



FSH 2209.13 – GRAZING PERMIT ADMINISTRATION HANDBOOK

CHAPTER 20 – GRAZING AGREEMENTS

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Approved:

Associate Deputy Chief

Date Approved:

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| New Document | 2209.13_20 | 114 Pages |
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Digest: Extensively revises and updates Forest Service policy regarding administration of grazing agreements. Numerous substantive and organizational changes are made, including the use of five Standard Grazing Agreements on National Forest System lands. Major changes are as follows:

20 - Cooperation - Adds language clarifying the transition from private lands ownership under the Homestead Act, to the Resettlement Administration, to the Soil Conservation Service, and to the United States Forest Service and the relationship between the Forest Service and grazing associations which is formalized by grazing agreements.

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Digest--Continued:

22.11 - Provides direction on how new grazing associations may be formed.

22.12 - Provides direction on how direct permittees can waive their term grazing permits and join an established grazing association.

22.2 - Explains the limited circumstances under which individual association members may cancel their association membership and request issuance of a Forest Service Term Grazing Permit.

23 - Adds language to explain the differences in issuances of grazing agreements on National Grasslands, on National Forests in the Western Regions, on National Forests in the Eastern and Southern Regions, and on National Forest System lands with Indian tribes exercising treaty grazing rights.

23 - Exhibit 01 - Creates a standard grazing agreement (FS-2200-135) to be issued to grazing associations and grazing districts operating on all National Grasslands (Regions 2 – 8), with the exception of those National Grasslands administered by the Dakota Prairie Grasslands in R-1.

23 - Exhibit 02 - Creates a standard grazing agreement (FS-2200-136) to be issued *only* to those grazing associations operating on the National Grasslands administered by the Dakota Prairie Grasslands unit in North and South Dakota in R-1.

This Exhibit is very similar throughout to the standard grazing agreement in use on all other Grassland units.

However, a 2000 Consent Decree brought about by a McKenzie County Grazing Association lawsuit, and a 2008 Fiscal Year Appropriation Rider, currently allow different leasing provisions and Privacy Act exemptions on these Grassland units. These exceptions are not allowed anywhere else on National Forest System lands.

23 - Exhibit 03 - Creates a standard grazing agreement (FS-2200-137) for grazing associations operating on National Forests in the Western Regions (Regions 1 – 6).

23 - Exhibit 04 - Creates a standard grazing agreement (FS-2200-138) for grazing associations operating on National Forests in the Eastern and Southern Regions (Regions 8 & 9).

23 - Exhibit 05 - Creates a standard grazing agreement (FS-2200-139) for Indian tribes exercising treaty rights for grazing livestock on National Forest System lands.

23.2 - Re-establishes a requirement that the Forest Service annually notifies the association of any changes in lands or improvements that occurred in the previous year.

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Digest--Continued:

24 - Inserts an additional explanation as to the purpose of the Rules of Management and how they are developed. Gives examples of how the association may be more restrictive than agency policy, but cannot be less restrictive.

24 - Exhibit 01 - Inserts an example of a Table of Contents displaying items to be included in the Rules of Management, including the required addition of or reference to the uniform suspension and cancellation guidelines detailed in chapter 10, secs. 16.3 and 16.4.

24 - Adds language as to the roles of the Forest Service and the Grazing Association in the administration of the Grazing Agreement and Rules of Management.

24.1, Item 4 - Adds language to recommend that the entire sec. 16.4 on Uniform Suspension and Cancellation Guidelines be included in the Rules of Management, but allows for a summary explanation to be included as long as all parties agree that the Guidelines are referenced and then followed when member infractions occur.

24.31, Item 3 - Inserts qualification provisions whereby associations and the authorized officer can allow all of the declared owned base property to be leased as Successional Base Property arrangements.

Provides that such agreements are not to exceed 10 years in length for completion, and that the end of the term shall result in filing of a contract for deed or warranty deed on the qualifying base property. "Successional Base Property" replaces the term "leased base property" in regard to such agreements entered into and approved by the four parties involved.

24.31, Item 4 - Provides clarification whereby some associations do allow for a portion of the required base property to be leased in addition to the required portion that must be owned.

24.32 - Inserts qualification provisions whereby grazing associations and the authorized officer can allow for Successional Livestock arrangements whereby a new member acquires full ownership of the livestock herd over time. Not to be confused with the frequent industry practice of leased livestock (and replacing any use of that term), "Successional Livestock" agreements must be completed in 5 years or less.

25.2 - Adds language regarding compliance with Allotment Management Plans (AMPs) and Annual Operating Instructions (AOIs).

25.2 - Proposes that when issuing installment billings to grazing associations, both the first bill and the second bill should be issued for 40% of the authorized use. A final bill will then be issued at the end of the grazing fee year for the remainder due, thereby eliminating any requests for refunds and reducing the need for credits in the subsequent fee year.

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Digest--Continued:

25.4 - Provides clarifying direction on conservation practices and administrative costs in determining the annual grazing fee.

25.41 - Reiterates that grazing associations, through their benefitting members, contribute their required cost-share of the total expenses of approved rangeland improvements, just as do Forest Service direct permittees on National Forest and National Grassland units.

25.42 - Reaffirms that grazing fee reduction criteria for conservation practices apply only to Grazing Agreements issued on National Grasslands and not to those issued on National Forests.

25.43 - Inserts a Fee Credit Criteria section and explains while these situations most often exist on the national forests in the eastern and southern regions, credits may also apply in limited situations on national grasslands with direct permittees as well as with grazing associations.

25.44 - Inserts a completely new section, based on language contained in the 2017 Consolidated Appropriations Act, to carry grassland fee credits forward under specific circumstances to complete large and expensive approved conservation practices in future years.

25.6 - Updates language concerning required compliance with Title VI of the Civil Rights Act, as amended numerous times since 1964.

25.7 - Adds clarifying language regarding association member non-use.

25.71 - Clarifies language regarding association member non-use for personal convenience.

25.72 - Provides additional direction on association member non-use for resource protection.

27 - Clarifies language regarding situations whereby a grazing agreement may be suspended or cancelled.

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20 - COOPERATION

Grazing agreements are used predominantly on the national grasslands, but a few are also in use on national forest units across the nation. Many national grasslands began as Land utilization projects (LUPs). LUPs were the result of President Roosevelt's Executive Order funding the Federal Emergency Relief Administration in 1934 for a submarginal land purchase program. In June of 1935 all of this activity was transferred to the Resettlement Administration, which was then transferred to the Department of Agriculture and become the Farm Security Administration in January of 1937. The land utilization program culminated with the passage of the Bankhead-Jones Farm Tenant Act of 1937 (7 U.S.C. 1010-1012). Title III of the Bankhead-Jones Farm Tenant Act of 1937 (7 U.S.C. 1010-1012) authorized the Secretary of Agriculture to develop a program of land conservation and land utilization, including the retirement of lands which were considered to be submarginal or not primarily suitable for cultivation in order thereby to correct maladjustments in land use.

A total of 11.3 million acres of LUP lands were purchased by the Federal Government, mostly in response to the Dust Bowl in the Great Plains. Approximately 5.8 million acres were gradually transferred to Department of Interior agencies: the National Park Service, the Bureau of Indian Affairs, the Fish and Wildlife Service, and the Bureau of Land Management; 1.5 million acres in the South and East were incorporated into new or existing national forests.

After resettlement, the remaining users were frequently organized into grazing associations or grazing districts (depending on the language in individual State statutes) to accomplish many of the conservation objectives in the Great Plains and other associated areas of intermingled private and public land. Grazing agreements were developed by the Soil Conservation Service (SCS), now the Natural Resources Conservation Service, as they assumed responsibility for management of the lands being reclaimed.

While the vast majority of these lands were acquired, some parcels were actually reserved from the public domain and sometimes subtle but important differences regarding management continue to this day. The United States Department of Agriculture (USDA) SCS transferred administrative responsibility of their remaining 3.8+ million acres of LUP lands to the USDA Forest Service in 1954. In 1960, the Secretary of Agriculture designated the LUPs as National Grasslands. The Forest and Rangeland Renewable Resources Planning Act of 1974 officially integrated all lands administered by the National Forest including the National Forests and National Grasslands into one designation of National Forest System lands.

Grazing associations continue to play a vital role in the implementation of these sound conservation and successful intermingled land management efforts. Most grazing associations currently authorized to graze livestock on the national grasslands and national forests were formed decades ago. It is common practice to review, update, and issue the authorization of a new grazing agreement to an existing grazing association when the existing grazing agreement is due to expire.

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Grazing agreements are primarily used on National Grasslands and LUP lands within the authority of Title III of the Bankhead-Jones Farm Tenant Act of June 22, 1937 but are also appropriate to authorize grazing use to grazing associations on National Forests. Grazing agreements are almost exclusively made with cooperative grazing associations or similar entities organized under State law, and the Agreement serves as the association's term grazing permit. Grazing associations are not to be confused with livestock associations, which are not organized under State statute and do not meet the qualifications to hold an agreement. Such agreements make Forest Service administered lands and improvements available for grazing purposes to associations under conditions that encourage sound management of all lands covered by the grazing agreement consistent with Forest Service policy and procedures.

The Forest Service enters into grazing agreements with grazing associations which are a form of term grazing permit. The grazing associations are then able to issue association term grazing permits to their members as a mechanism to administer their members livestock grazing on the lands identified in the grazing agreement. The grazing association is a permittee of the Forest Service. The relationship between the Forest Service and the grazing association is described in the grazing agreement and is not extended to the individual members.

The association is responsible for managing their members consistent with the conditions of the grazing agreement for livestock grazing on the lands identified in the grazing agreement. Forest Service officials, grazing association leaders, and grazing association members must have a clear and mutual understanding of Forest Service goals, objectives, and policies aligned with the association's plans and objectives to successfully manage and administer the grazing activities authorized by a grazing agreement.

Grazing associations manage their members and authorize grazing use through the issuance of association term grazing permits. Association members may not assign or transfer grazing privileges (provided to them by their association term permit) in whole or in part. Association members are required to execute waivers of association term grazing permits when selling qualifying base property and/or livestock in the same manner as are National Forest term grazing permit holders.

21 - GRAZING ASSOCIATION ESTABLISHMENT AND RECOGNITION

Grazing associations were organized and operated under State laws to plan for group management and use of intermingled blocks of public and private grazing land beginning in the 1930s. A new, qualified grazing association must be formally recognized by the Forest Service to operate on National Forest System (NFS) lands to ensure that requirements are met as set forth in Title 36 of the Code of Federal Regulations (CFR), sec. 222.3(c)(1) (36 CFR 222.3(c)(1)).

To be recognized, an association must first be established pursuant to State law. An established grazing association must then apply in writing (using a letter format) to the Forest Service authorized officer. That letter must request formal recognition of the grazing association to

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operate on NFS lands. Approval of the request by the Forest Service authorized officer is formal recognition of the grazing association as eligible to operate on NFS lands.

The written application must include the following:

1. Names of grazing association members;
2. A description of the area to be grazed, the number, kind and class of livestock, and proposed season of use;
3. A map of the area to be grazed which specifically identifies and tabulates:
 - a. the total acreage of NFS lands;
 - b. the total acreage of association-owned or controlled lands; and
 - c. the total acreage of association member-owned or controlled lands.
4. A map identifying the location and ownership (Federal, State, and private land) of all rangeland improvements on the area to be grazed;
5. A certified copy of the association's articles of incorporation;
6. A certified copy of the association's bylaws (and any amendments that may have been recently adopted each time the agreement comes up for renewal); and
7. A copy of the State legislation pertaining to the establishment of grazing associations.

The authorized officer will review the letter of request and evaluate the proposal in terms of benefits to the Forest Service and overall resource management. If the proposal is deemed to be in the best interest of the Forest Service, then the permittees will be notified in writing to proceed with the establishment of an association.

An association is formally recognized upon receiving State recognition, a waiver of existing term grazing permits for the permittees involved, and the issuance of a grazing agreement.

If a permittee with an established term grazing permit wishes to become a member of a grazing association and waives the permit to the government, the authorized officer may include the lands formerly under term permit in the agreement. If the Forest Service cancels or does not renew the grazing agreement, the term permit(s) relinquished may be returned to the permittee(s) provided term permit qualifications are met (*see* sec. 22.12).

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22 - GRAZING AGREEMENTS

A grazing agreement is a kind of term grazing permit which may be issued by the Forest Service under certain circumstances to a qualified grazing association or grazing district established under State law. It is also possible to issue a grazing agreement to an Indian tribe exercising its treaty rights for livestock use on NFS lands (see section 23, exhibit 05 below). See also chapter 50 for detailed history and discussions concerning dealing with tribes to authorize treaty rights and privileges. As with all other term grazing permits issued by the Forest Service, a grazing agreement represents a privilege to use NFS land and does not convey a right or property interest to the grazing association (*see* 36 CFR 222.3(b)).

Like other term grazing permits, grazing agreements authorize the amount of grazing on designated NFS lands and other lands under Forest Service control for a designated season of use, which in some instances may be year-long or at varying times throughout the year. For more information, see the policy outlined in chapter 10 of these directives regarding permit issuance. Grazing associations in turn distribute grazing privileges among their members according to terms of the grazing agreements, their rules of management, and their bylaws.

Under grazing agreements, grazing associations participate in the day-to-day management of their members' livestock grazing activities on NFS lands. In doing so, a grazing association is charged with administering their members' permitted grazing activities in conformance with the following:

1. Federal law and regulation;
2. Applicable direction in the land management plan (LMP) and/or the allotment management plan (AMP); and
3. The terms, conditions of the grazing agreement and the rules of management.

The Forest Service maintains responsibility by authorizing all livestock grazing use and overseeing the administration of permitted grazing activity carried out by the grazing association in accordance with the foregoing authorities and described at 36 CFR §222.7.

Successful implementation of a grazing agreement depends largely upon the cooperation exhibited by the Forest Service and the grazing association (officers, directors, members, and employees) in the administration of the grazing activities. Successes and benefits of these efforts depend largely upon the group of people involved, their vision, sincerity, and objectives for the proposed program. A grazing agreement requires successful cooperative management by way of a clear and mutual understanding of the association's plans and objectives, as well as laws, regulations and Forest Service policies.

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Association members may be permitted to graze in the same allotment as other entities with Forest Service grazing permits. Under these circumstances the land made available through an agreement to the association would encompass the entire allotment, but the grazing allotted to the association for its members would be only a portion of the available forage.

22.1 - Waiver of Forest Service Term Grazing Permit in Favor of Association-Issued Term Grazing Permit

If an individual with a Forest Service term grazing permit wishes to obtain an association-issued term grazing permit, he or she must waive the Forest Service term grazing permit to the United States, become a member of the grazing association, and apply for an association-issued term grazing permit.

22.11 - Waiver and Membership in Newly Formed Grazing Associations

When a grazing association is formed, established under State law, and formally recognized by the Forest Service, individuals who are holders of term grazing permits will have the option of either retaining their individual term grazing permits or waiving their term grazing permits to the Forest Service in favor of membership in the grazing association. Following the waiver of individual term grazing permits, the Forest Service will issue a grazing agreement to the grazing association which will authorize the same amount of grazing as provided for in the combined waived permits. The grazing association will be responsible for allocating grazing permits to its grazing association members based on the amount of grazing each was previously permitted by the Forest Service.

22.12 - Waiver and Membership in Established Grazing Associations

If a permittee with an individual term grazing permit wishes to become a member of an established grazing association, they may waive the permit to the Forest Service and apply for membership in the grazing association. The grazing agreement will be modified to include the grazing capacity and the lands formerly under the individual term grazing permit, and the association will issue a member permit for the amount of grazing the permittee was previously permitted by the Forest Service.

22.2 - Waiver of Individual Association-Issued Term Grazing Permit in Favor of Forest Service Term Grazing Permit

Certain situations could potentially develop where an individual association member approaches the association Board of Directors and/or the Forest Service to be issued an individual term grazing permit by the Forest Service in lieu of continued membership in a grazing association.

Requests to relinquish grazing association membership in favor of an individual term grazing permit must be made in writing in the form of a letter to the association and a copy provided to the Forest Service. The letter must state the reasons for the request. The Forest Service will

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consult with the association's Board of Directors prior to reaching a decision on the member's request.

The determination as to whether it is in the best interest of the Forest Service to grant the member's request will consider at least the following items:

1. Additional Forest Service costs necessary to administer the new Term Grazing Permit;
2. Complexity of management if individual Term Grazing Permit(s) are intermingled with grazing permits issued by the association;
3. Reasons for the request (i.e.: Are the reasons valid and prudent? Can the reasons be accommodated by the grazing association?);
4. Is the member's request in compliance, or conflict, with the association's bylaws;
5. Past and present responsiveness of the association to provide for equal and impartial consideration of the member's requests and needs;
6. Continued ability to meet identified resource objectives.

After discussion, if it is agreed by all parties that it is in the best interest of the individual member, the grazing association, and the Forest Service to issue an individual term grazing permit in lieu of membership in a grazing association, the Forest Service will issue a Term Grazing Permit to the former member and the Grazing Agreement will be modified to reflect the withdrawn lands and grazing capacity.

It is preferable that individuals grazing in a particular allotment are either all grazing association members or all individual term grazing permit holders in order to more easily provide for coordinated management of the allotment. However, circumstances may occur where exceptions are justified. Under these circumstances, the land made available to the grazing association under the grazing agreement would encompass the entire allotment(s), but the amount of grazing allocated to the association for its members would represent only a portion of the available forage. These situations will require close coordination between the Forest Service and the grazing association. Allotment management plans (AMPs) and annual operating instructions (AOI) will apply to all permit holders.

23 - ISSUANCE OF GRAZING AGREEMENTS

To assure consistency between administering units and grazing associations, all grazing agreements must be based on a standard format, just as all Term Grazing Permits are based on such a form (FS-2200-10).

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Grazing Agreements involving all national grasslands, except those administered by the Dakota Prairie Grasslands in R-1, shall use the standard agreement set forth below at exhibit 01.

Grazing Agreements issued on the four national grasslands administered by the Dakota Prairie Grasslands in R-1 can use the standard agreement set forth below at exhibit 02. Exhibit 02 can *only* be used on these 4 grassland units.

The *only* exception to required ownership of base property and permitted livestock as qualifications to hold a Term Grazing Permit on NFS lands is allowed for grazing association members operating on the Dakota Prairie Grasslands in R-1. See the detailed information in secs. 24.31 and 24.32 below as to why this is allowed.

Grazing Agreements involving national forests in Regions 1-6 shall use the standard agreement set forth below at exhibit 03.

