the right at any time during the Contract term to direct the services of Concessionaire fully or partially suspended or stopped, if the Deliverables fail to conform to applicable specifications and requirements in this Contract. DNR shall give Concessionaire written notice of a stop work directive. DNR shall provide to Concessionaire the reasons for the stop work directive.
- 7.4 Industry Standards.** Services rendered pursuant to this Contract shall be performed in a professional and workmanlike manner in accordance with the terms of this Contract and the standards of performance considered generally acceptable in the relevant industry for similar tasks and projects. In the absence of a detailed specification for the performance of any portion of this Contract, the parties agree that the applicable specification shall be the generally accepted industry standard.
- 7.5 Amendments to Scope of Services.** The contract, including the scope of services, may be amended during its term, in writing, and effective only if the amendments are approved by all parties.

**Section 8 MONITORING AND REVIEW**

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- 8.1 Monitoring Clause.** In compliance with the State of Iowa Accountable Government Act, the DNR will monitor the performance of the Concessionaire monthly by logging any complaints regarding Concessionaire's performance and meeting with Concessionaire to address those complaints to make sure that Concessionaire is meeting the standards defined in the Contract and achieving the specified results.
- 8.2 DNR Inspections and Meetings.** The DNR reserves the right to enter the Concession Premises covered by this Contract at any time for the purpose of making alterations, improvements, repairs, and to inspect the concession buildings, facilities, equipment and operation. The Concessionaire shall be available for periodic meetings during the periods of the year the Concession Premises are in operation with the DNR or other persons having jurisdiction over any portion of the Concession Premises.

**Section 9 CONCESSION FEES, CONSIDERATION AND COMPENSATION**

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- 9.1 Source of Funding.** The authority to enter into this Contract is Iowa Code sections [461A.3](#) and [461A.4](#).
- 9.2 Fee Amounts** The following concession fees shall be paid to the DNR by the Concessionaire:
- 9.3 Form of Payment and Due Dates.** Monthly fees in the form of person check, bank draft or money order made to the order of the "Iowa Department of Natural Resources" shall be due by the tenth of the month following the month being reported. Payment should be mailed to or delivered in person to: George Wyth State Park; 3659 Wyth Road; Waterloo, IA 50703.
- 9.4 Interest on Delinquent Amounts.** Monthly concession payments shall be delinquent if not received by the DNR by the tenth of the month following the month being reported/paid of that year. The Concessionaire shall be responsible to pay the DNR simple interest at the rate of % per annum on all delinquent amounts.
- 9.5 Friends Groups and Organizations.** If the Concessionaire is a "friends group or organization," then all net proceeds from the sale of merchandise and other concession services shall be spent on state park or recreation area improvement projects, pursuant to the provisions of 571 IAC 14.3(4)"c".
- 9.6 Pricing.** The DNR reserves the right to approve the articles for sale and services provided and the right to approve the prices that may be charged for the articles and services. These prices shall not significantly exceed rates that are charged by similar operations, or for similar items/services, in the local community. The sale, use or installation of activities, services or devices other than those specifically allowed for by this Contract must have the written approval of the DNR.
- 9.7 Billings.** In the event the Concessionaire is eligible for receipt of payment under this Contract, the Concessionaire shall submit an invoice for services rendered in accordance with this Contract. Invoices shall contain the DNR Contract Number found on the first page of these DNR Standard Contract Conditions. Each invoice shall itemize the work performed pursuant to the Contract, and shall specify the amount of payment requested for each item during the period covered by the invoice. Each invoice shall comply with all applicable rules concerning payment of such claims and shall contain appropriate documentation necessary to support the fees or charges included in the invoice. DNR shall have the right to dispute any invoice item submitted for payment and to withhold payment of any disputed amount if DNR reasonably believes the invoice is inaccurate or incorrect in any way. This provision in no way establishes a requirement for the DNR to pay the Concessionaire for services not described in this Contract. Original invoices, which shall include the DNR contract number in a prominent place, shall be submitted to:

Iowa Department of Natural Resources  
Attention:



, IA

**9.8 Payment of Invoices.** DNR shall pay approved invoices in arrears and in conformance with Iowa Code section 8A.514. Unless otherwise agreed to in writing by the parties, the Concessionaire shall not be entitled to receive any other payment or compensation from the State for any services provided by or on behalf of the Concessionaire under this Contract. Payment will be issued to:

Attention:

City,

**9.9 No advance payment.** No advance payments shall be made for any Deliverables provided by Concessionaire pursuant to this Contract.

