

STATE OF NEW HAMPSHIRE DEPARTMENT of NATURAL and CULTURAL RESOURCES

DIVISION of PARKS and RECREATION

172 Pembroke Road Concord, New Hampshire 03301 Phone: (603) 271-3556 Fax: (603) 271-3553 Web: www.nhstateparks.org

October 18, 2017

His Excellency, Governor Christopher T. Sununu and the Honorable Executive Council State House Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Natural and Cultural Resources, Division of Parks and Recreation to enter into a Memorandum of Agreement (MOA) with Adaptive Sports Partners of the North Country (ASPNC) of Franconia, NH, to provide year-round adaptive sport and recreation opportunities at Franconia Notch State Park and Cannon Mountain Ski Area (FNSP/Cannon) for a 5-year period from December 1, 2017 through November 30, 2022, effective upon Governor and Executive Council approval.

EXPLANATION

The MOA formalizes a partnership between FNSP/Cannon and ASPNC to continue an adaptive sports program to extend the joys, pleasures and challenges of all outdoor recreation activities such as hiking, biking, kayaking, skiing, and snowboarding to people with disabilities and their families. ASPNC has worked with FNSP/Cannon in providing this program for the last eight (8) years. This new MOA provides for another 5-year commitment by both parties to an adaptive sports program. The Department believes strongly that this program is an activity that we want to be associated with and presents rewards to FNSP/Cannon and personal growth for everyone who participates in the program.

The Attorney General's office has reviewed and approved this MOA as to form, substance and execution.

Respectfully submitted,

(GA)

Jeffrey J. Rose Commissioner

State of New Hampshire Department of Natural and Cultural Resources Division of Parks and Recreation Franconia Notch State Park / Cannon Mountain Ski Area

Memorandum of Agreement

Year-Round Adaptive Sport and Recreation Services

This Memorandum of Agreement (Agreement) is entered into by and between the State of New Hampshire, Department of Natural and Cultural Resources, Division of Parks and Recreation, Franconia Notch State Park / Cannon Mountain Ski Area (FNSP/Cannon) and Adaptive Sports Partners of the North Country (ASPNC) to continue the provision of a year-round adaptive sport, recreation, and wellness opportunity program at Franconia Notch State Park for a five (5) year period beginning <u>December 1</u>, 2017 through November 30, 2022.

Whereas, activities under the Agreement will continue to grow and evolve on a small scale basis, allowing FNSP/Cannon the ability to assess the impact in terms of space, operations, parking, and other resources; and

Whereas, this Agreement describes the year-round adaptive program for the next five years, designed to serve a pre-arranged adaptive clientele; and

Whereas, the ASPNC is a registered NH non-profit corporation that is self-funded and insured, and is a designated 501(c)(3) organization; and

Whereas, the ASPNC shall work with FNSP/Cannon as a business associate (similar to Centerplate, Inc. and Franconia Ski Club) to serve a pre-arranged adaptive clientele; and

Whereas, the year-round adaptive program will allow FNSP/Cannon a forward-looking path to extend the joys, pleasures and challenges of all outdoor recreation activities, such as hiking, biking, kayaking, skiing, and snowboarding to people with disabilities and their families; and

Whereas, the benefits of this approach include:

- An established adaptive program in ASPNC, already working with FNSP/Cannon to meet the needs of the community and visitors to the Ski Area and other venues within Franconia Notch State Park; and
- Enhanced public image, further encouraging repeat family business and brand loyalty; and

Whereas, the costs to FNSP/Cannon are minimal:

- Space and access are controlled by the number of participants allowed at any one time, determining the footprint of the program; and
- Season passes provided only for ASPNC volunteers who complete Cannon University, ASPNC training, and dedicate a minimum of 15 volunteer days; and

Whereas, other factors considered:

- There is no hard-cash cost to FNSP/Cannon as program costs come in the form of access, benefits, and discounted products/services;
- ASPNC is self-funded and insured, and shall annually name FNSP/Cannon as additionally insured, and shall annually provide all required documentation as to training and liability coverage on its team members and clients;