The only significant difference between the standard agreements used on national grasslands and those on national forests concerns a grazing association's eligibility for grazing fee reductions based on expenses it incurred for land use practices approved by the Forest Service. These fee reductions are available to grazing associations operating only on national grasslands, but are not available to grazing associations operating on national forests (*see* sec. 25; *see also* Bankhead-Jones Farm Tenant Act, Title III, sec. 32(c) (7 USC 1011) and 36 CFR 222.9(d)). Range Betterment Funds (RBF) are collected from permitted grazing on national forests, and can only be used for range improvement practices on national forest lands in the 16 contiguous western States (*see* 36 CFR 222.10).

Grazing Agreements involving national forests in the Regions 8 and 9 shall use the standard agreement set forth below at exhibit 04 because fee reductions for required range improvement practices are available to holders of grazing permits issued under both noncompetitive and competitive procedures (*see* 36 CFR 222.53 and 222.54).

Grazing Agreements involving Indian tribes exercising treaty rights for grazing livestock on National Forest System lands shall use the standard agreement set forth below at exhibit 05, because grazing is authorized free-of-charge. In addition, many of the terms and clauses used in the other standard agreements are not applicable to treaty rights and privileges authorized and agreed to between two sovereign nations.

23.1 - Standard Language

Every grazing agreement, regardless of whether it involves national grasslands or national forests, shall include the following clauses (except that the word "Association" is replaced with "Tribe" where tribal treaty grazing rights are concerned) which acknowledge that:

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1. The Forest Service is responsible for the authorization and oversight of administration of livestock grazing use on NFS lands in accordance with applicable Federal law, regulation, policy, and LMP direction.
2. The grazing association is responsible for the administration of its members livestock grazing on those NFS lands identified in the grazing agreement in accordance with applicable Federal law, regulation, policy, and LMP direction.
3. Grazing agreements are issued for 10 years, unless the affected NFS land is pending disposal, the affected NFS land will be devoted to a different public purpose prior to the end of 10 years, or it will be in the best interest of sound land management to specify a shorter term.
4. Grazing association members who receive grazing association-issued permits must satisfy, at a minimum, the same eligibility and qualification requirements that apply to the holders of Forest Service term grazing permits.
5. Term grazing permits issued by the grazing association to its members may be issued for up to 10 years but may not extend beyond the expiration date of the grazing agreement.
6. The agreement may be modified at any time by the mutual consent of the two parties.
7. The Forest Service may modify the grazing agreement 30 days after written notice to the grazing association to bring the grazing agreement into conformance with changes in law, regulation, policy, or LMP direction; to reflect changes in range improvement status; or to reflect changes in the grazing capacity of the lands identified in the grazing agreement.
8. Violation of terms and conditions of the grazing agreement may result in the partial or full suspension or cancellation of the grazing agreement by the Forest Service. This can also result from the association not holding an offending member responsible for all permit terms and conditions.
9. Failure of the grazing association to promptly inspect and enforce the terms and conditions of the grazing agreement or grazing association-issued grazing permit terms and conditions, and where necessary address any alleged violations, may lead to action by the Forest Service to suspend or cancel the grazing agreement.

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23 - Exhibit 01

**Standard Grazing Agreement for Grazing Associations
Operating on National Grasslands (except those in R-1)**

USDA-Forest Service

FS-2200-135

| | |
|---|------------------|
| GRAZING AGREEMENT for Grazing Associations Operating on National Grasslands (Regions 2 – 8) (Reference FSH 2209.13, Ch. 20) | Page 1 of 14 |
| | Permittee Number |
| | Permit Number |

**UNITED STATES DEPARTMENT OF AGRICULTURE
U.S. FOREST SERVICE**

AND

(name) GRAZING ASSOCIATION

GRAZING AGREEMENT # **(Number/Name and Year)**

THIS GRAZING AGREEMENT IS BETWEEN THE U.S. FOREST SERVICE, AN AGENCY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE (HEREINAFTER “THE FOREST SERVICE”) AND THE **(name)** GRAZING ASSOCIATION/DISTRICT **(delete one)** (HEREINAFTER “THE ASSOCIATION”), A GRAZING COOPERATIVE ESTABLISHED UNDER THE LAWS OF THE STATE OF **(name)**. THIS AGREEMENT IS THE ASSOCIATION’S TERM GRAZING PERMIT.

THIS AGREEMENT IS FOR THE ANNUAL PERMITTED USE OF **(number)** AUMs OF GRAZING ON THAT PORTION OF THE **(name)** NATIONAL GRASSLAND LOCATED IN **(names of all)** COUNTIES AS SET FORTH IN EXHIBITS A - F ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN.

A. DEFINITIONS.

The words, grouped by category:

Parties:

1. “Forest Service (FS)” means the United States Department of Agriculture-Forest Service (USDA-FS), represented by the Forest/Grassland Supervisor of the **(name of Forest Service unit)**.

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23 - Exhibit 01--Continued

2. “Association” means the (name) Grazing Association, represented by the Board of Directors.
3. “Association Member” means a member of the (name) Grazing Association.

Lands:

4. “National Forest System (NFS) Lands” means federally owned forest, range, and related lands and resources throughout the United States and its territories. NFS lands include all National Forest lands reserved or withdrawn from the public domain of the United States; all National Forest lands acquired through purchase, exchange, donation, or other means; the National Grasslands and Land Utilization Projects administered under Title III of the Bankhead-Jones Farm Tenant Act of 1937 (7 U.S.C. 1010-1012) ; and other lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the system.
5. “National Grasslands” are part of the National Forest System and refer to those lands acquired and administered by the United States under Title III of the Bankhead-Jones Farm Tenant Act, other statutes, Executive Order 10046, and which are now permanently held and administered by the Forest Service.
6. “Association Administered Lands” mean all lands identified in the grazing agreement upon which the grazing association is responsible for managing the rangeland resources and their member’s livestock use including, but not limited to, private, State, other Federal agency, and NFS lands.
7. “Association Controlled Lands” mean private or State lands leased, owned, or waived to the Association, by a member or non-member, for management purposes.
8. “Waived Lands” means the private, State, and other agency lands within a grazing allotment on which the Association permits livestock numbers and seasons of use through issuance of an Association Term Private Land Grazing Permit or the “off” portion of an Association Term Grazing Permit. The member or non-member relinquishes control of the waived lands, for grazing purposes only, to the Association.
9. “Allotment” means an area of land, designated on a map, which includes NFS and/or non-NFS lands comprising a logical management unit for livestock grazing and management.

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 01—Continued

Documents:

10. “Grazing Agreement” is a type of term grazing permit that can be issued for a period not to exceed 10 years by the Forest Service to qualified grazing associations established under State law.
11. “Rules of Management (ROM)” is the set of Forest Service approved policies, procedures, and practices developed by the Association for their use in administering livestock grazing on the lands covered by this Agreement.
12. “Forest Service Policies and Procedures” mean those policies and procedures established by the Chief of the Forest Service (and supplemented by the Regional Forester and Forest/Grassland Supervisor) in the Forest Service Directives system for use, management, and protection of NFS lands. With respect to rangeland management and the administration of livestock grazing on NFS lands, Forest Service policies and procedures are set forth in Chapter 2200 of the Forest Service Manual (FSM) and Forest Service Handbook (FSH) 2209.13 on grazing permit administration, and FSH 2209.16 on allotment management.
13. “Forest or Grassland Plan” refers to the land management plan required by the National Forest Management Act of 1976, developed for each unit of the National Forest System that provides direction for the management of the lands and resources of that unit. The (name) Land Management Plan, as amended, establishes the kind of management practices that may occur and the timing and location of these practices, and became effective in (month and year).
14. “Allotment Management Plan (AMP)” is a document, prepared in consultation with the Association and the member(s) involved, that explains how a given set of objectives will be satisfied through a program of action that includes, but is not limited to, prescribing the manner in and extent to which livestock operations will be conducted in order to meet the multiple-use, sustained yield, economic, and other needs and objectives as determined for the lands involved; and describing the type, location, ownership, and general specifications for the range improvements in place or to be installed and maintained on the lands to meet the livestock grazing and other objectives of land management.
15. “Annual Operating Instructions (AOIs)” are detailed, Forest Service approved, instructions for livestock grazing administration to be implemented in any given year on a given allotment developed by the Association. AOIs are based on the AMP and may address the number of livestock permitted to graze, season of use, responsibilities for improvement construction or maintenance, and pasture rotation schedules.

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CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 01—Continued

Permits:

16. “Association Term Grazing Permit” is a grazing permit issued by the Association to a member authorizing livestock grazing on certain lands covered by this Agreement for a specific period not to exceed ten years or the expiration date of this Agreement, whichever is shorter. The holder has priority for receipt of a new permit upon expiration of the term grazing permit provided the holder has fully complied with the terms and conditions of the expiring permit.
17. “Association Temporary Grazing Permit” is a grazing permit issued by the Association for a period not to exceed one year to a member or non-member, and that has no priority for re-issuance.

Fees and Fee Computations:

18. “Grazing Value” is the monetary amount the Forest Service determines annually to be the value of grazing (by HM for one cow/horse and one sheep/goat) on the National Grasslands covered by the Agreement before deducting costs of required land use practices.
19. “Grazing Fee” is the amount paid by the Association to the Forest Service in return for the privilege of grazing livestock on the National Grasslands covered by the Agreement. The grazing fee is determined by taking the grazing value and subtracting the expenses incurred by the Association in connection with land use practices approved by the Forest Service.
20. “Land Use Practices (LUPs)” are those Forest Service-approved administrative costs and conservation practices undertaken by the Association as part of its management of the livestock grazing activities on the National Grasslands covered by the Agreement. Satisfactory completion of the approved LUPs will result in a reduction in the grazing fee owed by the Association to the Forest Service.
21. “Conservation Practices (CPs)” are a type of land use practice that may be used to reduce the grazing value on the National Grasslands covered by this Agreement. Conservation practices may include structural and non-structural rangeland treatments and improvements on Association-administered lands that are approved in advance by the authorized officer and are necessary to properly administer the Agreement. Conservation practices shall be designed and implemented to protect and, where applicable, enhance other resource values and uses. Examples of conservation practices include: fences, water developments, vegetation manipulation, land exchange, watershed protection,

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CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 01--Continued

wildlife habitat improvement, and studies to determine rangeland health and stocking rates.

22. “Administrative Costs” are a type of land use practice that may be used to reduce the grazing value on the National Grasslands covered by this Agreement. Administrative costs are costs that would otherwise be borne by the Forest Service if it were directly administering the grazing permits of the Association members and may include routine administrative and clerical expenses incurred by the Association related to activities like issuance of grazing permits, collection of grazing fees, monitoring livestock use, enforcement of permit terms, and record keeping. Administrative costs must be approved by the authorized officer in advance and may include, but are not limited to, expenses incurred by the Association for salaries and benefits, payroll taxes, postage, copying, depreciation, office space, utilities, accountant’s fees, directors’ expenses related to administering the Agreement, and legal fees (except for legal fees associated with administrative or legal challenges against the Forest Service).
23. “Animal-Unit (AU)” is considered to be one mature (1000-pound) cow, *with or without calf at side*, or the equivalent based upon average forage consumption of 26 pounds of dry matter per day. Five sheep or goats are the general equivalent of one cow.
24. “Animal-Unit Month (AUM)” refers to the amount of feed or forage required by an animal-unit for one month.
25. “Head-Month (HM)” is one month’s use and occupancy of the rangeland by one adult cow (with or without calf), bull, yearling (weaned steer or heifer), horse, burro, mule, bison, ewe (with or without lambs), ram, or goat.
26. “Excess Livestock” means any livestock owned or controlled by the holder of a grazing permit issued by the Association, but grazing on Association administered lands in greater numbers, or at times or places other than authorized in the grazing permit, Grazing Agreement, or authorized on the Bill for Collection.
27. “Unauthorized Livestock” means any livestock that is not authorized by permit to graze upon Association administered lands and which is not related to use authorized by a grazing permit.
28. “Unauthorized Use Rate” means the grazing fee charged for excess or unauthorized livestock use.

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23 - Exhibit 01--Continued

B. PURPOSE.

The purpose of this Agreement is to:

1. Authorize the Association to administer its members livestock grazing activities on the lands covered by this Agreement consistent with applicable Federal law, regulation, Forest Service policies and procedures, and direction in the Forest or Grassland Plan and AMPs.
2. Extend sound practices of rangeland resource management through demonstration and by working with other Federal, State, local, or private landowners to administer livestock grazing activities consistently across rangelands regardless of the ownerships involved.

C. THE PARTIES JOINTLY AGREE THAT:

1. Securing sound resource management on all lands covered by this Agreement is the principal objective of this Agreement.
2. They will cooperate with each other and assist individuals, local, State, and Federal agencies to demonstrate sound and practical principles of land use and resource management on the lands covered by this Agreement.
3. The vegetation resource will be developed to its reasonable sustainable potential to provide for all values and uses that include, but are not limited to, livestock grazing.
4. Livestock grazing is one of the many recognized multiple uses that occurs on the NFS lands covered by this Agreement.
5. Managing for sustainable rangelands provides for stability of family ranches and the communities of which they are part. The presence of working ranches in the West is necessary to maintain the open spaces that are needed for vistas, recreation opportunities, and to retain habitat and migration corridors for native species.
6. All of the multiple use activities occurring on the lands covered by this Agreement must be carried out consistent with the applicable laws and regulations governing the occupancy and use of NFS lands.
7. The Forest Service's authority to permit other uses or activities besides livestock grazing on the lands covered by this Agreement is not affected by this Agreement.

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8. The Forest Service is responsible for the administration of grazing on NFS lands in accordance with applicable Federal law, regulation, Forest Service policies and procedures, and Forest or Grassland Plan direction.
9. Through this Agreement, the Forest Service authorizes the Association to administer livestock grazing activities on those NFS lands shown in Exhibit A and described in Exhibit B.
10. By entering into this Agreement, the Association agrees to act as the Forest Service's permittee and is responsible for the matters pertaining to any livestock grazing use it distributes to its members through association-issued permits (which are not Forest Service grazing permits) and the administration of those permits for livestock grazing on the NFS lands shown in Exhibit A and described in Exhibit B. Administration shall be in accordance with applicable Federal law, regulation, Forest Service policies and procedures, and Forest or Grassland Plan direction.

D. FOREST SERVICE RESPONSIBILITIES. The Forest Service will:

1. Make available to the Association the NFS lands shown in Exhibit A and described in Exhibit B and the rangeland improvements described in Exhibit D for livestock grazing purposes. At the end of each grazing fee year, furnish the Association with notice and such revised or supplemental Exhibits as are necessary to inform the Association of any additions, subtractions, or other changes in the acreage or description of NFS lands and rangeland improvements subject to this Agreement or any changes in the Association's maintenance responsibility.
2. Determine permitted numbers (animal units) and seasons of use for the NFS lands shown in Exhibit A and described in Exhibits B and F in accordance with Forest Service policies and procedures.
3. Assist the Association with the determination of permitted numbers (animal units) and seasons of use for the Association controlled lands described in Exhibits C and F.
4. Notify the Association on or before the **1st day of March** of each year of:
 - a. Required LUPs for the upcoming season of use and how those LUPs will be considered in the establishment of the grazing fee.
 - b. The estimated grazing fee (charged on the HM basis) to be paid for livestock use on the NFS lands shown in Exhibit A and described in Exhibit B for the upcoming

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23 - Exhibit 01--Continued

season of use taking into account the estimated costs of approved LUPs on the NFS lands described in Exhibit B.

c. Additional fees or credits accrued from the past grazing season that were not reflected in the estimated grazing fee paid at the beginning of the season. Such unanticipated fees or credits may include adjustments if the amount of actual grazing use was greater than or less than the originally authorized amount of use (final fee determination).

5. Prepare AMPs in consultation and coordination with the Association and the affected member(s).
6. Review and approve the Rules of Management (ROM) developed by the Association to determine they are consistent with applicable law, regulation, Forest Service policies and procedures, Forest or Grassland Plan direction, and the terms and conditions of this Agreement.
7. Perform improvement work, as deemed necessary or desirable, on NFS lands other than those conservation practices that are the responsibility of the Association under this Agreement.
8. Reserve the right (but not the obligation) to take appropriate administrative action or to prosecute any act or omission involving violations of Federal law, regulation, or Forest Service policies or procedures pertaining to livestock grazing on NFS lands including, but not limited to, excess and unauthorized use or noncompliance with the terms and conditions of this Agreement or the ROM.
9. Authorize reductions in the fee charged for grazing on National Grasslands described in Exhibit B by as much as 75% for approved administrative costs, conservation practices, or a combination of the two, in accordance with agency procedure set forth in Chapter 20 of FSH 2209.13 in order to determine the grazing fee due the Forest Service. In the rare case where the District Ranger decides to allow greater than 75% of the value to be used that year for a combination of conservation practices and administrative costs, the approval and rationale for doing so should be documented in a letter to the Association from the authorized officer.
10. Require the Association to implement conservation practices on Association administered lands that are necessary to obtain proper livestock use and resource management.
11. Approve proposed conservation practices that are reasonably priced and will improve proper livestock use and resource management.

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23 - Exhibit 01--Continued

12. Furnish the Association with appropriate technical assistance necessary for implementation of required conservation practices and provide updated specifications as they become available.
13. Comply with the Freedom of Information Act (FOIA) and other relevant laws and regulations when responding to requests from the public for information pertaining to livestock grazing activities on the NFS lands covered by this Agreement.
14. Audit the Association's records at least once every five years to assure the Association is in compliance with the terms and conditions of this Agreement and the ROM.
15. Agree to review disputes between Association members or between an Association member and the Association only after the affected parties have made a good faith effort to resolve the dispute between them.
16. Be responsible for any and all other activities related to the administration of livestock grazing and all other uses or activities on the NFS lands covered by this Agreement except those specifically delegated to the Association.

E. ASSOCIATION RESPONSIBILITIES. The Association will:

1. Develop Rules of Management (ROM), with Forest Service assistance, to facilitate administration of the livestock grazing activities authorized under this Agreement.
2. Submit the ROM to the Forest Service for review and approval. The ROM becomes a part and condition of the Grazing Agreement upon approval by the Forest Service.
3. Issue Association term grazing permits for the lands covered by this Agreement for a period not to exceed ten years or the date of expiration of this Agreement, whichever is shorter. The current Association members are listed in Exhibit E.
4. Administer Association grazing permits in conformance with applicable federal law, regulation, policy and procedure, Forest or Grassland Plan and AMP direction, and the approved ROM.
5. Provide input to the Forest Service regarding the development of AMPs for the lands covered by this Agreement and implement the approved AMPs.
6. Develop proposed annual operating instructions (AOIs) or other similar document prior to the beginning of the permitted grazing season with Forest Service assistance.