**9.10 Delay of Payment Due to Concessionaire's Failure.** If DNR determines that the Concessionaire has failed to perform or deliver any Deliverable required by this Contract, then the Concessionaire shall not be entitled to any compensation or any further compensation if compensation has already occurred, under this Contract until such Deliverable is performed or delivered. DNR shall withhold that portion of the invoice amount which represents payment for the Deliverable that was not completed, delivered and successfully deployed.

**9.11 Withholding Payments.** In addition to pursuing any other remedy provided herein or by law, DNR may withhold compensation or payments to Concessionaire, in whole or in part, without penalty to DNR or work stoppage by Concessionaire, in the event DNR determines that (1) Concessionaire has failed to perform any of its duties or obligations as set forth in this Contract; or (2) any Deliverable has failed to meet or conform to any applicable contract specification.

No interest shall accrue or be paid to Concessionaire on any compensation or other amounts withheld or retained by the DNR under this Contract.

**9.12 Erroneous Payments and Credits.** Concessionaire shall promptly re-pay or refund to DNR the full amount of any overpayment or erroneous payment within ten business days after either discovery by Concessionaire or notification by DNR of the overpayment or erroneous payment.

**9.13 Set-off Against Sums Owed by Concessionaire.** In the event that Concessionaire owes DNR or the State any sum (including any State taxes in arrears) under the terms of this Contract, any other contract, pursuant to a judgment, or pursuant to any law, DNR may set off such sum against any sum invoiced to DNR by Concessionaire. This may be done in DNR's sole discretion unless otherwise required by law.

**9.14 Reimbursable Expenses.** There shall be no reimbursable expenses associated with this Contract separate from the compensation referred to in this section, unless agreed to by both parties in an amendment to this Contract executed by both parties. Unless otherwise specifically provided for in this Contract, Concessionaire shall be solely responsible for all its costs and expenses, including travel, mileage, meals, lodging, equipment, supplies, personnel, training, salaries, benefits, insurance, conferences, long distance telephone, and all other costs and expenses of the Concessionaire. This language supersedes the DAS General Terms and Conditions language regarding reimbursement of expenses.

**9.15 Final Payment.** By accepting final payment or a termination settlement under this Contract, the Concessionaire releases all claims against DNR arising under, or by virtue of, this Contract, except claims which are specifically exempted by the Concessionaire. Unless otherwise provided in this Contract, by State law or otherwise expressly agreed to by the parties to the Contract, final payment under a settlement upon termination of this Contract shall

not constitute a waiver of DNR's claims against the Concessionaire, or the Concessionaire's sureties under this Contract or applicable performance and payment bonds.

**9.16 Surety Bond Required.** The Concessionaire shall have a surety bond on file with the DNR in the amount of \$ \_\_\_\_\_ per concession, made payable to the DNR, prior to any actual operation of the concession. The bond shall be conditioned for the faithful performance of this contract, the payment of all charges and fees due the DNR, and the payment of all damages resulting from a breach of this contract and any other conditions as may be required by the DNR. The surety bond shall remain valid until the concession premises is return to the DNR in satisfactory condition. The DNR shall be notified of any changes in surety bond coverage at least ten (10) days prior to the change.

## **SECTION 10 RECORDS AND REPORTS**

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**10.1 Monthly Receipts Report.** The Concessionaire shall furnish the DNR and the District Park Supervisor a statement of the previous calendar month's gross receipts, excluding sales tax, for each service and facility; the statement shall be on forms provided by the DNR. The reports are due to the State Parks Bureau no later than the tenth of the month following the month reported.

**10.2 Quarterly Reports.** The Concessionaire shall furnish the DNR a quarterly balance sheet and profit/loss statement. The reports are due to the State Parks Bureau no later than the last day of the month following the quarter being reported.

**10.3 Inspections and Audits.** The Concessionaire shall have all required records available for inspection or audit by a representative of the DNR or a representative of the State Auditor's Office at any reasonable time during normal working hours. The Concessionaire shall furnish to the DNR, on request, a copy of Internal Revenue Service form Schedule C and all Iowa Sales Tax receipt returns as they relate to the operation of this concession.