- Full ADA compliance is not a limiting factor and the ASPNC is aware of the challenges presented by Cannon's buildings and is prepared to use the facilities "as is"; and
- ASPNC is seeking grant funding for ADA compliance infrastructure needs at FNSP/Cannon; and

Now therefore, FNSP/Cannon and ASPNC agree to the following:

1. Guidelines:

- ASPNC and its volunteers understand that FNSP/Cannon cannot afford any loss due to crowded space, crowded slopes, negative press, or other demands on its resources;
- All resources are especially tight on weekends and holidays whereas weekdays and Sunday afternoons (non-holiday) are less demanding;
- ASPNC services will be scheduled with the demands of the park and ski area and its resources in mind:
- The number of volunteers per participant will vary between one and three, depending on the needs of each participant;
- FNSP/Cannon Mountain's General Manager shall have final authority regarding all guidelines;
- The ASPNC Executive Director or other designated representative shall attend weekly Cannon/FNSP management team meetings to ensure positive interaction and planning.

2. <u>Indemnification</u>:

- ASPNC shall defend, indemnify and hold harmless the State of New Hampshire (State), its
 officers and employees, from and against any and all losses suffered by the State, its officers and
 employees, and any and all claims, liabilities or penalties asserted against the State, its officers
 and employees, by or on behalf of any person, on account of, based or resulting from, arising
 out of (or which may be claimed to arise out of) the acts or omissions of ASPNC;
- Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver
 of the sovereign immunity of the State, which immunity is hereby reserved to the State; and
- This covenant shall survive the termination of this MOA.

3. Insurance:

- Comprehensive general liability insurance against all claims of bodily injury, death or property damage shall be in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate;
- ASPNC shall name Department of Resources and Economic Development, FNSP/Cannon as additionally insured on its policy during the entire term of this agreement;
- The full name and address for the named additionally insured portion of the policy is "State of New Hampshire / Division of Parks and Recreation / Cannon Mountain Aerial Tramway and Ski Area, 9 Franconia Notch Parkway, Franconia, NH 03580";
- ASPNC shall make clear to its volunteer corps that there is no coverage provided by ASPNC or FNSP/Cannon through workers' compensation;
- Nothing herein conveys to ASPNC, its team members, and/or its volunteers, status as employees and/or volunteers of FNSP/Cannon and/or the State of New Hampshire; and
- FNSP/Cannon and/or the State of New Hampshire maintain all protections from liability and immunities provided under New Hampshire statutory and common law.

4. Records:

 ASPNC shall maintain records on each volunteer and provide FNSP/Cannon a table of names, completed training, total hours committed, total service hours given, and what forms have been signed;

- Complete transparency and record keeping will be provided; and
- ASPNC shall provide FNSP/Cannon with blank copies of all forms that apply to volunteers and to participants.

5. Training:

- Cannon University training shall be mandatory for full-time ASPNC alpine volunteers;
- The date of the training shall be determined annually by mutual agreement between the ASPNC Executive Director and Cannon/FNSP General Manager;
- Ongoing ASPNC training shall be undertaken by its team members and volunteer corps and documented in writing;
- The ASPNC Executive Director shall meet with Cannon's Patrol Director and Mountain Operations & Risk Manager to assess training and clinic/class areas to be used; and
- The FNSP/Cannon General Manager shall have final authority on training/operations locations.

6. Benefits for ASPNC Volunteers and Paid Staff:

- Season passes shall be provided for alpine program volunteers and ASPNC employees who
 complete Cannon University, ASPNC training, and pre-arrange a minimum of 15 days of
 volunteer service;
- Day passes for alpine program volunteers (fewer than 15 days of service) and/or visiting trainers shall be provided, with one day's notice;
- There is currently no provision for complimentary or discounted rentals for these ASPNC volunteers or visiting trainers;
- Day passes for warm weather volunteers and ASPNC staff shall be provided when adaptive
 activities are scheduled in fee areas of the park such as the Flume Gorge and Cannon Mountain
 Aerial Tramway; and
- Other volunteer privileges may apply if approved annually as a part of the Cannon Mountain Winter Special Use Policy (by the Fiscal Committee of the General Court).