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23 - Exhibit 01--Continued

7. Submit the proposed AOIs to the Forest Service for review and approval.
8. Regularly monitor livestock grazing activities authorized under this Agreement to assure they are consistent with direction in the Forest or Grassland Plan, AMPs, AOIs, and the ROM.
9. Strive to integrate and obtain Association controlled lands in order to create natural management units and demonstrate sound land management programs and practices.
10. Timely pay all fees due the United States under this Agreement. (Grazing fees may be paid in two installments if provided for in the ROM).
11. Identify potential conservation practices and administrative costs necessary to facilitate livestock grazing on the Association administered lands covered by this Agreement and submit a list of such LUPs to the Forest Service for review and approval.
12. Implement and construct in a timely manner the required conservation practices approved by the Forest Service.
13. Maintain existing improvements listed in Exhibit D in a timely manner so that they serve their intended purpose and last for their expected lifetime.
14. Submit to the Forest Service by the **28th day of February** of each year, completed Certification of Costs of Required Conservation Practices and Actual Administrative Costs forms with supporting information as may be required by the Forest Service.
15. Cooperate in livestock counting, marking, or ear-tagging programs as deemed necessary.
16. Promptly investigate allegations of violations of Association grazing permit terms and conditions by Association members, including those of excess use.
17. Report to the Forest Service all claims of alleged permit violations and the Association's handling of those claims, including those of excess use.
18. Take action, following the investigation of alleged permit violations, to suspend or cancel Association term grazing permits, in whole or in part, where appropriate. Where taken, permit action should be in cooperation with the Forest Service and be consistent with the policies set forth in Forest Service Handbook 2209.13 at Chapter 10, sec. 16.
19. Attempt to resolve disputes between Association members or between an Association member and the Association before requesting assistance from the Forest Service.

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23 - Exhibit 01--Continued

20. Authorize Forest Service entry on Association controlled lands to determine whether the livestock grazing activities occurring on the allotments in which these lands are located are consistent with applicable Federal law, regulation, Forest Service policies and procedures, and the terms and conditions of this Agreement.
21. Take all reasonable precautions to prevent unauthorized livestock use. Cooperate with the Forest Service in the prosecution or defense of any action related to the administration of livestock grazing on the lands covered by this Agreement.
22. Maintain records related to the administration of livestock grazing activities authorized by this Agreement that would otherwise be retained by the Forest Service if it were directly administering livestock grazing through Forest Service term grazing permits. Said records must include, but are not limited to: Association member eligibility and qualification requirements; Association grazing permits; documents pertaining to the investigation and enforcement of Association grazing permit terms and conditions; bills for collection; actual use records; and LUP costs.
23. Separate the Association records unrelated to the administration of livestock grazing authorized by this Agreement from those records described in # 22 above.
24. Make available to the Forest Service upon request the records identified in #22 above for inspection and copying. There shall be no deletions or redactions in the records and they shall be provided to the Forest Service free of charge.
25. Promptly forward to the Forest Service any Freedom of Information Act (FOIA) requests received by the Association. Fully cooperate with the Forest Service in the timely processing of FOIA requests for agency records pertaining to the livestock grazing activities authorized under this Agreement that are in the possession of the Association.
26. Assure all Association members are in compliance with qualifying base property and livestock ownership requirements as set forth in the ROM.
27. Prepare as necessary, with Forest Service assistance, an annual plan of work for each employee of the Association.

F. ADDITIONAL REQUIREMENTS

1. Holders of Association term grazing permits must satisfy, at a minimum, the same eligibility and qualification requirements that apply to the holders of Forest Service term grazing permits.

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23 - Exhibit 01--Continued

2. This Agreement shall be issued for ten years unless the NFS land shown in Exhibit A and described in Exhibit B is pending disposal or will be devoted to another public purpose that precludes livestock grazing prior to the end of ten years; or if the Forest Service determines it is in the best interest of sound land management to specify a shorter term.
3. Association term grazing permits may be issued for up to ten years but may not extend beyond the expiration date of this Agreement.
4. This Agreement may be cancelled or modified by the Forest Service if the use of NFS lands shown in Exhibit A and described in Exhibit B are required for military or national security purposes.
5. This Agreement may be modified at any time by the mutual consent of the parties.
6. This Agreement may be modified by the Forest Service thirty (30) days after written notice to the Association in order to bring the Agreement into conformance with changes in law, regulation, policy, Forest or Grassland Plan direction, range improvement status, or grazing capacity associated with a change in the lands administered by the Association.
7. Violation of any of the terms and conditions of this Agreement may result in the suspension or cancellation of this Agreement.
8. Failure of the Association to promptly inspect and enforce where necessary alleged violations of this Agreement or Association grazing permit terms and conditions may lead to action by the Forest Service to suspend or cancel this Agreement.
9. This Agreement may not exceed ten years in length and expires on the **28th day of February, (insert year).**
10. The permanent improvements on NFS lands identified in Exhibit D are the property of the United States unless specifically designated otherwise or authorized by a special use permit. Such improvements shall not be removed nor will the Association or its members receive any compensation for them if the Agreement is cancelled for noncompliance.
11. This Agreement is subject to all rules and regulations of the Secretary of Agriculture and may be suspended or cancelled, in whole or in part, for noncompliance therewith.

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23 - Exhibit 01—Continued

12. Any disagreement between the Association and the Forest Service regarding an interpretation of the Secretary's rules and regulations shall be resolved in favor of the Forest Service's interpretation.
13. If the Association disagrees with a decision by the authorized officer pertaining to the administration of grazing on the lands covered by this Agreement, it can request further review of the decision by the authorized officer. The Association may present its case in writing, orally, or both. If the Association remains dissatisfied after this review, it may file an administrative appeal or request mediation in accordance with 36 CFR 214.
14. If an Association member disagrees with an Association decision, the member must first seek review of the decision by the Association and only afterwards request review by the authorized officer. Association members may not appeal Forest Service or Association decisions related to the grazing authorized by this Agreement pursuant to 36 CFR 214.
15. No member of Congress shall be admitted to any share or part of this Agreement or to any benefit that may arise, unless it be made with a corporation for its general benefit.
16. The Association shall hold the United States harmless from all loss, expense, liability, or other obligation of any nature arising out of any accident or occurrence arising from, or on account of, negligent or other wrongful acts or omissions of the Association, its members, or any of its or their officers, directors, employees, agents, contractors, or subcontractors, or other persons acting on its or their behalf or under its or their control causing injury to persons or property while carrying out activities pursuant to this Grazing Agreement.
17. During the term and performance of the Agreement:
 - a. Any party subject to this agreement shall not discriminate against any persons or organizations on the basis of race, color, national origin, gender (in educational or training programs or activities), age, or disability and shall comply with the provisions of Title VI of the Civil Rights Act of 1964, as amended, sec. 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments Act of 1972, and the Age Discrimination Act of 1975. Civil Rights violations may be reported to the USDA Office of Civil Rights at <https://www.ascr.usda.gov/node/119>. The parties jointly agree that they will cooperate with each other and assist individuals in reporting any such violations to the USDA Office of Civil Rights.
 - b. The Association shall include and require compliance with the above nondiscrimination provisions in any written third party agreement made with respect to performance of this grazing agreement.

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23 - Exhibit 01--Continued

c. The Forest Service shall have the right to enforce the foregoing nondiscrimination provisions by requesting voluntary compliance, suit for specific performance, any other remedy available under the laws of the United States or the State in which the determination of a breach or violation has been made, or, finally, by cancellation of the Agreement under 36 C.F.R. 222.4(b).

18. Exhibits to this Agreement include:

Exhibit A. Map of All Lands Covered by this Agreement

Exhibit B. List of National Forest System Lands Covered by this Agreement

Exhibit C. List of State, Private, and Other Lands Covered by this Agreement

Exhibit D. List of Improvements Owned by the Forest Service

Exhibit E. Association Membership List

Exhibit F. List of Permitted AUMs for National Forest System, State, Private, and Other Lands on Allotments Covered by this Agreement

Signed this the **day of** , **(year)**

President

(name) GRAZING ASSOCIATION
(Address)
(City, State, Zip Code)

Signed this the **day of** , **(year)**

Forest/Grassland Supervisor or District Ranger **(delete one)**

(name) National Forest
(Address)
(City, State, Zip Code)

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 02

**Standard Grazing Agreement Only for Grazing Associations
Operating on National Grasslands in R-1**

USDA-Forest Service

FS-2200-136

| | |
|--|------------------|
| GRAZING AGREEMENT for Grazing Associations Operating <u>only</u> on National Grasslands in Region 1 (Reference FSH 2209.13, Ch. 20) | Page 1 of |
| | Permittee Number |
| | Permit Number |

**Standard Grazing Agreement
Between
(name) Grazing Association
And
United States Department of Agriculture
Forest Service
For the period of (enter year) to (enter year)**

Signed this the ____ day of ____, (year)

President, (name) Grazing Association
(Address)

Signed this the ____ day of ____, 2020

District Ranger, (name) Ranger District
(Address)
(City, State, Zip Code)

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23 - Exhibit 02--Continued

(name) GRAZING ASSOCIATION

AND

**UNITED STATES DEPARTMENT OF AGRICULTURE
U.S. FOREST SERVICE**

THIS GRAZING AGREEMENT IS BETWEEN THE **(name)** GRAZING ASSOCIATION (HEREINAFTER “THE ASSOCIATION”), A GRAZING COOPERATIVE ESTABLISHED UNDER THE LAWS OF THE STATE OF NORTH OR SOUTH DAKOTA **(delete one)** (ND CENTURY CODE CHAPTER 36-08 OR SD CODIFIED LAW CHAPTER 40-23) **(delete one)** AND THE U.S. FOREST SERVICE, AN AGENCY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE (HEREINAFTER “THE FOREST SERVICE”). THIS AGREEMENT IS THE ASSOCIATION’S TERM GRAZING PERMIT AND ESTABLISHES THE WORKING RELATIONSHIP BETWEEN THE FOREST SERVICE AND THE ASSOCIATION.

THIS AGREEMENT IS FOR THE PERMITTED USE OF **(number)** HEAD MONTHS (HMs) OF GRAZING EACH YEAR ON THAT PORTION OF THE DAKOTA PRAIRIE GRASSLAND IN **(name[s])** COUNTY(S) AS SET FORTH IN EXHIBITS A - C ATTACHED HERETO AND INCORPORATED BY REFERENCE.

A. DEFINITIONS:

Parties

1. “Forest Service (FS)” means the United States Department of Agriculture-Forest Service, represented by the Grasslands Supervisor of the Dakota Prairie Grasslands.
2. “Association” means the **(name)** Grazing Association, represented by the Board of Directors and its Officers.
3. “Authorized Officer” means the District Ranger or the Grasslands Supervisor depending on who has been delegated the authority and responsibility to execute resource management and administration activities.

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CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 02--Continued

Lands

4. “National Grasslands” are a part of the National Forest System Lands and administered by the Department of Agriculture under the provisions and purposes of title III of the Bankhead-Jones Farm Tenant Act.
5. “Association Administered Lands” mean all lands identified in the grazing agreement upon which the grazing association is responsible for managing the rangeland resources and their member’s livestock use including, but not limited to, private, State, other agency, and National Grasslands.
6. “Allotment” is a designated area of land available for livestock grazing.

Documents

7. “Grazing Agreement” Authorizes Grazing Associations, established under State law and recognized by the Forest Service, to administer the livestock grazing use made by its members on the National Grasslands identified in the grazing agreement for a period of 10 years or less.
8. “Rules of Management” are developed by the Board of Directors of the Association and used in administering the grazing program, for its members, on all association administered lands.
9. “Forest Service Policies” mean those applicable policies established by the Chief of the Forest Service (and supplemented by the Regional Forester and Grasslands Supervisor) in the Forest Service Directives system for use, management, and protection of National Grasslands.
10. “Grassland Plan” refers to the Land and Resource Management Plan required by the National Forest Management Act of 1976, developed for each unit of the National Forest System that provides direction for the management of the lands and resources of that unit.
11. “Vegetation Management Projects” (as analyzed through the NEPA process) and “Allotment Management Plan (AMP)” Revisions are documents, prepared cooperatively with the Forest Service and the Association involved, using the procedures outlined in the 2006 Livestock Grazing Record of Decision and the DEMO Project 2017.

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23 - Exhibit 02--Continued

12. "Settlement Agreement" refers to docket number Civ. No. A1-00-020 Stipulation for Settlement (dated August 7, 2000).

Fees and Fee Computations

13. "Grazing Value" is the annual value for grazing use of National Grasslands and from which credits may be allowed in deriving annual National Grasslands grazing fees.
14. "Grazing Fee" is the annual charge for grazing use of National Grasslands rangeland. The grazing fee is determined by taking the grazing value and subtracting the expenses incurred by the Association in connection with land use practices approved by the Forest Service.
15. "Land Use Practices (LUPs)" are those Forest Service-approved administrative costs and conservation practices (CPs) undertaken by the Association as part of its management of the livestock grazing program on the National Grasslands covered by the Agreement. Satisfactory completion of the approved LUPs will result in a reduction of the grazing fee owed by the Association to the US Treasury. Refer to the October 24, 1950, USDA, and November 8, 1950, Office of Comptroller General Opinion.
16. "Conservation Practices" are land treatment and improvement measures necessary in carrying out the provisions of the Grazing Agreement. They are structural and non-structural rangeland treatments and improvements on National Grasslands that are approved in advance by the authorized officer and are necessary to properly administer a grazing program.
17. "Administrative Costs" are allowable costs of general administration and program management incurred by the Association under this Agreement while carrying out activities that would otherwise be a cost to the Forest Service and must be approved by the Authorized Officer in advance. (FSM 2200, Ch. 2230, sect. 2232.05)
18. "Animal Unit (AU)" is considered to be one mature cow of about 1,000 pounds, either dry or with calf up to 6 months of age, or their equivalent, consuming about 26 pounds of forage/day on an oven-dry basis. Five sheep or goats are the general equivalent of one cow.
19. "Animal-Unit-Month (AUM)" is the amount of oven-dry forage (forage demand) required by one animal unit for a standardized period of 30 animal-unit-days. The term

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CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 02—Continued

AUM is commonly used in three ways: (a) stocking rate, as in "X acres per AUM"; (b) forage allocations, as in "X AUMs in Allotment A"; (c) utilization, as in "X AUMs taken from Unit B."

20. "Head-Month (HM)" is a month's use and occupancy of range by one animal. A full head month's fee is charged for a month of grazing by adult animals; if the grazing animal is weaned or 6 months of age or older at the time of entering National Forest System lands; or will become 12 months of age during the permitted period of use. For fee purposes 5 sheep or goats, weaned or adult, are equivalent to one cow, bull, steer, heifer, horse, or mule.
21. "Excess Livestock" means any livestock owned or controlled by the holder of a grazing permit issued by the Association but grazing on National Grasslands in greater numbers, or at times or places other than authorized in the grazing permit, Grazing Agreement, or authorized on the Bill for Collection.
22. "Unauthorized Livestock" means any livestock that is not authorized by permit to graze upon Association administered lands and which is not related to use authorized by an Association grazing permit.

B. STATEMENT OF PURPOSE

The purpose of this Agreement is to:

1. Authorize the Association to administer its members livestock grazing activities on National Grasslands covered by this Agreement which includes the provision for the Association to issue and administer grazing permits consistent with applicable Federal law, regulation (CFRs), applicable Forest Service policies, and direction in the Grassland Plan. Such administration must conform to this Agreement and the Rules of Management developed by the Association and concurred with by the Forest Service.
2. Extend sound practices of land management to other lands through demonstration and by integrating other lands with National Grasslands into a grazing program and exert a favorable influence for securing sound land conservation practices on associated private lands; to promote development of grassland agriculture to demonstrate sound and practical principles of land use for the areas in which they are located.

C. THE PARTIES JOINTLY AGREE:

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23 - Exhibit 02—Continued

1. Livestock grazing is one of the many recognized multiple uses that occurs on the National Grasslands and the use covered by this Agreement.
2. Managing for sustainable rangelands provides for stability of family ranches and the communities of which they are a part. Supporting the presence of family ranches helps maintain open spaces and the resources that rely upon those spaces.
3. On the Rules of Management (ROM) developed by the Association to determine if they are consistent with the terms and conditions of this Grazing Agreement. The Association will develop Rules of Management (ROM) for use by the Board of Directors to facilitate administration of the livestock grazing program on all Association administered lands authorized under this Agreement.
4. The Association may request and seek clarification from the Forest Service at any level on applicable laws, regulations, and Forest Service Policies.
5. Land Use Practices (LUPs), and Conservation Practices (CPs) are developed by the Association and Forest Service.
6. To prepare Vegetation Management Projects (VMP) as analyzed through the NEPA process and Allotment Management Plan Revisions (AMPs) as prepared cooperatively with the Forest Service and the Association using the procedures outlined in the 2006 Livestock Grazing Record of Decision and the Demonstration Project 2017.
7. The Forest Service and Grazing Associations will continue to work cooperatively on projects that relate to grassland management, including Grazing Agreements, using the processes outlined in the Demonstration Project.

D. FOREST SERVICE RESPONSIBILITIES. The Forest Service will:

1. Make available to the Association the National Grasslands shown in Exhibit A and the rangeland improvements described in Exhibit B for livestock grazing purposes.
2. The Forest Service will notify the Association of the grazing fee rate as soon as practical before the start of the grazing season.

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3. Contact the Association, in writing, when situations are found and are unknown to the Association pertaining to livestock grazing on National Grasslands that need administrative action. However, if the Association takes action and is unsuccessful in achieving compliance then the Forest Service reserves the right (but not the obligation) to take appropriate administrative action or to prosecute any act or omission involving violations of applicable Federal law, regulation, or Forest Service policies pertaining to livestock grazing on National Grasslands.
4. Authorize reductions in the annual grazing value charged for grazing on National Grasslands described in Exhibit A by as much as 75% for approved conservation practices and administrative costs in accordance with agency procedure set forth in Chapter 20 of FSH 2209.13 in order to determine the grazing fee due the U.S. Treasury. In the case where the District Ranger decides to allow greater than the 75% of the value to be used that year for a combination of Conservation Practices and administrative costs, the approval and rationale for doing so should be documented in a letter to the Association from the Authorized Officer.
5. Work cooperatively with the Association to implement Conservation Practices on National Grasslands that are necessary to properly administer the grazing program.
6. Furnish the Association with appropriate technical assistance, if requested, necessary for implementation of required Conservation Practices, and provide updated specifications as they become available.
7. Contact and coordinate with the Association when responding to Freedom of Information Act (FOIA) requests from the public for information pertaining to grazing administered by the Association on National Grasslands covered by this Agreement. Responses to FOIA requests will comply with the August 7, 2000, Settlement Agreement, when applicable.
8. Audit the Association's financial and accounting records (in compliance with the August 7, 2000, Settlement Agreement, when applicable) that are maintained for the Forest Service that pertain to the administration of livestock grazing on the National Grasslands included in this Agreement at least once every five years to assure the Association is in compliance with the terms and conditions of this Agreement and the ROM.
9. Agree to assist with disputes between an Association Member and the Association if requested by the Association.