**10.4 Retention of Records.** All records shall be retained by the Concessionaire for the life of the contract, plus three years.

## **SECTION 11 LIMITATIONS**

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**1011.1 No Sales of Alcoholic Beverages.** The concessionaire shall not sell, barter or otherwise furnish the sales of beer or alcoholic beverages on the Concession Premises, nor shall Concessionaire allow such beverages to be sold or furnished on the Concession Premises at any time.

**1011.2 Smoking Prohibited.** Smoking is prohibited in all buildings.

**1011.3 Advertising.** Advertising is not permitted on the outside of buildings on the Concession Premises or within the greater park or recreation area without DNR written approval. Advertising disclosing the nature of goods, services and facilities available is permitted inside the buildings. Handbills may be distributed within the state park or recreation area upon written approval from the DNR. Upon written request, the DNR may issue a permit for special promotional events and authorize additional advertising within the park or recreation area. The DNR may not approve promotions or special events during which beer, wine coolers, or alcoholic beverages are promoted or advertised. The Concessionaire is not permitted to advertise or solicit customers on the Concession Premises for any business or service located outside of the park or recreation area.

**1011.4 Loud Speakers - Sound Amplifying Equipment.** The Concessionaire shall not permit the use of loud speakers and other sound amplifying equipment for music or for advertising purposes without DNR written approval. Sound amplifying equipment may be used for class instruction, in emergencies, and to inform concession area users of closing time. Upon written request, the DNR may issue a permit for special promotional events and allow alternate use of sound amplifying equipment during the events.

**1011.5 Off-Season Storage.** The DNR may utilize the Concession Premises for storage purposes during those periods of the year the Concession Premises are not being operated.

**1011.6 Pets Prohibited.** Cats, dogs, birds or other pets are not to be kept in, on, or around the premises covered by this Contract.

**1011.7 Other Necessary Approvals.** The Concessionaire shall comply with all laws, rules and regulations of the state and the local political subdivision and secure all necessary licenses and permits as they pertain to the operation of the various parts of the concession. The Concessionaire shall also pay other fees required by law for the various permits, items or operations in connection with the concession.

## **SECTION 12 PROPERTY**

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**1012.1 Title to Property.** Title to all property furnished by DNR or the State to Concessionaire to facilitate the performance of this Contract shall remain the sole property of DNR and the State. All such property shall be used by Concessionaire only for purposes of fulfilling its obligations under this Contract and shall be returned to DNR upon the earliest of completion, termination, or cancellation of this Contract or at DNR's request. Concessionaire acknowledges that it shall acquire no interest or rights in and to such property. Except as expressly provided in this Contract, Concessionaire shall not disclose or use such property for any purpose, including pledging or encumbering it, selling or using it for monetary gain, using it to compile mailing lists, solicit business or pursue other business activities, or otherwise. Title to all property purchased by Concessionaire, for which Concessionaire has been reimbursed or paid by DNR under this Contract, shall pass to and vest in the State, except as otherwise provided in this Contract.

**1012.2 Care of Property.** Concessionaire shall be responsible for the proper custody and care of any DNR-owned property, including data, databases, software, interfaces, hardware, telecommunications lines and equipment, intellectual property and DNR Property furnished for Concessionaire's use in connection with the performance of the contract. Concessionaire shall exercise its best efforts to prevent damage to all such property and shall, at DNR's request, restore damaged property to its condition prior to the damage at the sole expense of Concessionaire. Such restoration shall be complete when judged satisfactory by DNR. In the event such property cannot be restored to DNR's satisfaction, Concessionaire shall reimburse DNR for any loss or damage to such property caused by Concessionaire, or any agent, Concessionaire or Subconcessionaire employed or utilized by Concessionaire. Concessionaire shall not take any action that would impair the value of, or goodwill associated with, the name, property and intellectual property rights of DNR and the State. Concessionaire shall obtain the prior advance written approval from DNR prior to Concessionaire's use of the name, marks or intellectual property rights of DNR or the State.