7. **Space**:

- Lodge space the ASPNC adaptive alpine meeting area shall be in the Peabody Lodge on the lower level (or other suitable area as agreed to by both parties);
- A portable barrier (provided by ASPNC) shall be used to mark its meeting area;
- Overnight storage will be permitted in the lower level of Peabody lodge in two small secure areas constructed by ASPNC (or other suitable area as agreed to by both parties);
- Skis, snowboards, and equipment generally stay outside, the same as other mountain guests, and the ASPNC and its participants are responsible for the safety and security of their equipment;
- FNSP/Cannon and ASPNC both acknowledge the likelihood of the continued growth of the adaptive program and the future need for larger more accessible space, and an open dialogue between FNSP/Cannon and ASPNC will continue regarding possible solutions;
- · Space for the provision of warm weather activities within the state park is not needed; and
- FNSP/Cannon accepts no legal or financial obligation regarding space needs of ASPNC now or in the future.

8. Passes and Rental Equipment for Adaptive Participants and Caregivers:

- Rates for day passes for adaptive participants shall be reviewed and set annually;
- ASPNC will work with the rental shop on a daily basis regarding future needs;
- Rates for rental equipment for adaptive participants shall be reviewed and set annually;
- Complimentary day passes for caregivers shall be provided, with a limit of one complimentary pass per adaptive participant per day; and

There is currently no provision for complimentary or discounted rentals for caregivers.

9. Schedule:

- Regularly scheduled seasonal alpine programming will begin the first full week of January;
- Other activity times will be "on demand", with advance reservation;
- ASPNC will be prepared to serve a limited number of guests with disabilities over holiday and weekend periods;
- · Equipment and volunteers are generally scheduled in advance by ASPNC to meet demand; and
- "Walk-in" participants may be accommodated on a case by case basis.

10. Special Events:

- ASPNC may host up to three special weekend events during each winter season; and
- These three special events may include the following:
 - January Learn to Ski/Ride opportunity (or similar activity);
 - o February "Pirates of the High Skis" fundraiser (or similar activity); and
 - March Disabled Veterans' Learn to Ski/Ride opportunity (or similar activity).

11. Operations:

- An ASPNC representative shall attend FNSP/Cannon management team meetings;
- No training or client-based alpine activities will be provided in the Mittersill terrain area;
- No activities will involve slopes or lifts that are closed for exclusive use of the ski school;
- All activity shall take place on open terrain and/or in open venues; and
- The FNSP/Cannon General Manager shall have final authority regarding all protocols.

12. Marketing / Public Relations:

- FNSP/Cannon may provide a web presence for ASPNC on the Cannon website similar to that
 provided for other partner/affiliate organizations such as Centerplate, Inc. and Franconia Ski
 Club in which ASPNC shall provide materials for use by Cannon for this purpose.
- ASPNC may provide materials for use by Cannon at Cannon's choosing, as part of Cannon's presentations to prospective customer groups;
- Some training clinics or activities may have special interest for promotional use; and
- The year-round ASPNC adaptive program will demonstrate that FNSP/Cannon may be thoroughly enjoyed by all.

13. Debrief:

- · A final reporting and debrief session shall be held annually in April; and
- Attendees shall include the FNSP/Cannon General Manager, ASPNC Executive Director, and Cannon's Patrol Director and Mountain Operations & Risk Manager.

14. Terms:

- This Agreement shall be in effect year-round for a five (5) year period beginning December 1, 2017 through November 30, 2022;
- This Agreement may be terminated by either party within thirty (30) days upon written notice to the other party;
- This Agreement constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto;
- This Agreement may be amended only by an instrument in writing signed by the parties hereto; and
- The ASPNC shall not assign, re-assign or otherwise transfer any interest in this Agreement without the prior written notice and consent of FNSP/Cannon.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year written.

Adaptive Sports Partners of the North Country	/ /
Sandy Olney, Executive Director	9/29/17 Date
STATE OF COUNTY OF	
On this the 29 day of Slotten before me length before me	mown to me or satisfactorily proven to be
seal:	
My Commission Expires: 4/F1/2022	COMMISSION EXPRES APRIL 19, 44 HAMPSHIC
Department of Natural and Cultural Resources	· manifement
Mararar and curtarar resources	10/19/17
Jeffrey J. Rose, Commissioner	Date
Approved as to form, substance and execution:	
Attorney General	10/20/2017 Date

State of New Hampshire Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that ADAPTIVE SPORTS

PARTNERS OF THE NORTH COUNTRY, INC. is a New Hampshire Nonprofit Corporation registered to transact business in

New Hampshire on October 22, 2009. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 621194



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 28th day of August A.D. 2017.