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23 - Exhibit 02--Continued

E. ASSOCIATION RESPONSIBILITIES. The Association will:

1. Issue annual Association grazing permits to its members for the lands covered by this Agreement and administer Association grazing permits in conformance with the terms and conditions of this Grazing Agreement and the Rules of Management.
2. Monitor the livestock grazing program authorized under this Agreement to assure they are consistent with direction in the Grassland Plan.
3. Integrate Association Administered Lands in order to create natural management units and demonstrate sound land management programs and practices.
4. Pay all fees billed for livestock grazing or livestock use of National Grasslands. Grazing fees may be paid in two installments if provided for in the ROM.
5. Identify potential conservation practices and administrative costs and submit a list of such land use practices to the Forest Service for review and approval. Implement and construct the conservation practices approved by the Forest Service.
6. Maintain range improvements (as described in Exhibit B) for livestock grazing on National Grasslands until such time that it is determined that reconstruction or removal is necessary.
7. In order to qualify for a reduction in the grazing fee owed based on approved land use practices, expenditures incurred for those practices shall be documented in writing and verified by the authorized officer.
8. Investigate and report to the Forest Service all alleged claims of member's permit violations and the Association's handling of those claims, including but not limited to those of excess livestock use. Inform the Forest Service in writing the action taken.
9. Maintain records related to the administration of livestock grazing activities authorized by this Agreement that would otherwise be retained by the Forest Service if it were directly administering livestock grazing through Forest Service term grazing permits. Said records must include, but are not limited to: Association Member eligibility and qualification requirements; base property; Association grazing permits; documents pertaining to the investigation and enforcement of Association grazing permit terms and conditions; bills for collection; actual use records; lease agreements;

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23 - Exhibit 02—Continued

and land use practice costs to include detailed conservation practices, and administrative costs. Records will comply with the August 7, 2000, Settlement Agreement where applicable.

10. Make available to the Forest Service upon request the records identified in E-9 above for inspection. The Association will handle the inspection, copying and deletion and/or redactions in the records and will provide those records to the Forest Service in a manner consistent with the August 7, 2000, Settlement Agreement where applicable.
11. Separate the Association records unrelated to the administration of livestock grazing authorized by this Agreement from those records described in E-10 above.
12. Promptly forward to the Forest Service any Freedom of Information Act (FOIA) requests received by the Association.
13. Ensure all Association members are in compliance with qualifying base property and livestock ownership requirements as set forth in the ROM, subject to applicable Federal law which includes Section 425, Pub. L. 110-161, Forest Service regulations and applicable policies.
14. Request assistance from the Forest Service to resolve disputes between an Association member and the Association if needed.

F. IT IS FURTHER UNDERSTOOD:

1. This Agreement shall be issued for ten years unless the National Grasslands shown in Exhibit A is pending disposal or will be devoted to another public purpose that precludes livestock grazing prior to the end of ten years.
2. This Agreement may be reissued with the same clauses in accordance with Public Law 113-291, Dec. 19, 2014.
3. Since Association Members do not hold a Forest Service grazing permit, they cannot appeal Forest Service decisions related to the grazing use authorized by the Agreement pursuant to 36 CFR 214.

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23 - Exhibit 02--Continued

4. This Agreement may be modified at any time by, the mutual consent of all Associations within the Dakota Prairie Grasslands and the Forest Service, in writing.
5. This Agreement is subject to all applicable laws and regulations of the Secretary of Agriculture.
6. The Forest Service may suspend, or cancel this Agreement in full, or in part for non-compliance with the Agreement. Any such decision is subject to the due process principles embodied in the Administrative Procedure Act and the procedures mandated in the Agriculture Credit Act, 7 U.S.C. 5101(c)(2)(B)(v). The Forest Service and the Association will use these procedures including the North Dakota/South Dakota Department of Agriculture Mediation program to work together to resolve the issue.
7. As delegated by applicable law, the Forest Service has the final authority for any use of National Grasslands involved in this Agreement.
8. Title to permanent structural improvements on National Grasslands identified in Exhibit B shall rest in the United States. Title to temporary structural range improvements may be retained by the Association where no part of the cost for the improvement is borne by the United States. This does not cover improvements authorized under cooperative agreement.
9. As stated in Section 425, Pub. L. 110-161, "In fiscal year 2008 and thereafter, the Forest Service shall not change the eligibility requirements for base property, and livestock ownership as they relate to leasing of base property and shared livestock agreements for grazing permits on the Dakota Prairie Grasslands that were in effect as of July 18, 2005."
10. No member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon, except as permitted in 41 U.S.C. §22.
11. The Association shall hold the United States harmless from all loss, expense, liability, or other obligation of any nature arising out of any accident or occurrence arising from, or on account of, negligent or other wrongful acts or omissions of the Association, its members, or any of its or their officers, directors, employees, agents, contractors, or subcontractors, or other persons acting on its or their behalf or under

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23 - Exhibit 02—Continued

its or their control causing injury to persons or property while carrying out activities pursuant to this Grazing Agreement.

12. During the term and performance of the Agreement:

a. Any party subject to this Agreement shall not discriminate against any persons or organizations on the basis of race, color, national origin, gender (in educational or training programs or activities), age, or disability and shall comply with the provisions of Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments Act of 1972, and the Age Discrimination Act of 1975. Civil Rights violations may be reported to the USDA Office of Civil Rights at <https://www.ascr.usda.gov/node/119>. The parties jointly agree that they will cooperate with each other and assist individuals in reporting any such violations to the USDA Office of Civil Rights.

b. The Association shall include and require compliance with the above nondiscrimination provisions in any written third-party agreement made with respect to performance of this Grazing Agreement.

c. The Forest Service shall have the right to enforce the foregoing nondiscrimination provisions by requesting voluntary compliance, suit for specific performance, any other remedy available under the laws of the United States or the State in which the determination of a breach or violation has been made, or, finally, by cancellation of the Agreement under 36 C.F.R. 222.4(b).

13. Exhibits to this Agreement include:

Exhibit A. List of National Grasslands covered by this Agreement (Map will be mutually maintained by the Association and the Forest Service for reference purposes)

Exhibit B. List of Improvements Owned by the Forest Service

Exhibit C. List of permitted head months for National Grassland Allotments covered by this Agreement

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23 - Exhibit 03

**Standard Grazing Agreement for Grazing Associations
Operating on National Forests in the Western Regions**

USDA-Forest Service

FS-2200-137

| | |
|--|------------------|
| GRAZING AGREEMENT for Grazing Associations Operating on National Forests in the West (R1 – R6) (Reference FSH 2209.13, Ch. 20) | Page 1 of 12 |
| | Permittee Number |
| | Permit Number |

**UNITED STATES DEPARTMENT OF AGRICULTURE
U.S. FOREST SERVICE**

AND

(name) GRAZING ASSOCIATION

GRAZING AGREEMENT # **(Number/Name and Year)**

THIS GRAZING AGREEMENT IS BETWEEN THE U.S. FOREST SERVICE, AN AGENCY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE (HEREINAFTER “THE FOREST SERVICE”), AND THE **(name)** GRAZING ASSOCIATION (HEREINAFTER “THE ASSOCIATION”), A GRAZING COOPERATIVE ESTABLISHED UNDER THE LAWS OF THE STATE OF **(name)**. THIS AGREEMENT IS THE ASSOCIATION’S TERM GRAZING PERMIT.

THIS AGREEMENT IS FOR THE ANNUAL PERMITTED USE OF **(number)** ANIMAL UNIT MONTHS OF GRAZING ON THAT PORTION OF THE **(name)** NATIONAL FOREST IN (names of all) COUNTY(IES) AS SET FORTH IN EXHIBITS A-F ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN.

A. DEFINITIONS. The words, grouped by category:

Parties:

1. “Forest Service (FS)” means the United States Department of Agriculture-Forest Service (USDA-FS), represented by the Forest Supervisor of the **(name)** National Forest.

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23 - Exhibit 03--Continued

2. “Association” means the (name) Grazing Association, represented by the Board of Directors.
3. “Association Member” means a member of the (name) Grazing Association.

Lands:

4. “National Forest System (NFS) Lands” means federally owned forest, range, and related lands and resources throughout the United States and its territories. NFS lands include all National Forest lands reserved or withdrawn from the public domain of the United States, all National Forest lands acquired through purchase, exchange, donation, or other means, the National Grasslands and Land Utilization Projects administered under Title III of the Bankhead-Jones Farm Tenant Act, and other lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the system.
5. “Association Administered Lands” mean all lands identified in the grazing agreement upon which the grazing association is responsible for managing the rangeland resources and their member’s livestock use including, but not limited to, private, State, other agency, and NFS lands.
6. “Association Controlled Lands” mean private or State lands leased, owned, or waived to the Association, by a member or non-member, for management purposes.
7. “Waived Lands” means the private, State, and other agency lands within a grazing allotment on which the Association permits livestock numbers and seasons of use through issuance of an Association Term Private Land Grazing Permit or the “off” portion of an Association Term Grazing Permit. The member or non-member relinquishes control of the waived lands, for grazing purposes only, to the Association.
8. “Allotment” means an area of land, designated on a map, which includes NFS and/or non-NFS lands comprising a logical management unit for livestock grazing and management.

Documents:

9. “Grazing Agreement” is a type of term grazing permit that can be issued for a period not to exceed 10 years by the Forest Service to qualified grazing associations established under State law.

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23 - Exhibit 03--Continued

10. “Rules of Management (ROM)” is the set of Forest Service approved policies, procedures, and practices developed by the Association for their use in administering livestock grazing on the lands covered by this Agreement.
11. “Forest Service Policies and Procedures” mean those policies and procedures established by the Chief of the Forest Service (and supplemented by the Regional Forester and Forest Supervisor) in the Forest Service Directives system for use, management, and protection of NFS lands. With respect to rangeland management and the administration of livestock grazing on NFS lands, Forest Service policies and procedures are set forth in Chapter 2200 of the Forest Service Manual (FSM) and Forest Service Handbook (FSH) 2209.13 on grazing permit administration, and FSH 2209.16 on allotment management, and FSH 2209.16 on allotment management.
12. “Forest Plan” refers to the land management plan required by the National Forest Management Act of 1976, developed for each unit of the National Forest System that provides direction for the management of the lands and resources of that unit. The (name) Land Management Plan, as amended, establishes the kind of management practices that may occur and the timing and location of these practices, and became effective in (month and year).
13. “Allotment Management Plan (AMP)” is a document, prepared in consultation with the Association and the member(s) involved, that explains how a given set of objectives will be satisfied through a program of action that includes, but is not limited to, prescribing the manner in and extent to which livestock operations will be conducted in order to meet the multiple-use, sustained yield, economic, and other needs and objectives as determined for the lands involved; and describing the type, location, ownership, and general specifications for the range improvements in place or to be installed and maintained on the lands to meet the livestock grazing and other objectives of land management.
14. “Annual Operating Instructions (AOIs)” are detailed, Forest Service approved, instructions for livestock grazing administration to be implemented in any given year on a given allotment developed by the Association. AOIs are based on the AMP and may address number of livestock permitted to graze, season of use, responsibilities for improvement construction or maintenance, and pasture rotation schedules.
15. “Association Term Grazing Permit” is a grazing permit issued by the Association to a member authorizing livestock grazing on certain lands covered by this Agreement for a specific period not to exceed ten years or the expiration date of this Agreement, whichever is shorter. The holder has priority for receipt of a new permit upon expiration of the term grazing permit provided the holder has fully complied with the terms and conditions of the expiring permit.

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23 - Exhibit 03--Continued

16. “Association Temporary Grazing Permit” is a grazing permit issued by the Association for a period not to exceed one year to a member or non-member, and that has no priority for re-issuance.

Fees and Fee Computations:

17. “Grazing Value” is the monetary amount the Forest Service determines annually to be the value of grazing (by head-month for one cow/horse and one sheep/goat) on the National Forest covered by the Agreement.
18. “Grazing Fee” is the amount paid by the Association to the Forest Service in return for the privilege of grazing livestock on the NFS lands covered by the Agreement. On the National Forests in the West, the terms “grazing fee” and “grazing value” are the same because the fee is not reduced to complete required range improvement practices. Instead, Range Betterment Funds (RBF) are returned in subsequent years to carry out such authorized range improvement work.
19. “Animal-Unit (AU)” is considered to be one mature (1000-pound) cow, *with or without calf at side*, or the equivalent based upon average forage consumption of 26 pounds of dry matter per day. Five sheep or goats are the general equivalent of one cow.
20. “Animal-Unit Month (AUM)” refers to the amount of feed or forage required by an animal-unit for one month.
21. “Head-Month (HM)” is one month’s use and occupancy of the rangeland by one adult cow (with or without calf), bull, yearling (weaned steer or heifer), horse, burro, mule, bison, ewe (with or without lambs), ram, or goat.
22. “Excess Livestock” means any livestock owned or controlled by the holder of a grazing permit issued by the Association, but grazing on Association administered lands in greater numbers, or at times or places other than authorized in the grazing permit, Grazing Agreement, or authorized on the Bill for Collection.
23. “Unauthorized Livestock” means any livestock that is not authorized by permit to graze upon Association administered lands and which is not related to use authorized by a grazing permit.
24. “Unauthorized Use Rate” means the grazing fee charged for excess or unauthorized livestock use.

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23 - Exhibit 03--Continued

B. PURPOSE. The purpose of this Agreement is to:

1. Authorize the Association to administer its members livestock grazing activities on the lands covered by this Agreement consistent with applicable Federal law, regulation, Forest Service policies and procedures, and direction in the Forest Plan and AMPs.
2. Extend sound practices of rangeland resource management through demonstration and by working with other Federal, State, local, or private landowners to administer livestock grazing activities consistently across rangelands regardless of the ownerships involved.

C. THE PARTIES JOINTLY AGREE THAT:

1. Securing sound resource management on all lands covered by this Agreement is the principal objective of this Agreement.
2. They will cooperate with each other and assist individuals, local, State, and Federal agencies to demonstrate sound and practical principles of land use and resource management on the lands covered by this Agreement.
3. The vegetation resource will be developed to its reasonable sustainable potential to provide for all values and uses that include, but are not limited to, livestock grazing.
4. Livestock grazing is one of the many recognized multiple uses that occurs on the NFS lands covered by this Agreement.
5. Managing for sustainable rangelands provides for stability of family ranches and the communities of which they are part. The presence of working ranches in the West is necessary to maintain the open spaces that are needed for vistas, recreation opportunities, and to retain habitat and migration corridors for native species.
6. All of the multiple use activities occurring on the lands covered by this Agreement must be carried out consistent with the applicable laws and regulations governing the occupancy and use of NFS lands.
7. The Forest Service's authority to permit other uses or activities besides livestock grazing on the lands covered by this Agreement is not affected by this Agreement.
8. The Forest Service is responsible for the administration of grazing on NFS lands in accordance with applicable Federal law, regulation, Forest Service policies and procedures, and Forest Plan direction.

23 - Exhibit 03--Continued

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9. Through this Agreement, the Forest Service authorizes the Association to administer livestock grazing activities on those NFS lands shown in Exhibit A and described in Exhibit B.
10. By entering into this Agreement, the Association agrees to act as the Forest Service's permittee and is responsible for the matters pertaining to any livestock grazing use it distributes to its members through association-issued permits (which are not Forest Service grazing permits) and the administration of those permits for livestock grazing on the NFS lands shown in Exhibit A and described in Exhibit B. Administration shall be in accordance with applicable Federal law, regulation, Forest Service policies and procedures, and Forest or Grassland Plan direction.

D. FOREST SERVICE RESPONSIBILITIES. The Forest Service will:

1. Make available to the Association the NFS lands shown in Exhibit A and described in Exhibit B and the rangeland improvements described in Exhibit D for livestock grazing purposes.
2. Determine permitted numbers (animal units) and seasons of use for the NFS lands shown in Exhibit A and described in Exhibits B and F, in accordance with Forest Service policies and procedures.
3. Assist the Association in the determination of permitted numbers (animal units) and seasons of use for the Association controlled lands identified in Exhibit C.
4. Notify the Association on or before the **1st day of March** of each year of the grazing fee (charged on the head-month basis) to be paid for livestock use on the NFS lands identified in Exhibit B planned for the upcoming season of use.
5. Prepare AMPs in consultation and coordination with the Association and the affected member(s).
6. Review and approve the ROM developed by the Association if they are consistent with applicable law, regulation, Forest Service policies and procedures, Forest Plan direction, and the terms and conditions of this Agreement.
7. Perform improvement work, as deemed necessary or desirable, on NFS lands other than those improvements that are the responsibility of the Association under this Agreement.

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8. Reserve the right (but not the obligation) to take appropriate administrative action or to prosecute any act or omission involving violations of Federal law, regulation, or Forest Service policies or procedures pertaining to livestock grazing on NFS lands including, but not limited to, excess and unauthorized use, or compliance with the terms and conditions of this Agreement and the ROM.
9. Require the Association to implement appropriate structural and non-structural range improvements on Association administered lands that are necessary to obtain proper livestock use and resource management.
10. Furnish the Association with appropriate technical assistance necessary for implementation of required range improvements, and provide updated specifications as they become available.
11. Comply with the Freedom of Information Act (FOIA) and other relevant laws and regulations when responding to requests from the public for information pertaining to livestock grazing activities on NFS lands covered by this Agreement.
12. Audit the Association's records at least once every five years to assure the Association is in compliance with the terms and conditions of this Agreement and the ROM.
13. Agree to review disputes between Association members or between an Association member and the Association only after the affected parties have made a good faith effort to resolve the dispute between them.
14. Be responsible for any and all other activities related to the administration of livestock grazing and all other uses or activities on the NFS lands covered by this Agreement except those specifically delegated to the Association.