**1012.3 Landlord's Lien/Equipment Inventory.** Concessionaire acknowledges that the state shall have a lien on all property belonging to the Concessionaire which is placed or used on the Concession Premises described by this Contract for any amount due the DNR under the terms of this Contract. The lien shall be in the form of a landlord's lien under the provisions of Iowa Code Chapter 570. The Concessionaire shall furnish the District Park Supervisor or District Park Supervisor's designee a complete inventory of equipment owned by, leased by, or loaned to it at the upon execution of this Contract, on forms provided for that purpose. Any additional equipment acquired or otherwise introduced for use on the Concession Premises during the term of this Contract shall be reported as soon as it is acquired or placed in service.

**1012.4 Removal of Property.** Upon termination of this contract, the Concessionaire shall, after notice from the DNR, remove the equipment and personal property listed in that notice from state property within the time specified in the notice.

**1012.5 Cleaning, Repairing and Final Inspection at the End of Contract Period.** The Concessionaire shall clean the concession facilities and return the facilities to the DNR in satisfactory condition, within a period of time specified by the DNR, prior to contract termination. The DNR will perform a final inspection of the facility. If the DNR, in its sole discretion, determines the Concession Premises are not in satisfactory condition, the DNR will provide the Concessionaire with a list of corrective actions and specified period of time in which to complete the actions. If the Concessionaire fails to return the Concession Premises to a satisfactory condition, the DNR may use the surety bond to cover expenses associated with returning the Concession Premises to a satisfactory condition.

**1012.6 Hardware and Equipment.** In the event that any hardware and other equipment owned by Concessionaire and used in connection with this Contract is subject to the security interest or a legal or equitable interest by a third party who is not a party to this Contract, Concessionaire shall insure in any such transactions that DNR shall be notified of a default occurring under the instrument and if Concessionaire does not cure the default within the time allowed, DNR may, in its sole discretion, cure the default by Concessionaire and assess or set off all costs associated with affecting cure, including the amount in default and reasonable attorney’s fees against Concessionaire.

**1012.7 Construction.** If construction occurs pursuant to the Contract, then pursuant to the provisions of 571 IAC 14.5(1) the value of the buildings or facilities shall be based on the actual, documented cost of construction. Any structures built under this Contract shall become state property and cannot be removed by the concessionaire unless removal is required by the Special Conditions of this Contract.

**1012.8 Property Disputes.** In any dispute over ownership of property, Concessionaire shall have the burden of proving prior or independently developed rights by clear and convincing proof.

**1012.9 Limited Right to Use State Property.** This contract does no more than grant the Concessionaire the right to operate a commercial concession on DNR property. This Contract does not create an interest, personal or real, in the real estate or facilities owned by the State.

**1012.10 Public Use of Public Facilities.** Nothing in this Contract shall restrict the public from using the concession premises for any lawful purpose; nor shall it restrict the state or any agency thereof from entering the Concession Premises in order to carry out its responsibilities.

**SECTION 13 BACKGROUND CHECKS**

The DNR reserves the right to review criminal and sex offense history, a driver’s license record check, and a check of the child abuse registry on the Concessionaire and its employees if any time during the concession contract period the DNR deems, in its sole discretion, such a review is necessary. If such a review reveals a record or past conduct that the DNR determines in its sole discretion poses an unacceptable risk to park users, volunteers, or personnel, the DNR may either (1) terminate this contract effective immediately without advance notice pursuant to General Conditions section 2.2 or (2) disqualify the identified employee(s) from continuing to work the Concession. The Concessionaire hereby agrees to remove the identified employee(s) from its employment within 5 days of DNR notification. Failure to remove identified employee(s) within the specified time warrants immediate termination of the contract pursuant to general conditions section 1.6.1.

**SECTION 14 INSURANCE**

Concessionaire shall obtain insurance as identified in the DAS General Terms and Conditions; and as follows:

Type of Insurance	Amount
General Liability Insurance (including contractual liability) written on an occurrence basis	Aggregate \$Amount
	Personal Injury \$1,000,000t
	Each Occurrence \$1,000,000
Product Liability	Each Occurrence \$Amount
Personal Injury	Each Occurrence \$Amount
Property Damage Insurance	Each Occurrence \$1,000,000
Professional Liability*	Each Occurrence \$Amount
Workers Compensation and Employer Liability Insurance	As required by Iowa law

\*Unless otherwise stated in these DNR Standard Contract Conditions, the Concessionaire shall procure and maintain a professional liability insurance policy that is specific to the project that is the subject of this Contract. The insurance shall provide \$Contract Amount in coverage and a three-year extended discovery period following completion of the term of this Contract.