William M. Gardner Secretary of State

Corporate Resolution

I, <u>Timothy Boudreau</u> , hereby certify that I am duly elected Clerk/Secretary of (Name)
Adaptive Sport Partners of the North Country, Inc., I hereby certify the following is a true copy of a vote (Name of Corporation or LLC)
taken at a meeting of the Board of Directors/shareholders, duly called and held on August 23, 2017,
at which a quorum of the Directors/shareholders were present and voting.
VOTED: That <u>Sandra Olney, Executive Director</u> is duly authorized to enter a (Name and Title)
Contract on behalf of Adaptive Sport Partners of the North Country, Inc. with the (Name of Corporation or LLC)
<u>Department of Natural and Cultural Resources.</u> State of New Hampshire and further is (Name of State Agency)
Authorized to execute any documents which may in his/her judgment be
desirable or necessary to effect the purpose of this vote.
I hereby certify that said vote has not been amended or repealed and remains in full
force and effect as of the <u>September 29, 2017</u> . I further certify that it is understood that the
State of New Hampshire will rely on this certificate as evidence that the person listed above currently
occupies the position indicated and that they have full authority to bind the corporation to the specific
contract indicated.
DATED: 10/4/7 ATTEST: TBLC. (Name and Title) Secretary, ASPNC



CERTIFICATE OF LIABILITY INSURANCE

DATE (MW/DD/YYYY) 07/27/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s). PRODUCER RPS Bollinger Sports & Leisure PHONE (A/C, No, Ext): E-MAIL ADDRESS: FAX (A/C, No): PO Box 390 Short Hills, NJ 07078 AJ Morgan INSURER(S) AFFORDING COVERAGE NAIC # 38970 INSURER A: *Markel Insurance Company INSURER B

Adaptive Sports Partners of the North Country INSURED PO Box 304 INSURER C: Franconia, NH 03580 INSURER D INSURER E : INSURER F: **COVERAGES CERTIFICATE NUMBER:** REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

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		OTHER:							\$	
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	ANY	PROPRIETOR/PARTNER/EXECUTIVE	N/A					E.L. EACH ACCIDENT	\$	
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	If yes	s, describe under CRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	\$	
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	Full	Excess						Ded:	\$250/Claim	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder is included as an additional insured. Coverage is provided under these policies only for sponsored/supervised activities of the named insured for which a premium has been paid.

CERT	FICATE	HOL	DFR

State of New Hampshire

Concord, NH 03301

see attached 172 Pembroke Road

STATNEW

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

forw Cmpo

CANCELLATION



PRODUCER

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/04/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s). CONTACT Carole Noury CIC, AAI, CPIW

Noy	e W Johnson Insurance				PHONE (802)223-7735 FAX (A/C, No): (802)223-7515					
119 River Street					E-MAIL cnoury@nwjinsurance.com					
P.O. Box 279					INSURER(S) AFFORDING COVERAGE					NAIC #
Montpelier VT 05601-0279						RA: Acadia				
INSU	RED				INSURE	RB:				
	Adaptive Sports Partners of the	North	Coun	try	INSURER C:					
PO BOX 304						INSURER D :				
	461 Main Street, Suite 7				INSURE	RE:				
	Franconia			NH 03580	INSURE	RF:				
				NUMBER: CL171043156				REVISION NUMBER:		
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.										
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	DED RETENTION \$ WORKERS COMPENSATION	-						PER OTH-	\$	
	AND EMPLOYERS' LIABILITY Y/N							PER OTH- STATUTE ER	£ 100,0	00
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The	re are no officers excluded from coverage.									
CEF	RTIFICATE HOLDER				CANC	ELLATION				
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.								BEFORE		
	172 Pembroke Road				AUTHO	RIZED REPRESE	NTATIVE			
Concord NH 03301						Carled hany				