E. ASSOCIATION RESPONSIBILITIES. The Association will:

1. Develop Rules of Management (ROM) to facilitate administration of the livestock grazing activities authorized under this Agreement.
2. Submit the ROM to the Forest Service for review and approval. The ROM becomes a part and condition of the Grazing Agreement upon approval by the Forest Service.

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3. Issue Association term grazing permits on the lands covered by this Agreement for a period not to exceed ten years or the date of expiration of this Agreement, whichever is shorter. The current Association members are listed in Exhibit E.
4. Administer Association term and temporary grazing permits in conformance with applicable Federal law, regulation, policy and procedure, Forest Plan and AMP direction, and the approved ROM.
5. Provide input to the Forest Service regarding the development of AMPs for the lands covered by this Agreement and implement the approved AMPs.
6. Develop proposed annual operating instructions (AOIs) or other similar document prior to the beginning of the permitted grazing season with Forest Service assistance.
7. Submit the proposed AOIs to the Forest Service for review and approval.
8. Regularly monitor livestock grazing activities authorized under this Agreement to assure they are consistent with direction in the Forest Plan, AMPs, AOIs, and the ROM.
9. Timely pay all fees due the United States under this Agreement.
10. Implement and construct in a timely manner the rangeland improvements required by the Forest Service.
11. Maintain existing improvements listed in Exhibit D in a timely manner so that they serve their intended purpose and last for their expected lifetime.
12. Cooperate in livestock counting, marking, or ear-tagging programs as deemed necessary.
13. Promptly investigate allegations of violations of Association grazing permit terms and conditions by Association members, including those of excess livestock use.
14. Report to the Forest Service all claims of alleged permit violations and the Association's handling of those claims, including those of excess livestock use.
15. Take action, following the investigation of alleged permit violations, to suspend or cancel Association term grazing permits, in whole or in part, where appropriate. Where taken, permit action should be in cooperation with the Forest Service and be consistent with policies set forth in Forest Service Handbook 2209.13 at Chapter 10, Section 16.

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16. Attempt to resolve disputes between Association members or between an Association member and the Association before requesting assistance from the Forest Service.
17. Authorize Forest Service entry on Association controlled lands to determine whether the livestock grazing activities occurring thereon are consistent with applicable Federal law, regulation, Forest Service policies and procedures, and the terms and conditions of this Agreement.
18. Take all reasonable precautions to prevent unauthorized livestock use. Cooperate with the Forest Service in the prosecution or defense of any action related to the administration of livestock grazing on the lands covered by this Agreement, including charging for such use at the established unauthorized use rate.
19. Maintain records related to the administration of livestock grazing activities authorized by this Agreement that would otherwise be retained by the Forest Service if it were directly administering livestock grazing through Forest Service term grazing permits. Said records might include, but are not limited to: Association member eligibility and qualification requirements; Association grazing permits; documents pertaining to the investigation and enforcement of Association grazing permit terms and conditions; bills for collection; and actual use records.
20. Separate Association records unrelated to the administration of livestock grazing authorized by this Agreement from those records described in # 19 above.
21. Make available to the Forest Service upon request the records described in #19 above for inspection and copying. There shall be no deletions or redactions in the records and they shall be provided to the Forest Service free of charge.
22. Fully cooperate with the Forest Service in the timely processing of Freedom of Information Act (FOIA) requests for agency records pertaining to livestock grazing activities permitted under this Agreement that are in the possession of the Association.
23. Assure all Association members are in compliance with qualifying base property and livestock ownership requirements as set forth in Forest Service regulations, policies, and procedures.
24. Prepare as necessary, with Forest Service assistance, an annual plan of work for each employee of the Association.

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23 - Exhibit 03—Continued

F. ADDITIONAL REQUIREMENTS.

1. Holders of Association term grazing permits must satisfy the same eligibility and qualification requirements that apply to the holders of Forest Service term grazing permits.
2. This Agreement shall be issued for ten years unless the NFS land shown in Exhibit A and described in Exhibit B is pending disposal or will be devoted to a public purpose that precludes livestock grazing prior to the end of ten years; or if the Forest Service determines it is in the best interest of sound land management to specify a shorter term.
3. Association term grazing permits may be issued for up to ten years but may not extend beyond the expiration date of this Agreement.
4. This Agreement may be cancelled or modified by the Forest Service if the use of the NFS lands shown in Exhibit A and described in Exhibit B are required for military or national security purposes.
5. This Agreement may be modified at any time by the mutual consent of the parties.
6. This Agreement may be modified by the Forest Service thirty (30) days after written notice to the Association in order to bring the Agreement into conformance with changes in law, regulation, policy, Forest Plan direction, range improvement status, or grazing capacity associated with a change in the lands administered by the Association.
7. Violation of any of the terms and conditions of this Agreement may result in the suspension or cancellation of this Agreement.
8. Failure of the Association to promptly inspect and enforce where necessary alleged violations of this Agreement or Association grazing permit terms and conditions may lead to action by the Forest Service to suspend or cancel this Agreement.
9. This Agreement may not exceed ten years in length and expires on the **28th day of February, (insert year)**.
10. The permanent improvements on NFS lands identified in Exhibit D are the property of the United States unless specifically designated otherwise or authorized by a special use permit. Such improvements shall not be removed nor will the Association or its members receive any compensation for them if the Agreement is cancelled for noncompliance.

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CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 03—Continued

11. This Agreement is subject to all rules and regulations of the Secretary of Agriculture and may be suspended or cancelled, in whole or in part, for noncompliance therewith.
12. Any disagreement between the Association and the Forest Service regarding an interpretation of the Secretary's rules and regulations shall be resolved in favor of the Forest Service's interpretation.
13. If the Association disagrees with a decision by the authorized officer pertaining to the administration of grazing on the lands covered by this Agreement, it can request further review of the decision by the authorized officer. The Association may present its case in writing, orally, or both. If the Association remains dissatisfied after this review, it may file an administrative appeal or request mediation in accordance with 36 CFR 214.
14. If an Association member disagrees with an Association decision, the member must first seek review of the decision by the Association and only afterwards request review by the Authorized Officer. Association members may not appeal Forest Service or Association decisions related to the grazing authorized by this Agreement pursuant to 36 CFR 214.
15. No member of Congress shall be admitted to any share or part of this Agreement or to any benefit that may arise, unless it be made with a corporation for its general benefit.
16. The Association shall hold the United States harmless from all loss, expense, liability, or other obligation of any nature arising out of any accident or occurrence arising from, or on account of, negligent or other wrongful acts or omissions of the Association, its members, or any of its or their officers, directors, employees, agents, contractors, or subcontractors, or other persons acting on its or their behalf or under its or their control causing injury to persons or property while carrying out activities pursuant to this Grazing Agreement.
17. During the term and performance of the Agreement:
 - a. Any party subject to this agreement shall not discriminate against any persons or organizations on the basis of race, color, national origin, gender (in educational or training programs or activities), age, or disability and shall comply with the provisions of Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments Act of 1972, and the Age Discrimination Act of 1975. Civil Rights violations may be reported to the USDA Office of Civil Rights at <https://www.ascr.usda.gov/node/119>. The parties jointly agree that they will cooperate with each other and assist individuals in reporting any such violations to the USDA Office of Civil Rights.

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 03—Continued

b. The Association shall include and require compliance with the above nondiscrimination provisions in any written third party agreement made with respect to performance of this grazing agreement.

c. The Forest Service shall have the right to enforce the foregoing nondiscrimination provisions by requesting voluntary compliance, suit for specific performance, any other remedy available under the laws of the United States or the State in which the determination of a breach or violation has been made, or, finally, by cancellation of the Agreement under 36 C.F.R. 222.4(b).

19. Exhibits to this Agreement include:

Exhibit A. Map of All Lands Covered by this Agreement

Exhibit B. List of National Forest System Lands Covered by this Agreement

Exhibit C. List of State, Private, and Other Lands Covered by this Agreement

Exhibit D. List of Improvements Owned by the Forest Service

Exhibit E. Association Membership List

Exhibit F. List of Permitted AUMs for National Forest System, State, Private, and Other Lands on Allotments Covered by this Agreement

Signed this the **day of** , **(year)**

President

(name) GRAZING ASSOCIATION

(Address)

(City, State, Zip Code)

Signed this the **day of** , **(year)**

Forest Supervisor or District Ranger **(delete one)**

(name) National Forest

(Address)

(City, State, Zip Code)

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 – Exhibit 04

**Standard Grazing Agreement for Grazing Associations
Operating on National Forests in the Eastern and Southern Regions**

USDA-Forest Service

FS-2200-138

| | |
|---|------------------|
| GRAZING AGREEMENT for Grazing Associations Operating on National Forests in Regions 8 and 9 (Reference FSH 2209.13, Ch. 20) | Page 1 of 12 |
| | Permittee Number |
| | Permit Number |

**UNITED STATES DEPARTMENT OF AGRICULTURE
U.S. FOREST SERVICE**

AND

(name) GRAZING ASSOCIATION

GRAZING AGREEMENT # (Number/Name and Year)

THIS GRAZING AGREEMENT IS BETWEEN THE U.S. FOREST SERVICE, AN AGENCY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE (HEREINAFTER “THE FOREST SERVICE”), AND THE **(name)** GRAZING ASSOCIATION (HEREINAFTER “THE ASSOCIATION”), A GRAZING COOPERATIVE ESTABLISHED UNDER THE LAWS OF THE STATE OF **(name)**. THIS AGREEMENT IS THE ASSOCIATION’S TERM GRAZING PERMIT.

THIS AGREEMENT IS FOR THE ANNUAL PERMITTED USE OF **(number)** ANIMAL UNIT MONTHS OF GRAZING ON THAT PORTION OF THE **(name)** NATIONAL FOREST IN (names of all) COUNTY(IES) AS SET FORTH IN EXHIBITS A-F ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN.

A. DEFINITIONS. The words, grouped by category:

Parties:

1. “Forest Service (FS)” means the United States Department of Agriculture-Forest Service (USDA-FS), represented by the Forest Supervisor of the **(name)** National Forest.
2. “Association” means the **(name)** Grazing Association, represented by the Board of Directors.

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 04--Continued

3. “Association Member” means a member of the (name) Grazing Association.

Lands:

4. “National Forest System (NFS) Lands” means federally owned forest, range, and related lands and resources throughout the United States and its territories. NFS lands include all National Forest lands reserved or withdrawn from the public domain of the United States, all National Forest lands acquired through purchase, exchange, donation, or other means, the National Grasslands and Land Utilization Projects administered under Title III of the Bankhead-Jones Farm Tenant Act, and other lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the system.
5. “Association Administered Lands” mean all lands identified in the grazing agreement upon which the grazing association is responsible for managing the rangeland resources and their member’s livestock use including, but not limited to, private, State, other agency, and NFS lands.
6. “Association Controlled Lands” mean private or State lands leased, owned, or waived to the Association, by a member or non-member, for management purposes.
7. “Waived Lands” means the private, State, and other agency lands within a grazing allotment on which the Association permits livestock numbers and seasons of use through issuance of an Association Term Private Land Grazing Permit or the “off” portion of an Association Term Grazing Permit. The member or non-member relinquishes control of the waived lands, for grazing purposes only, to the Association.
8. “Allotment” means an area of land, designated on a map, which includes NFS and/or non-NFS lands comprising a logical management unit for livestock grazing and management.

Documents:

9. “Grazing Agreement” is a type of term grazing permit that can be issued for a period not to exceed 10 years by the Forest Service to qualified grazing associations established under State law.
10. “Rules of Management (ROM)” is the set of Forest Service approved policies, procedures, and practices developed by the Association for their use in administering livestock grazing on the lands covered by this Agreement.

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 04—Continued

11. “Forest Service Policies and Procedures” mean those policies and procedures established by the Chief of the Forest Service (and supplemented by the Regional Forester and Forest Supervisor) in the Forest Service Directives system for use, management, and protection of NFS lands. With respect to rangeland management and the administration of livestock grazing on NFS lands, Forest Service policies and procedures are set forth in Chapter 2200 of the Forest Service Manual (FSM) and Forest Service Handbook (FSH) 2209.13 on grazing permit administration, and FSH 2209.16 on allotment management.
12. “Forest Plan” refers to the land management plan required by the National Forest Management Act of 1976, developed for each unit of the National Forest System that provides direction for the management of the lands and resources of that unit. The (name) Land Management Plan, as amended, establishes the kind of management practices that may occur and the timing and location of these practices, and became effective in (month and year).
13. “Allotment Management Plan (AMP)” is a document, prepared in consultation with the Association and the member(s) involved, that explains how a given set of objectives will be satisfied through a program of action that includes, but is not limited to, prescribing the manner in and extent to which livestock operations will be conducted in order to meet the multiple-use, sustained yield, economic, and other needs and objectives as determined for the lands involved; and describing the type, location, ownership, and general specifications for the range improvements in place or to be installed and maintained on the lands to meet the livestock grazing and other objectives of land management.
14. “Annual Operating Instructions (AOIs)” are detailed, Forest Service approved, instructions for livestock grazing administration to be implemented in any given year on a given allotment developed by the Association. AOIs are based on the AMP and may address number of livestock permitted to graze, season of use, responsibilities for improvement construction or maintenance, and pasture rotation schedules.

Permits:

15. “Association Term Grazing Permit” is a grazing permit issued by the Association to a member authorizing livestock grazing on certain lands covered by this Agreement for a specific period not to exceed ten years or the expiration date of this Agreement, whichever is shorter. The holder has priority for receipt of a new permit upon expiration of the term grazing permit provided the holder has fully complied with the terms and conditions of the expiring permit.

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 04--Continued

16. "Association Temporary Grazing Permit" is a grazing permit issued by the Association for a period not to exceed one year to a member or non-member, and that has no priority for re-issuance.

Fees and Fee Computations:

17. "Grazing Value" is the monetary amount the Forest Service determines annually to be the value of grazing (by head-month for one cow/horse and one sheep/goat) on the National Forest covered by the Agreement.
18. "Grazing Fee" is the amount paid by the Association to the Forest Service in return for the privilege of grazing livestock on the NFS lands covered by the Agreement. On the National Forests in the East and South, the terms "grazing fee" and "grazing value" are the same. The fee can be reduced to complete required range improvement practices.
19. "Grazing Fee Credit" is a reduction in the annual grazing fee which the Forest Service requires to construct or develop a range improvement on a specific allotment. These improvements must involve costs which the permittee would not ordinarily incur.
20. "Animal-Unit (AU)" is considered to be one mature (1000-pound) cow, *with or without calf at side*, or the equivalent based upon average forage consumption of 26 pounds of dry matter per day. Five sheep or goats are the general equivalent of one cow.
21. "Animal-Unit Month (AUM)" refers to the amount of feed or forage required by an animal-unit for one month.
22. "Head-Month (HM)" is one month's use and occupancy of the rangeland by one adult cow (with or without calf), bull, yearling (weaned steer or heifer), horse, burro, mule, bison, ewe (with or without lambs), ram, or goat.
23. "Excess Livestock" means any livestock owned or controlled by the holder of a grazing permit issued by the Association, but grazing on Association administered lands in greater numbers, or at times or places other than authorized in the grazing permit, Grazing Agreement, or authorized on the Bill for Collection.
24. "Unauthorized Livestock" means any livestock that is not authorized by permit to graze upon Association administered lands and which is not related to use authorized by a grazing permit.
25. "Unauthorized Use Rate" means the grazing fee charged for excess or unauthorized

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

livestock use.

23 - Exhibit 04--Continued

B. PURPOSE. The purpose of this Agreement is to:

1. Authorize the Association to administer its members livestock grazing activities on the lands covered by this Agreement consistent with applicable Federal law, regulation, Forest Service policies and procedures, and direction in the Forest Plan and AMPs.
2. Extend sound practices of rangeland resource management through demonstration and by working with other federal, State, local, or private landowners to administer livestock grazing activities consistently across rangelands regardless of the ownerships involved.

C. THE PARTIES JOINTLY AGREE THAT:

1. Securing sound resource management on all lands covered by this Agreement is the principal objective of this Agreement.
2. They will cooperate with each other and assist individuals, local, State, and Federal agencies to demonstrate sound and practical principles of land use and resource management on the lands covered by this Agreement.
3. The vegetation resource will be developed to its reasonable sustainable potential to provide for all values and uses that include, but are not limited to, livestock grazing.
4. Livestock grazing is one of the many recognized multiple uses that occurs on the NFS lands covered by this Agreement.
5. Managing for sustainable rangelands provides for stability of family ranches and the communities of which they are part. The presence of working farms and ranches in the eastern and southern regions is necessary to maintain the open spaces that are needed for vistas, recreation opportunities, and to retain habitat and migration corridors for native species.
6. All of the multiple use activities occurring on the lands covered by this Agreement must be carried out consistent with the applicable laws and regulations governing the occupancy and use of NFS lands.
7. The Forest Service's authority to permit other uses or activities besides livestock grazing on the lands covered by this Agreement is not affected by this Agreement.

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 04--Continued

8. The Forest Service is responsible for the administration of grazing on NFS lands in accordance with applicable Federal law, regulation, Forest Service policies and procedures, and Forest or Grassland Plan direction.
9. Through this Agreement, the Forest Service authorizes the Association to administer livestock grazing activities on those NFS lands shown in Exhibit A and described in Exhibit B.
10. By entering into this Agreement, the Association agrees to act as the Forest Service's permittee and is responsible for the matters pertaining to any livestock grazing use it distributes to its members through association-issued permits (which are not Forest Service grazing permits) and the administration of those permits for livestock grazing on the NFS lands shown in Exhibit A and described in Exhibit B. Administration shall be in accordance with applicable Federal law, regulation, Forest Service policies and procedures, and Forest or Grassland Plan direction.

D. FOREST SERVICE RESPONSIBILITIES. The Forest Service will:

1. Make available to the Association the NFS lands shown in Exhibit A and described in Exhibit B and the rangeland improvements described in Exhibit D for livestock grazing purposes.
2. Determine permitted numbers (animal units) and seasons of use for the NFS lands shown in Exhibit A and described in Exhibits B and F, in accordance with Forest Service policies and procedures.
3. Assist the Association in the determination of permitted numbers (animal units) and seasons of use for the Association controlled lands identified in Exhibit C.
4. Notify the Association on or before the **1st day of March** of each year of the grazing fee (charged on the head-month basis) to be paid for livestock use on the NFS lands identified in Exhibit B planned for the upcoming season of use.
5. Prepare AMPs in consultation and coordination with the Association and the affected member(s).
6. Review and approve the ROM developed by the Association if they are consistent with applicable law, regulation, Forest Service policies and procedures, Forest Plan direction, and the terms and conditions of this Agreement.