The Concessionaire shall submit certificates of the insurance, which indicate coverage and notice provisions as required by this Contract, to the DNR. The certificates shall be subject to approval by the DNR. The insurer shall state in the certificate that no cancellation of the insurance may be made without at least thirty (30) days' prior written notice to the DNR. Approval of the insurance certificates by the DNR shall not relieve the Concessionaire of any obligation under this Contract.

## **SECTION 15 FEDERAL FUNDING CONDITIONS**

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The Concessionaire shall comply with all applicable federal requirements, including but not limited to 2 CFR Chapter I, Chapter II, Part 200, et al. (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule).

## **SECTION 16 USE OF THIRD PARTIES AND SUBCONCESSIONAIRES**

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**1016.1 Option 1:** The Concessionaire may not contract with third parties for the performance of any of the Concessionaire's obligations under this Contract.

**1016.2 Option 2:** The Concessionaire may contract with third parties for the performance of the Concessionaire's obligations under this Contract only to the extent specified below:  
(Specify subcontracting allowance and requirements as applicable).

The following conditions shall apply when contracting with third parties for the performance of any obligations under this Contract:

- 16.1.1** All subcontracts shall be subject to prior approval by the DNR. The DNR's consent shall not be deemed in any way to provide for the incurrence of any obligation of DNR in addition to the remuneration agreed upon in this Contract. Any subcontract to which DNR has consented shall be in writing and shall in no way alter the terms and conditions of this Contract.
- 16.1.2** The Concessionaire may enter into subcontracts to complete the work required by this Contract provided that the Concessionaire remains responsible for all services performed under this Contract. No subcontract or delegation of work shall relieve or discharge the Concessionaire from any obligation, provision, or liability under this Contract. The Concessionaire shall remain responsible for such performance and shall be fully responsible and liable for all acts or omissions of any subConcessionaire.
- 16.1.3** All restrictions, obligations and responsibilities of the Concessionaire under this Contract also shall apply to the subConcessionaires.
- 16.1.4** DNR shall have the right to request the removal of a subconcessionaire from the Contract for good cause. The Concessionaire shall indemnify, defend and hold harmless DNR and the State from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Concessionaire's breach of any subcontract in which it enters, including Concessionaire's failure to pay any and all amounts due by Concessionaire to any subConcessionaire.
- 16.1.5** Each subcontract shall contain provisions for DNR access to the subConcessionaire's books, documents, and records and for inspections of work, as required of Concessionaire herein.
- 16.1.6** Any action of a subConcessionaire, which, if done by Concessionaire, would constitute a breach of this Contract, shall be deemed a breach by Concessionaire and have the same legal effect.
- 16.1.7** If delay results from a subConcessionaire's conduct, from the Concessionaire's negligence or fault, or from circumstances which by the exercise of reasonable diligence the Concessionaire should have been able to anticipate or prevent, then the Concessionaire shall be in default.
- 16.1.8** If the Contract is subject to the provisions of Iowa Code chapter 8F, then the Concessionaire shall comply with Iowa Code chapter 8F with respect to any subcontract Concessionaire enters into pursuant to this Contract. Any compliance documentation, including but not limited to certification, received from any subConcessionaire shall be forwarded to DNR immediately.

## **SECTION 17 GENERAL TERMS AND CONDITIONS**

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**DAS General Terms and Conditions.** Except as otherwise stated in these DNR Standard Contract Conditions, the General Terms and Conditions for this Contract shall be the DAS General Terms and Conditions for Services, which may be found at <https://das.iowa.gov/procurement/terms-and-conditions>.

In addition to any other exceptions to or supersession of the DAS General Terms and Conditions contained in these DNR Standard Contract Conditions, the following portions of the DAS General Terms and Conditions are excluded from this Contract:

- 1.10.5 (Change Order Procedure),
- 1.11 (Legislative Changes)
- 1.14 (Acceptance Testing)
- 1.15.6 (Non-exclusive Rights)
- 1.15.23 (Time is of the Essence)
- 1.15.39 (Reporting Requirements)

**SECTION 18 CONFLICT BETWEEN DNR STANDARD CONTRACT CONDITIONS AND GENERAL CONDITIONS**

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If there is a conflict between these DNR Standard Contract Conditions and the DAS General Terms and Conditions, these DNR Standard Contract Conditions shall prevail.