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 04--Continued

7. Perform improvement work, as deemed necessary or desirable, on NFS lands other than those improvements that are the responsibility of the Association under this Agreement.
8. Reserve the right (but not the obligation) to take appropriate administrative action or to prosecute any act or omission involving violations of Federal law, regulation, or Forest Service policies or procedures pertaining to livestock grazing on NFS lands including, but not limited to, excess and unauthorized use, or compliance with the terms and conditions of this Agreement and the ROM.
9. Require the Association to implement appropriate structural and non-structural range improvements on Association administered lands that are necessary to obtain proper livestock use and resource management.
10. Furnish the Association with appropriate technical assistance necessary for implementation of required range improvements, and provide updated specifications as they become available.
11. Comply with the Freedom of Information Act (FOIA) and other relevant laws and regulations when responding to requests from the public for information pertaining to livestock grazing activities on NFS lands covered by this Agreement.
12. Audit the Association's records at least once every five years to assure the Association is in compliance with the terms and conditions of this Agreement and the ROM.
13. Agree to review disputes between Association members or between an Association member and the Association only after the affected parties have made a good faith effort to resolve the dispute between them.
14. Be responsible for any and all other activities related to the administration of livestock grazing and all other uses or activities on the NFS lands covered by this Agreement except those specifically delegated to the Association.

E. ASSOCIATION RESPONSIBILITIES. The Association will:

1. Develop Rules of Management (ROM) to facilitate administration of the livestock grazing activities authorized under this Agreement.
2. Submit the ROM to the Forest Service for review and approval. The ROM becomes a part and condition of the Grazing Agreement upon approval by the Forest Service.

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 04--Continued

3. Issue Association term grazing permits on the lands covered by this Agreement for a period not to exceed ten years or the date of expiration of this Agreement, whichever is shorter. The current Association members are listed in Exhibit E.
4. Administer Association term and temporary grazing permits in conformance with applicable Federal law, regulation, policy and procedure, Forest Plan and AMP direction, and the approved ROM.
5. Provide input to the Forest Service regarding the development of AMPs for the lands covered by this Agreement and implement the approved AMPs.
6. Develop proposed annual operating instructions (AOIs) or other similar document prior to the beginning of the permitted grazing season with Forest Service assistance.
7. Submit the proposed AOIs to the Forest Service for review and approval.
8. Regularly monitor livestock grazing activities authorized under this Agreement to assure they are consistent with direction in the Forest Plan, AMPs, AOIs, and the ROM.
9. Timely pay all fees due the United States under this Agreement.
10. Implement and construct in a timely manner the rangeland improvements required by the Forest Service.
11. Maintain existing improvements listed in Exhibit D in a timely manner so that they serve their intended purpose and last for their expected lifetime.
12. Cooperate in livestock counting, marking, or ear-tagging programs as deemed necessary.
13. Promptly investigate allegations of violations of Association grazing permit terms and conditions by Association members, including those of excess livestock use.
14. Report to the Forest Service all claims of alleged permit violations and the Association's handling of those claims, including those of excess livestock use.
15. Take action, following the investigation of alleged permit violations, to suspend or cancel Association term grazing permits, in whole or in part, where appropriate. Where taken, permit action should be in cooperation with the Forest Service and be consistent with policies set forth in Forest Service Handbook 2209.13 at Chapter 10, Section 16.

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 04--Continued

16. Attempt to resolve disputes between Association members or between an Association member and the Association before requesting assistance from the Forest Service.
17. Authorize Forest Service entry on Association controlled lands to determine whether the livestock grazing activities occurring thereon are consistent with applicable Federal law, regulation, Forest Service policies and procedures, and the terms and conditions of this Agreement.
18. Take all reasonable precautions to prevent unauthorized livestock use. Cooperate with the Forest Service in the prosecution or defense of any action related to the administration of livestock grazing on the lands covered by this Agreement, including charging for such use at the established unauthorized use rate.
19. Maintain records related to the administration of livestock grazing activities authorized by this Agreement that would otherwise be retained by the Forest Service if it were directly administering livestock grazing through Forest Service term grazing permits. Said records might include, but are not limited to: Association member eligibility and qualification requirements; Association grazing permits; documents pertaining to the investigation and enforcement of Association grazing permit terms and conditions; bills for collection; and actual use records.
20. Separate Association records unrelated to the administration of livestock grazing authorized by this Agreement from those records described in # 19 above.
21. Make available to the Forest Service upon request the records described in #19 above for inspection and copying. There shall be no deletions or redactions in the records and they shall be provided to the Forest Service free of charge.
22. Fully cooperate with the Forest Service in the timely processing of Freedom of Information Act (FOIA) requests for agency records pertaining to livestock grazing activities permitted under this Agreement that are in the possession of the Association.
23. Assure all Association members are in compliance with qualifying base property and livestock ownership requirements as set forth in Forest Service regulations, policies, and procedures.
24. Prepare as necessary, with Forest Service assistance, an annual plan of work for each employee of the Association.

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 04--Continued

F. ADDITIONAL REQUIREMENTS.

1. Holders of Association term grazing permits must satisfy the same eligibility and qualification requirements that apply to the holders of Forest Service term grazing permits.
2. This Agreement shall be issued for ten years unless the NFS land shown in Exhibit A and described in Exhibit B is pending disposal or will be devoted to a public purpose that precludes livestock grazing prior to the end of ten years; or if the Forest Service determines it is in the best interest of sound land management to specify a shorter term.
3. Association term grazing permits may be issued for up to ten years but may not extend beyond the expiration date of this Agreement.
4. This Agreement may be cancelled or modified by the Forest Service if the use of the NFS lands shown in Exhibit A and described in Exhibit B are required for military or national security purposes.
5. This Agreement may be modified at any time by the mutual consent of the parties.
6. This Agreement may be modified by the Forest Service thirty (30) days after written notice to the Association in order to bring the Agreement into conformance with changes in law, regulation, policy, Forest Plan direction, range improvement status, or grazing capacity associated with a change in the lands administered by the Association.
7. Violation of any of the terms and conditions of this Agreement may result in the suspension or cancellation of this Agreement.
8. Failure of the Association to promptly inspect and enforce where necessary alleged violations of this Agreement or Association grazing permit terms and conditions may lead to action by the Forest Service to suspend or cancel this Agreement.
9. This Agreement may not exceed ten years in length and expires on the **28th day of February, (insert year)**.
10. The permanent improvements on NFS lands identified in Exhibit D are the property of the United States unless specifically designated otherwise or authorized by a special use permit. Such improvements shall not be removed nor will the Association or its members receive any compensation for them if the Agreement is cancelled.

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 04--Continued

11. This Agreement is subject to all rules and regulations of the Secretary of Agriculture and may be suspended or cancelled, in whole or in part, for noncompliance therewith.
12. Any disagreement between the Association and the Forest Service regarding an interpretation of the Secretary's rules and regulations shall be resolved in favor of the Forest Service's interpretation.
13. If the Association disagrees with a decision by the authorized officer pertaining to the administration of grazing on the lands covered by this Agreement, it can request further review of the decision by the authorized officer. The Association may present its case in writing, orally, or both. If the Association remains dissatisfied after this review, it may file an administrative appeal or request mediation in accordance with 36 CFR 214.
14. If an Association member disagrees with an Association decision, the member must first seek review of the decision by the Association and only afterwards request review by the Authorized Officer. Association members may not appeal Forest Service or Association decisions related to the grazing authorized by this Agreement pursuant to 36 CFR 214.
15. No member of Congress shall be admitted to any share or part of this Agreement or to any benefit that may arise, unless it be made with a corporation for its general benefit.
16. The Association shall hold the United States harmless from all loss, expense, liability, or other obligation of any nature arising out of any accident or occurrence arising from, or on account of, negligent or other wrongful acts or omissions of the Association, its members, or any of its or their officers, directors, employees, agents, contractors, or subcontractors, or other persons acting on its or their behalf or under its or their control causing injury to persons or property while carrying out activities pursuant to this Grazing Agreement.
17. During the term and performance of the Agreement:
 - a. Any party subject to this agreement shall not discriminate against any persons or organizations on the basis of race, color, national origin, gender (in educational or training programs or activities), age, or disability and shall comply with the provisions of Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments Act of 1972, and the Age Discrimination Act of 1975. Civil Rights violations may be reported to the USDA Office of Civil Rights at <https://www.ascr.usda.gov/node/119>. The parties jointly agree that they will cooperate with each other and assist individuals in reporting any such violations to the USDA Office of Civil Rights.

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 04--Continued

b. The Association shall include and require compliance with the above nondiscrimination provisions in any written third party agreement made with respect to performance of this grazing agreement.

c. The Forest Service shall have the right to enforce the foregoing nondiscrimination provisions by requesting voluntary compliance, suit for specific performance, any other remedy available under the laws of the United States or the State in which the determination of a breach or violation has been made, or, finally, by cancellation of the Agreement under 36 C.F.R. 222.4(b).

19. Exhibits to this Agreement include:

Exhibit A. Map of All Lands Covered by this Agreement

Exhibit B. List of National Forest System Lands Covered by this Agreement

Exhibit C. List of State, Private, and Other Lands Covered by this Agreement

Exhibit D. List of Improvements Owned by the Forest Service

Exhibit E. Association Membership List

Exhibit F. List of Permitted AUMs for National Forest System, State, Private, and Other Lands on Allotments Covered by this Agreement

Signed this the ___ **day of** _____, **(year)**

President

(name) Grazing Association

(Address)

(City, State, Zip Code)

Signed this the ___ **day of** _____, **(year)**

Forest Supervisor or District Ranger (**delete one**)

(name) National Forest

(Address)

(City, State, Zip Code)

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 05

**Standard Grazing Agreement for Indian Tribes Exercising Treaty Rights
on National Forest System Lands**

USDA-Forest Service

FS-2200-139

| | |
|--|------------------|
| GRAZING AGREEMENT for Indian Tribes Exercising Treaty Rights on National Forest System Lands (Reference FSH 2209.13, Ch. 50) | Page 1 of 11 |
| | Permittee Number |
| | Permit Number |

**UNITED STATES DEPARTMENT OF AGRICULTURE
U.S. FOREST SERVICE**

AND

(Name) TRIBE

GRAZING AGREEMENT # **(Number/Name and Year)**

THIS GRAZING AGREEMENT IS BETWEEN THE U.S. FOREST SERVICE, AN AGENCY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE (HEREINAFTER "THE FOREST SERVICE"), AND THE **(name)** TRIBE (HEREINAFTER "THE TRIBE"). THIS AGREEMENT IS THE TRIBE'S TERM GRAZING PERMIT ISSUED TO EXERCISE TREATY RIGHTS ON NATIONAL FOREST SYSTEM LANDS.

THIS AGREEMENT IS FOR THE ANNUAL PERMITTED USE OF **(number)** ANIMAL UNIT MONTHS OF GRAZING ON THAT PORTION OF THE **(name)** NATIONAL FOREST IN (names of all) COUNTY(IES) AS SET FORTH IN EXHIBITS A-E ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN.

A. DEFINITIONS. The words, grouped by category:

Parties:

1. "Forest Service (FS)" means the United States Department of Agriculture-Forest Service (USDA-FS), represented by the Forest/Grassland Supervisor of the **(name)** National Forest or Grassland.
2. "Tribe" means the **(name)** Tribe, represented by the **(Tribal Council)**.

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 05--Continued

3. “Tribal Member” means an enrolled member of the (name) Tribe.

Lands:

4. “National Forest System (NFS) Lands” means federally owned forest, range, and related lands and resources throughout the United States and its territories. NFS lands include all National Forest lands reserved or withdrawn from the public domain of the United States, all National Forest lands acquired through purchase, exchange, donation, or other means, the National Grasslands and Land Utilization Projects administered under Title III of the Bankhead-Jones Farm Tenant Act, and other lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the system.
5. “Tribal Administered Lands” mean all lands identified in the grazing agreement upon which the Tribe is responsible for managing the rangeland resources and their member’s livestock use while exercising their treaty rights. These lands may include, but not limited to, private, State, other agency, and NFS lands. They may also include tribal trust, grant, ceded, or traditional use lands.
6. “Tribal Controlled Lands” mean private or State lands leased, owned, or waived to the Tribe, by a member or non-member, for management purposes.
7. “Allotment” means an area of land, designated on a map, which includes NFS and/or non-NFS lands comprising a logical management unit for livestock grazing and management. The allotment may or may not include tribal trust, grant, ceded, or traditional use lands.

Documents:

8. “Grazing Agreement” is a type of term grazing permit that can be issued for a period not to exceed 10 years by the Forest Service to a qualified Tribe exercising their treaty rights or privileges of grazing livestock.
9. “Rules of Management (ROM)” is the set of Forest Service approved policies, procedures, and practices developed by the Tribe for their use in administering treaty rights or privileges for livestock grazing on the lands covered by this Agreement.
10. “Forest Service Policies and Procedures” mean those policies and procedures established by the Chief of the Forest Service (and supplemented by the Regional Forester and Forest Supervisor) in the Forest Service Directives system for use, management, and protection

**FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK
CHAPTER 20 - GRAZING AGREEMENTS**

23 - Exhibit 05--Continued

of NFS lands. With respect to rangeland management and the administration of livestock grazing on NFS lands, Forest Service policies and procedures are set forth in Chapter 2200 of the Forest Service Manual (FSM) and Forest Service Handbook (FSH) 2209.13 on grazing permit administration, and FSH 2209.16 on allotment management.

11. “Forest or Grassland Plan” refers to the land management plan required by the National Forest Management Act of 1976, developed for each unit of the National Forest System that provides direction for the management of the lands and resources of that unit. The (name) Land Management Plan, as amended, establishes the kind of management practices that may occur and the timing and location of these practices, and became effective in (month and year).
12. “Allotment Management Plan (AMP)” is a document, prepared in consultation with the Tribe and the member(s) involved, that explains how a given set of objectives will be satisfied through a program of action that includes, but is not limited to, prescribing the manner in and extent to which livestock operations will be conducted in order to meet the multiple-use, sustained yield, economic, and other needs and objectives as determined for the lands involved; and describing the type, location, ownership, and general specifications for the range improvements in place or to be installed and maintained on the lands to meet the livestock grazing and other objectives of land management.
13. “Annual Operating Instructions (AOIs)” are detailed, Forest Service approved, instructions for livestock grazing administration to be implemented in any given year on a given allotment developed by the Tribe and the member(s) involved. AOIs are based on the AMP and may address number of livestock permitted to graze, season of use, responsibilities for improvement construction or maintenance, and pasture rotation schedules.

Permits:

14. “Tribal Term Grazing Permit” is a grazing permit which may be issued by the Tribe to an enrolled member authorizing livestock grazing on certain lands covered by this Agreement for a specific period not to exceed ten years or the expiration date of this Agreement, whichever is shorter.
15. “Tribal Temporary Grazing Permit” is a grazing permit which may be issued by the Tribe for a period not to exceed one year to an enrolled member.

Grazing Fees and Grazing Stocking Computations:

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16. “Grazing Fee” is the amount charged annually by the Forest Service for the privilege of grazing livestock on the NFS lands. The Forest Service shall not charge a fee for any Indian tribe exercising its treaty right or privilege to graze livestock on NFS lands.
17. “Animal-Unit (AU)” is considered to be one mature (1000-pound) cow, *with or without calf at side*, or the equivalent based upon average forage consumption of 26 pounds of dry matter per day. Five sheep or goats are the general equivalent of one cow.
18. “Animal-Unit Month (AUM)” refers to the amount of feed or forage required by an animal-unit for one month.
19. “Head-Month (HM)” is one month’s use and occupancy of the rangeland by one adult cow (with or without calf), bull, yearling (weaned steer or heifer), horse, burro, mule, bison, ewe (with or without lambs), ram, or goat.
20. “Excess Livestock” means any livestock owned or controlled by the holder of a grazing permit issued by the Tribe, but grazing on tribal administered lands in greater numbers, or at times or places other than authorized in the grazing permit or Grazing Agreement.
21. “Unauthorized Livestock” means any livestock that is not authorized by permit to graze upon tribal administered lands and which is not related to use authorized by a grazing permit.
22. “Unauthorized Use Rate” means the grazing fee charged for unauthorized livestock use on tribal administered lands.

B. PURPOSE. The purpose of this Agreement is to:

1. Authorize the tribe to exercise its treaty rights and administer its enrolled member(s) livestock grazing activities on the lands covered by this Agreement consistent with applicable Federal law, regulation, Forest Service policies and procedures, and direction in the Forest/Grassland Plan and AMPs.
2. Extend sound practices of rangeland resource management through demonstration and by working with other Federal, State, local, or private landowners, including other Forest Service permittees who may be grazing in the same allotment(s), to administer livestock grazing activities consistently across rangelands regardless of the land ownerships involved.

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C. THE PARTIES JOINTLY AGREE THAT:

1. Exercising tribal treaty grazing rights and privileges, as well as securing sound resource management on all lands covered by this Agreement, is the principal objective of this Agreement.
2. They will cooperate with each other and assist individuals, local, State, and Federal agencies to demonstrate sound and practical principles of land use and resource management on the lands covered by this Agreement.
3. The vegetation resource will be developed to its reasonable sustainable potential to provide for all values and uses that include, but are not limited to, livestock grazing.
4. Livestock grazing is one of the many recognized multiple uses that occurs on the NFS lands covered by this Agreement.
5. Managing for sustainable rangelands provides for stability of Tribal operators and the communities of which they are part. The presence of working ranches on intermingled lands is both desirable and necessary to maintain the open spaces that are needed for vistas, recreation opportunities, and to retain habitat and migration corridors for native species.
6. All of the multiple use activities occurring on the lands covered by this Agreement must be carried out consistent with the applicable laws and regulations governing the occupancy and use of NFS lands.
7. The Forest Service's authority to permit other uses or activities besides livestock grazing on the lands covered by this Agreement is not affected by this Agreement.
8. The Forest Service is responsible for the administration of grazing on NFS lands in accordance with applicable Federal law, regulation, Forest Service policies and procedures, and Forest or Grassland Plan direction.
9. Through this Agreement, the Forest Service authorizes the tribe to administer treaty grazing rights and privileges for livestock grazing activities on those NFS lands shown in Exhibit A and described in Exhibit B.

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10. By entering into this Agreement, the Tribe agrees to act as the Forest Service's permittee and is responsible for the matters pertaining to any livestock grazing use it distributes to its members through Tribal-issued permits (which are not Forest Service grazing permits) and the administration of those permits for livestock grazing on the NFS lands shown in Exhibit A and described in Exhibit B. Administration shall be in accordance with applicable Federal law, regulation, Forest Service policies and procedures, and Forest or Grassland Plan direction.

D. FOREST SERVICE RESPONSIBILITIES. The Forest Service will:

1. Make available to the Tribe the NFS lands shown in Exhibit A and described in Exhibit B and the rangeland improvements described in Exhibit D for livestock grazing purposes.
2. Determine permitted numbers (animal units) and seasons of use for the NFS lands shown in Exhibit A and described in Exhibits B and F, in accordance with Forest Service policies and procedures.
3. Assist the Tribe in the determination of permitted numbers (animal units) and seasons of use for the tribal controlled lands identified in Exhibit C.
4. Prepare AMPs in consultation and coordination with the Tribe and the affected member(s).
5. Review and approve the ROM developed by the Tribe if they are consistent with applicable law, regulation, Forest Service policies and procedures, Forest or Grassland Plan direction, and the terms and conditions of this Agreement.
6. Perform improvement work, as deemed necessary or desirable, on NFS lands other than those improvements that are the responsibility of the Tribe under this Agreement.
7. Reserve the right (but not the obligation) to take appropriate administrative action or to prosecute any act or omission involving violations of Federal law, regulation, or Forest Service policies or procedures pertaining to livestock grazing on NFS lands including, but not limited to, excess and unauthorized use, or compliance with the terms and conditions of this Agreement and the ROM.
8. Require the Tribe to implement appropriate structural and non-structural range improvements on tribal administered lands that are necessary to obtain proper livestock use and resource management.

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9. Furnish the Tribe with appropriate technical assistance necessary for implementation of required range improvements, and provide updated specifications as they become available.
10. Comply with the Freedom of Information Act (FOIA) and other relevant laws and regulations when responding to requests from the public for information pertaining to livestock grazing activities on NFS lands covered by this Agreement.
11. Be responsible for any and all other activities related to the administration of livestock grazing and all other uses or activities on the NFS lands covered by this Agreement except those specifically delegated to the Tribe.

E. TRIBAL RESPONSIBILITIES. The Tribe will:

1. Develop Rules of Management (ROM) to facilitate administration of the livestock grazing activities authorized under this Agreement.
2. Submit the ROM to the Forest Service for review and approval. The ROM becomes a part and condition of the Grazing Agreement upon approval by the Forest Service.
3. Issue tribal term grazing permits to enrolled member(s) on the lands covered by this Agreement for a period not to exceed ten years or the date of expiration of this Agreement, whichever is shorter.
4. Administer tribal term and temporary grazing permits in conformance with applicable Federal law, regulation, policy and procedure, Forest or Grassland Plan and AMP direction, and the approved ROM.
5. Provide input to the Forest Service regarding the development of AMPs for the lands covered by this Agreement and implement the approved AMPs.
6. Develop proposed annual operating instructions (AOIs) or other similar document prior to the beginning of the permitted grazing season with Forest Service assistance.
7. Submit the proposed AOIs to the Forest Service for review and approval.
8. Regularly monitor livestock grazing activities authorized under this Agreement to assure they are consistent with direction in the Forest or Grassland Plan, AMPs, AOIs, and the ROM.

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9. Implement and construct in a timely manner the rangeland improvements required by the Forest Service.
10. Maintain existing improvements listed in Exhibit D in a timely manner so that they serve their intended purpose and last for their expected lifetime.
11. Cooperate in livestock counting, marking, or ear-tagging programs as deemed necessary.
12. Promptly investigate allegations of violations of tribal grazing permit terms and conditions by tribal members, including those of excess livestock use.
13. Report to the Forest Service all claims of alleged permit violations and the tribe's handling of those claims, including those of excess livestock use.
14. Take action, following the investigation of alleged permit violations, to suspend or cancel tribal term grazing permits, in whole or in part, where appropriate.
15. Authorize Forest Service entry on tribal controlled lands in the grazing allotment(s) to determine whether the livestock grazing activities occurring thereon are consistent with applicable Federal law, regulation, Forest Service policies and procedures, and the terms and conditions of this Agreement.
16. Take all reasonable precautions to prevent unauthorized livestock use. Cooperate with the Forest Service in the prosecution or defense of any action related to the administration of livestock grazing on the lands covered by this Agreement, including charging for such use at the established unauthorized use rate.
17. Maintain tribal records related to the administration of livestock grazing activities authorized by this Agreement that would otherwise be retained by the Forest Service if it were directly administering livestock grazing through Forest Service term grazing permits.
18. Make available to the Forest Service upon request the records described in #17 above for inspection and copying. There shall be no deletions or redactions in the records and they shall be provided to the Forest Service free of charge.
19. Fully cooperate with the Forest Service in the timely processing of Freedom of Information Act (FOIA) requests for agency records pertaining to livestock grazing activities permitted under this Agreement that are in the possession of the Tribe.

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20. Assure all Tribal members are in compliance with the appropriate qualifying base property and livestock ownership requirements as set forth in Forest Service regulations, policies, and procedures.

F. ADDITIONAL REQUIREMENTS.

1. Enrolled members who hold tribal term grazing permits must satisfy the same eligibility and qualification requirements that apply to the holders of Forest Service term grazing permits.
2. This Agreement shall be issued for ten years unless the NFS land shown in Exhibit A and described in Exhibit B is pending disposal or will be devoted to a public purpose that precludes livestock grazing prior to the end of ten years; or if the Forest Service determines it is in the best interest of sound land management to specify a shorter term.
3. Tribal term grazing permits may be issued for up to ten years but may not extend beyond the expiration date of this Agreement.
4. This Agreement may be cancelled by the Forest Service if the use of the NFS lands shown in Exhibit A and described in Exhibit B are required for military or national security purposes.
5. This Agreement may be modified at any time by the mutual consent of the parties.
6. This Agreement may be modified by the Forest Service thirty (30) days after written notice to the Tribe in order to bring the Agreement into conformance with changes in law, regulation, policy, Forest or Grassland Plan direction, range improvement status, or grazing capacity associated with a change in the lands administered by the Tribe.
7. Violation of any of the terms and conditions of this Agreement may result in the suspension or cancellation of this Agreement.
8. Failure of the Tribe to promptly inspect and enforce where necessary alleged violations of this Agreement or tribal grazing permit terms and conditions may lead to action by the Forest Service to suspend or cancel this Agreement.
9. This Agreement may not exceed ten years in length and expires on the **28th day of February, (insert year)**.

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10. The permanent improvements on NFS lands identified in Exhibit D are the property of the United States unless specifically designated otherwise or authorized by a special use permit. Such improvements shall not be removed nor will the Tribe or its members receive any compensation for them if the Agreement is cancelled for noncompliance.
11. This Agreement is subject to all rules and regulations of the Secretary of Agriculture and may be suspended or cancelled, in whole or in part, for noncompliance therewith.
12. Any disagreement between the tribe and the Forest Service regarding an interpretation of the Secretary's rules and regulations shall be resolved in favor of the Forest Service's interpretation.
13. If the tribe disagrees with a decision by the authorized officer pertaining to the administration of grazing on the lands covered by this Agreement, it can request further review of the decision by the authorized officer. The tribe may present its case in writing, orally, or both. If the tribe remains dissatisfied after this review, it may file an administrative appeal or request mediation in accordance with 36 CFR 214.
14. The Tribe shall hold the United States harmless from all loss, expense, liability, or other obligation of any nature arising out of any accident or occurrence arising from, or on account of, negligent or other wrongful acts or omissions of the Tribe, its members, or any of its or their officers, directors, employees, agents, contractors, or subcontractors, or other persons acting on its or their behalf or under its or their control causing injury to persons or property while carrying out activities pursuant to this Grazing Agreement.
15. Exhibits to this Agreement include:
 - Exhibit A.** Map of All Lands Covered by this Agreement
 - Exhibit B.** List of National Forest System Lands Covered by this Agreement
 - Exhibit C.** List of State, Private, and Other Lands Covered by this Agreement
 - Exhibit D.** List of Improvements Owned by the Forest Service
 - Exhibit E.** List of Permitted AUMs for National Forest System, State, Private, and Other Lands on Allotments Covered by this Agreement

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Signed this the ___ **day of** _____, **(year)**

(Tribal Official)

(Title)

(Name) TRIBE

(Address)

(City, State, Zip Code)

Signed this the ___ **day of** _____, **(year)**

Forest/Grassland Supervisor

(Name) National Forest or Grassland

(Address)

(City, State, Zip Code)

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23.2 - Annual Modification for Changes in Lands or Improvements

The grazing agreement requires that the Forest Service notify the association of all proposed as well as recent changes in lands and/or improvements included in the agreement and the reasons for the changes.

Although there may be other circumstances, this notification is most often done annually at the beginning of the new fee year (March 1) because it involves informing the association of additional improvements constructed during the previous field season, and a listing of NFS lands added or subtracted during the previous year, if and when applicable, usually as a result of a finalized land exchange. The District Ranger can inform the association by letter, but some Districts use a local form, especially for the annual updates.

As applicable, include with the annual notice:

1. A revised map of the area included in the grazing agreement;
2. A revised listing, by legal or other description, of acreages covered by the agreement;
3. A revised listing of improvements to be maintained by the association.

24 - RULES OF MANAGEMENT (ROM)

The primary purpose of the ROM is to provide a grazing association with a practical, fair, simple, and consistent system of rules and guidelines to administer livestock grazing on all lands covered by a grazing agreement, regardless of ownership, and to distribute grazing privileges fairly and equitably to all qualified members. Forest Service approved ROM become a required part and condition of the grazing agreement.

As provided in the grazing agreement, the grazing association shall be responsible for the initial development of ROM, in consultation with the Forest Service, and using chapters 10, 20, and 30 of this handbook as a guide. Once developed, the association shall submit its proposed ROM to the Forest Service authorized officer for review and approval. The Forest Service authorized officer shall approve the association's proposed ROM if they are consistent with applicable law, regulations, policy, and the terms and conditions of the grazing agreement between the Forest Service and the association.

While legitimate differences may exist between how grazing associations choose to conduct their business and serve their members, consistency in meeting law, regulation, policy, and LMP direction is both necessary and required. Therefore, in carrying out its review, the Forest Service authorized officer shall compare the ROM submitted by the association with federal law, regulation and the Forest Service policies and procedures in this Handbook. Unless otherwise specified in this chapter, the Forest Service authorized officer will not approve provisions in the

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ROM that violate or are otherwise inconsistent with federal law, regulation or the policies within this Handbook.

Rules of Management for a specific association may need to be more restrictive than its bylaws or articles of incorporation to ensure conformance with federal law, regulation and Forest Service policy and/or procedure.

There may be times where the association's ROM might be more restrictive than federal law, regulation or Forest Service policy and/or procedure but they cannot be less restrictive. Each such circumstance must be evaluated on a case-by-case basis to determine if the association's proposed policy is allowable. For example, the Board would not be allowed to establish a policy of five consecutive years of non-use for personal convenience for their members since that is more lenient than the Forest Service's policy of only three consecutive years. However, the Board could require a more restrictive location for qualifying base property than the FS does, or they could require their members to pay a higher fee for excess use than the FS charges because both are more restrictive than the agency's policy and procedure.

A sample Table of Contents (exhibit 01) displays the components that should be included and discussed in the Rules of Management.

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24 – Exhibit 01

Sample Table of Contents for a Rules of Management

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When associations administer grazing by their members on both private and public lands, the rules of management must provide a practical means for carrying out the management program on all land ownerships. They must also describe how grazing privileges will be distributed fairly and equitably to all qualified applicants. Each rule of management shall apply to all lands covered by the grazing agreement.

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Rules of management for associations that administer grazing by their members on NFS lands and association-controlled lands may, to the extent necessary, include the following exceptions to standard Forest Service procedures:

1. Associations may issue grazing permits regulating all livestock that the individual member may graze on lands owned and controlled by the association and on the member's intermingled owned and leased lands inside the allotments.
2. The authorized officer gives the authority to approve member non-use for personal convenience to the association. With agreements, the stipulations concerning non-use (personal use and resource protection) apply to the individual member and not to the association itself.
3. Whenever a member violates any of the terms and conditions of the grazing agreement, association bylaws, or the regulation, limitations, or restrictions imposed by the association pursuant to these bylaws, that member's permit shall be subject to suspension or cancellation by the association Board of Directors. The association will notify the Forest Service of any violations and action taken in response.
4. The rules of management must include a section on the uniform suspension and cancellation guidelines since the association is subject to the same penalties for the 13 permit infractions, as are the direct permit holders, if they do not hold their members accountable. It is strongly suggested that the association insert the entire secs. 16.3 and 16.4 from chapter 10 of the permit administration handbook in their rules. However, the association may decide to only refer to chapter 10, secs. 16.3 and 16.4, and instead insert a table listing the 13 infractions, and the uniform penalties for each, as a shorter version of informing their members of the penalties for permit non-compliance. In any case, the members need to be informed and aware.
5. When associations administer grazing by their members on all public and private lands covered by the grazing agreement during the year, increased grazing capacity resulting from work done by a member on the member's private or leased land may be made available to the member.

24.2 - Rules for National Forest System Lands

When the association's program involves NFS lands other than National Grasslands, Forest Service policies and procedures for issuing and administering term and temporary grazing permits must be made a part of the association's rules of management by reference or incorporation. This generally includes Chapters 10 and 30 of this Handbook.

When considering an agreement covering NFS lands other than National Grasslands, evaluate the association's proposed range management plan to ensure that it will achieve Forest Service objectives for the area.

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24.3 - Qualification and Ownership Requirements

The same qualification requirements, including ownership of base property and livestock that apply to individuals seeking Forest Service term grazing permits apply to grazing association members seeking association-issued term grazing permits except for the single exception as set forth in secs. 24.31 and 24.32 below that applies *only* to the Dakota Prairie Grasslands.

24.31 - Base Property Requirements

Except as set forth in paragraph 3 below, base property ownership requirements in chapter 10, sec. 12.21 that apply to holders of Forest Service term grazing permits also apply to holders of association-issued term grazing permits. Requirements unique to grazing associations operating only on national grasslands are listed below.

1. Many grazing associations place restrictions on where the members' historic and/or current base property must be located in relation to the association's administrative boundary, as described in the grazing association's by-laws or ROM.
2. The grazing association must determine, in advance, adjustments to base property legal descriptions, in accordance with Forest Service requirements. The new base property must be used as part of the ranch operation for 1 year before the association-issued term grazing permit can be waived in favor of a new purchaser of the base property unless the approved ROM has more strict requirements resulting in a longer required period.
3. All of the owned base property may be leased under certain conditions on National Grasslands, as approved by the authorizing officer in the rules of management. This situation is known as successional base property because the intention of allowing the leasing of all of the base property is to provide the opportunity for the lessee to eventually become the ranch owner operating in the local area, not to facilitate base property leasing indefinitely or to allow sub-leasing of grazing permits. The process results in a complete ownership change and the filing of a contract for deed or warranty deed for the declared base property.

The following are minimum guidelines to be implemented in all grazing agreements where successional base property is an approved practice by the association and the authorized officer:

- a. The grazing permit must have historically been attached to the base property, which is under control of the association.
- b. The owner of the base property must release any interest in the grazing permit back to the association. The successional base property agreement will make the lessee subject to all association and National Forest System rules and regulations.

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The association issues the grazing permit to the lessee. In the event of termination of the successional base property agreement through foreclosure, the base property owner may again be issued the association grazing permit provided they meet qualification and eligibility requirements.

c. Successional base property agreements for less than three years should generally not be approved because shorter periods usually constitute an outright purchase. Nor should extremely long term agreements be approved (not longer than 10 years), given the ultimate objective of the lessee becoming the ranch owner.

d. The grazing association will review all successional base property agreements to assure that the lease complies with all rules of management prior to issuance of a grazing permit to the lessee. All successional agreements will be reviewed when the grazing agreement is renewed or when changes occur that could affect successional agreements. It is strongly advised that all successional base property agreements be reviewed annually to determine sufficient progress is being made toward full completion of the lease terms prior to its end; this may require notification to the Board from the lessee's legal representative annually or at certain stages of the individual agreement terms.

e. All successional base property agreements approved prior to 2021 will be allowed to continue in effect as written to their expiration date. All successional base property agreements approved after 2021 must include provisions to demonstrate that the lessee meets the association's minimum base property qualification requirements.

NOTE: The only exception allowed regarding ownership of base property for members of grazing associations, as well as the exception for consummating successional base property arrangements within 7-10 years, is provided for the grazing associations operating on the Dakota Prairie Grasslands (DPG) in R-1.

The authority for allowing these two exceptions is found in the Consolidated Appropriations Act of 2008 (PL 110-161), Division F, Title IV, SEC. 425, which states:

“In fiscal year 2008 and thereafter, the Forest Service shall not change the eligibility requirements for base property, and livestock ownership as they relate to leasing of base property and shared livestock agreements for grazing permits on the Dakota Prairie Grasslands that were in effect as of July 18, 2005.”

This authority will remain in effect until such time as both parties would arrive at a different resolution of the base property ownership issue and request an amended legislative solution at that time.

4. In addition to the owned and declared base property, the ROM for some associations may allow for leased lands to meet a *portion* of their requirements of additional base

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property as the basis for issuance of a larger term grazing permit. State school section leases are the most common example of such a lease, but there may also be other State or private lands within the intermingled land ownership pattern under the member's control. In such cases, the association will specify any required limitations on those lands.

24.32 - Livestock Ownership Requirements

Livestock ownership requirements in chapter 10, sec. 12.22 that apply to holders of Forest Service term grazing permits also apply to holders of grazing association-issued term grazing permits, with the exception that successional livestock agreements may be provided as follows:

1. Successional livestock agreements may be allowed on National Grasslands in limited cases when approved by the authorizing officer in the rules of management. The intention of successional livestock agreements is to provide the opportunity for a new association member to build a herd and eventually replace successional livestock run under the permit with ownership of the full livestock herd by a member. Replacing herds depleted by severe drought or other acts of nature, should be accomplished through resource protection non-use agreements instead.
2. Successional livestock agreements are not the same situation as what is commonly known as leased livestock in the industry, and are not intended to facilitate or to allow subleasing of grazing permits.
3. Where the association and the authorized officer approved successional livestock agreements in the current grazing agreement, the following shall be minimum guidelines to be included in grazing agreements and successional livestock agreements:
 - a. Livestock will be managed by the new association member on a year-round basis and agreements will indicate the percent of the base herd and/or offspring that are to become the property of the new member annually.
 - b. Livestock permitted under this agreement shall consist of mature breeding animals.
 - c. Successional livestock agreements must provide for gradual replacement of the successional livestock herd with livestock owned by the association member.
 - d. Successional arrangements are usually of short duration, normally three to five years. Those longer than five years will not be approved; this provides for acquiring ownership of no less than 20% of the base herd each year, and total ownership of the herd on or before the end of the fifth year.

NOTE: The only exception allowed regarding ownership of livestock for members of grazing associations, as well as the exception for consummating successional livestock

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agreements within 3-5 years, is provided for the grazing associations operating on the Dakota Prairie Grasslands (DPG) in R-1.

The authority for allowing these two exceptions is found in the Consolidated Appropriations Act of 2008 (PL 110-161), Division F, Title IV, SEC. 425, which states:

“In fiscal year 2008 and thereafter, the Forest Service shall not change the eligibility requirements for base property, and livestock ownership as they relate to leasing of base property and shared livestock agreements for grazing permits on the Dakota Prairie Grasslands that were in effect as of July 18, 2005.”

This authority will remain in effect until such time as both parties would arrive at a different resolution of the livestock ownership issue and request an amended legislative solution at that time.

25 - ADMINISTRATION OF GRAZING AGREEMENTS AND RULES OF MANAGEMENT

As permittees of the Forest Service, grazing associations must administer the permitted livestock grazing activities of their members under a grazing agreement and ROM in conformance with applicable Federal law, regulation, and policy. They must also administer the permitted grazing activities in a competent, professional, and businesslike manner. Each party to the grazing agreement should clearly understand the specific responsibilities of all parties to the agreement.

Administration of grazing agreements requires close communication and cooperation between the grazing association, Forest Service, and the grazing association members. Grazing associations may differ in how they carry out their responsibilities and the Forest Service authorized officer should be willing to accommodate some variance to the extent practical, provided these variances do not conflict or interfere with applicable law, regulation, or Forest Service policy. However, the Forest Service authorized officer must be assured, at a minimum, that the grazing association is satisfying its obligations which include but are not limited to:

1. Maintaining range improvements to Forest Service standards.
2. Monitoring of permitted livestock grazing activities to ensure compliance with the grazing agreement, the ROM, LMP, AMP, and AOIs or other similar document.
3. Taking appropriate action to ensure compliance with applicable Federal law and regulation and to investigate cases involving excess and unauthorized use, among other things, which may involve violations of the agreement, association-issued term grazing permit, or ROM.
4. Issuing association-issued grazing permits in accordance with regulations, Forest Service policy, and the grazing agreement and ROM.

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5. Collecting fees and verifying records.
6. Maintaining official files of records pertaining to the associations permitting and grazing activities covered by the grazing agreement, and providing copies to the Forest Service upon request and without charge for records related to:
 - a. Official actions pertaining to the administration of the grazing agreement and ROM.
 - b. Financial records pertaining to the administration of the grazing agreement and ROM including, but not limited to, administrative activities, conservation practices, and bills for collection.
 - c. Association grazing permits, eligibility and qualification information including location and acres of declared base property, and other related data.
7. Participating with the Forest Service in discussions pertaining to the amount of grazing or other use to be distributed under the grazing agreement.
8. Performing planned and Forest Service approved rangeland improvement work.
9. Paying the fees as specified in the Forest Service bills for collection.

The Forest Service authorized officer is responsible for auditing the records and work of grazing associations to ensure they are complying with the terms and conditions of the agreement. Agency policy is that such audits are to be conducted at least once every five years and should include, at a minimum, a review of the association's accounting records and statements, collection procedures, use of fees, and LUP documentation. The association may retain an outside party to conduct the audit if the Forest Service does not have available expertise within the Agency, and all or a portion of the audit can be allowed as an administrative cost.

Some associations choose to have a licensed Certified Public Accountant conduct an annual audit to "zero out the books" for the grazing fee or calendar year. Part of this expense can also be allowed as an administrative cost, but it is not the same as a comprehensive five-year audit.

Agency auditors also suggest that an audit should be conducted each time the association hires a new secretary/treasurer to assure all funds are accounted for and projects completed and zeroed out from the previous administrator.

25.1 - Compliance with Allotment Management Plans (AMPs) and Annual Operating Instructions (AOIs)

The AMP shall identify permitted numbers, season of use, planned grazing systems, vegetation management objectives for the permitted area, and the construction or reconstruction of range improvements. AMPs are developed by the Forest Service and approved by the Forest Service

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authorized officer with appropriate input from the grazing association, and affected grazing association members. As is the case with a Forest Service-issued term grazing permit, an AMP also becomes a term and condition of the grazing association-issued grazing permit.

AOIs or other similar documents are prepared by the association with assistance from the Forest Service and specifically outline the management actions necessary for the member to implement an AMP for a specific grazing year. Once developed, AOIs are submitted to the Forest Service authorized officer for review and approval. AOIs must be consistent with the AMP and shall be approved by the Forest Service authorized officer.

25.2 - Grazing Fees

The Forest Service authorized officer shall determine the amount of grazing use (authorized use) available for all lands covered by the grazing agreement for the upcoming grazing season, and shall remit to the grazing association an appropriate bill for collection for that portion of the grazing occurring on national grasslands. Fees for grazing shall be assessed as provided in chapter 80.

Require the grazing association to pay the bill for collection prior to the placement of livestock, by any member, on all grazing association administered lands. Fees may be paid in two installments if provided in the ROM (*see sec. 25.3* for procedures for split billings and zeroing out the books at the end of the grazing fee year).

For more detailed information regarding the fee formula for grazing on national grasslands and the criteria under which the fee may be reduced for Forest Service approved LUPs, see chapter 80.

25.3 - Payments

When associations can bill in two installments, both payments must be made in advance of the grazing period for which payments are due (see below for procedures for split billings and zeroing out the books at the end of the grazing fee year).

The grazing agreement and ROM specify the payment due date(s). When two payments are allowed, they are most frequently shown as due in early April and again in early August.

Credits and refunds for overpayment of grazing fees may be allowed under very limited circumstances. Overpayments resulting from late turn-on or early removal of livestock for reasons related to rangeland resource protection will be credited to the following year's fees. Credits will not be approved by the Forest Service for late turn-on or early removal for reasons other than rangeland resource management and protection.

The administrative requirements related to processing refunds in the electronic database financial tracking system involves many steps and is costly. As a result, refunds will no longer

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be processed or disbursed to grazing permit holders, including associations except in limited circumstances as described above. When issuing split bills for grazing associations, there should be two installments and then one final payment at the end of the year. The first two installments (generally around April 15th and August 15th) should each be for 40% of the total due and a third and final bill will bring the fee credit to zero. This accounts for any unplanned non-use and the possibility of early livestock removals, thus eliminating the need for any possible refunds.

Some associations, especially smaller ones, may bill for all use at the beginning of the grazing season, and then a final bill will bring the fee credit to zero.

25.4 - Fee Reductions under Grazing Agreements for Forest Service Approved Land Use Practice Expenses on National Grasslands

The authority for fee reductions is set forth in Title III of the Bankhead-Jones Farm Tenant Act of 1937 (7 U.S.C. 1010-1012) and was the subject of a Comptroller General decision in 1950 (exhibit 01). Within the decision, the Comptroller General consented to the Forest Service charging permittees a reduced rate in return for an agreement by the permittee to engage in certain specified conservation practices. The decision further supports the authority for fee reductions provided within Title III of the Bankhead-Jones Farm Tenant Act of 1937 (7 U.S.C. 1010-1012). Fee reductions for Forest Service approved LUPs can be found in FSH 2209.13, sec. 84.21.

Fee reductions are not available for LUPs where a grazing agreement covers a national forest; only national grassland and land utilization projects are eligible. On national forests, structural and non-structural range improvements are not eligible for fee reductions. They can be funded under the Range Betterment Fund and other appropriated funds (*see* chapter 80, sec, 83.2).

Adjust the annual grazing value to allow for costs incurred by grazing associations or direct permit holders in carrying out required LUPs, including conservation practices and administrative activities. LUPs, particularly conservation practices, are practices imposed on the permittees and that fees imposed are in relation to the extent of required LUPs. Once the authorizing officer approves LUPs, they must be completed as approved.

In administering LUPs the authorized officer should:

1. Require and approve only those LUPs that are necessary to achieve desired resource conditions as described in the land management plan, project decisions, and rules of management. In allotments of intermingled ownerships, there may be cases where the needed land use (improvement) is scheduled for construction on private land surface. In such cases, a conservation practices work plan should be drawn up, but since funds for completion are provided by the member or the association, no fees for the practice will be subtracted from the grazing value, and the improvement will be privately owned.

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2. Provide that no less than 25 percent of the annual grazing value should be destined for payment to the U.S. Treasury.
3. Limit LUPs to 75 percent of the annual grazing value, including a combination of conservation practices and administrative costs, except as explained in #5 below.
4. Require that conservation practices alone will usually be limited to 50 percent of the annual grazing value; this is designed to be comparable to the 50 percent of the grazing fee that comes back to National Forest units through the Range Betterment Fund (RBF). Administrative costs will usually be limited to an additional 25 percent of the grazing value.
5. In the rare case (an example might be if numerous miles of fence are destroyed by a wildfire) where the authorized officer decides to allow greater than the 50 percent of the value to be used for conservation practices that year, and/or greater than 75 percent of the value for a combination of conservation practices and administrative costs, the approval and rationale for allowing use of up to 100% of the grazing value for that year should be very short-term and must be documented in a letter to the association.
6. Understand that there may be cases, especially with smaller associations, where the necessary administrative costs will exceed 25 percent of the grazing value. In such cases, unless the association covers a portion of those costs through some type of overhead assessment fee to its members, approving these costs will reduce the percentage of the value available to be used for conservation practices.

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25.4 - Exhibit 01

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C.

B-77467

November 8, 1950

The Honorable
The Secretary of Agriculture

My dear Mr. Secretary:

Reference is made to letter of October 24, 1950, from the Assistant Secretary in response to request of August 24, 1950, for your views with respect to the practice of the Soil Conservation Service of leasing lands covered by Title III of the Bankhead-Jones Farm Tenant Act at reduced rentals in return for the performance by the permittees or lessees of improvements, etc., to the lands, thus resulting in what appeared to be an augmentation of your Department's annual appropriation for "Land Utilization and Retirement of Marginal Land," and resulting, also, in what appeared to be a diversion of funds otherwise payable to the county or counties in which such lands are situated.

The letter of October 24, cites particularly as authority for such practice the provisions of section 32(c) of the act, supra, 7 U.S. Code 1011(c), which authorizes the Secretary "To sell, exchange, lease, or otherwise dispose of, with or without a consideration, any property so acquired, under such terms and conditions as he deems will best accomplish the purposes of sections 1010-1013 of this title."

The said letter indicates that the condition of the land determines whether certain land use practices--it being understood that fencing and the providing of water tanks properly may be classified as land use practices--are to be imposed upon permittees or lessees, and that the fees or rentals are established in relation to the value of the use of the land as it may be used under the required land use practices. In that connection, it is pointed out that the lands which can be used under the act without the necessity of imposing additional land use practices have a greater value than lands which, because of their condition, require the imposition of special land use practices upon permittees or lessees at their own expense.

Considering the broad purpose of Title III of the Bankhead-Jones Farm Tenant Act, and especially the authority vested in the Secretary by section 32(c) thereof to lease lands, with or without consideration, under such terms and conditions as will best accomplish the purpose of the act, no further question will be raised by this office with respect to what had appeared to be an augmentation of funds resulting from the leasing practices referred to in Office letter of August 24, 1950.

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25.4 - Exhibit 01--Continued

Moreover, in view of the foregoing, it now appears that no diversion of funds otherwise payable to the counties in which the lands are situated would result from the above-mentioned leasing practices. Section 33 of the act, 7 U.S. Code 1012, requires that 25 per centum of the "net revenues received by the Secretary" from the use of the land shall be paid to the county or counties in which the land is held by the Secretary. As stated in your Department's letter, it seems obvious that said section 33 requires payments to counties of no more than 25 percent of what the Secretary actually receives. Accordingly, no further objection will be interposed by this Office in that respect.

Sincerely yours,

(Signed) Lindsay C. Warren

Comptroller General
of the United States

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25.41 - Fee Reduction Criteria

Allowable LUPs include:

1. **Administrative Costs.** Administrative costs are costs that would otherwise be borne by the Forest Service if it were directly administering the grazing permits of the association members. Administrative costs may include routine administrative and clerical expenses incurred by the association related to activities such as issuance of association-issued grazing permits, collection of grazing fees, monitoring livestock use, enforcement of permit terms and conditions, and record keeping. Administrative costs must be approved in advance by the authorized officer, and may include, but are not limited to, expenses incurred by the association for salaries and benefits, payroll taxes, postage, copying, depreciation, office space, utilities, legal and accountant fees, and directors' expenses related to administering the agreement.

Administrative costs shall not include any expenses related to legal or administrative challenges against the Forest Service (including attorney fees). Association costs for memberships in, dues for, or contributions to advocacy groups, are also not allowable administrative expenses.

There is no fee reduction for administrative costs for permittees issued term grazing permits by the Forest Service to individuals or other entities on national grasslands, since the Forest Service still performs all administrative functions.

2. **Conservation Practices.** Conservation practices are structural and non-structural rangeland treatments and improvements on NFS lands that are approved in advance by the authorized officer and are necessary to properly administer a grazing agreement or grazing permit. Conservation practices shall always be designed and implemented to protect and, where applicable, enhance other resource values and uses. Examples of conservation practices include fences, water developments, rangeland restoration, invasive plant and/or noxious weed control, vegetation manipulation, watershed protection, and wildlife habitat improvement.

Under a grazing agreement, the total amount of expenses allowed for both conservation practices and administrative costs normally cannot exceed 75 percent of the grazing value. Conservation practices may be less than 50 percent of the grazing value, but normally may not exceed 50 percent of the grazing value, with the balance of up to 75 percent of the grazing value allowed for administrative costs. No less than 25 percent of the fee should annually be returned to the United States Treasury, a portion of which is distributed to counties where the fees were collected, to assist with funding schools and roads.

In the rare case (an example might be if numerous miles of fence are destroyed by a wildfire) where the authorized officer decides to allow greater than the 50 percent of the

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value to be used for conservation practices that year, and/or greater than 75 percent of the value for a combination of conservation practices and administrative costs, the approval and rationale for allowing use of up to 100% of the grazing value for that year should be very short-term and must be documented in a letter to the association (*see* sec. 25.4).

For grazing permits issued directly by the Forest Service to individuals or other entities on National Grasslands, the total amount allowed for conservation practices cannot exceed 50 percent. These fee reductions may be applied to an individual permit, or can be across an administrative area such as an entire national grassland, ranger district, or county.

The criteria for fee reduction are also found in chapter 80, sec. 84.23.

25.42 - Conservation Practice Approval Criteria

In order to qualify for a reduction in the grazing value based on approved LUPs, expenditures incurred for those practices shall be documented in writing and verified by the authorized officer. Prior to approving a conservation practice for a fee reduction, the authorized officer must:

1. Ensure that conservation practices are located on national grasslands, land utilization projects, or lands over which the United States holds an easement. Required conservation practices may be located on private intermingled lands in the allotment, but in such cases no fee reduction would be allowed, and the improvement would be privately owned.
2. Ensure that the primary purpose of the conservation practices is to improve resource conditions related to grazing and vegetation management activities on the national grasslands covered by the grazing agreement.
3. Ensure that the conservation practice meets resource management objectives as set forth in the applicable LMP, AMP, or project decision.
4. Ensure that the development and implementation of the conservation practice is conducted in compliance with applicable Federal laws and regulations.
5. Ensure that the costs incurred by the association, the member, or the permittee in developing or implementing the conservation practice would otherwise be borne by the agency.
6. Ensure that the grazing association, through its benefitting members, contribute their required cost-share of the total expenses of the approved rangeland improvement, just as do Forest Service direct permittees on National Forest units.
7. Determine whether the conservation practice is cost effective.

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8. Ensure that title to the range improvement on NFS lands is in the name of the of the United States.
9. Ensure that water rights that may be associated with the conservation practice on NFS lands are filed in the name of the United States (*see* FSM 2540).

Criteria for approval of conservation practices are also found in chapter 80, sec. 84.22.

25.43 - Fee Credit Criteria

Grazing fee credits for required rangeland improvements are an integral part of managing rangelands on the eastern forests in Regions 8 and 9 (*see* 36 CFR part 222). They can be used for allotment permittees under both the noncompetitive fair market value system as well as the competitive bid system (*see* chapter 80, sec. 87).

Fee credits have also been routinely used with direct permittees on national grassland units. In each case, the permittee can fund an approved rangeland improvement up-front, and then receive fee credits in future years to replenish personal funds used for the government's cost-share portion of the project. Credit should not be allowed, or work plans approved, for more than the number of years remaining of the permittee's 10-year grazing permit. In some cases involving large or expensive projects, it may be prudent to issue a new 10-year permit at the beginning of the project to allow for maximum fee credit toward the expense of the large project.

Fee credits can also be used on national grasslands in similar, but more limited, situations involving grazing associations. Working in conjunction with all their benefitting member(s), associations can secure and obligate larger amounts of monies to complete large or expensive conservation practice rangeland improvements. Project examples might be drilling a one-time expensive water well or installing an expansive water pipeline system, often by coordinating with a rural water system provider.

Such projects require advance funding prior to conservation practice work plan approval and construction. When total project costs exceed conservation practice funds available in that one year, fee credits can be allowed in future years under approved work plans to credit the association for their initial advance funding provided to complete the project. Credit should not be allowed, or work plans approved, for more than the number of years remaining of the 10-year grazing agreement.

25.44 - Fee Credit Carried Forward for Approved Conservation Practices

The Consolidated Appropriations Act of 2017, Public Law No. 115-31, Div. G, Title III, authorized credits for grazing fees for conservation practices and provided authority to carry forward the amounts credited ("grassland fee credits") to complete approved conservation practices in subsequent fiscal years by stating:

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“That notwithstanding sec. 33 of the Bankhead Jones Farm Tenant Act (7 U.S.C. 1012), the Secretary of Agriculture, in calculating a fee for grazing on a National Grassland, may provide a credit of up to 50 percent of the calculated fee to a Grazing Association or direct permittee for a conservation practice approved by the Secretary in advance of the fiscal year in which the cost of the conservation practice is incurred. And, that the amount credited shall remain available to the Grazing Association or the direct permittee, as appropriate, in the fiscal year in which the credit is made and each fiscal year thereafter for use on the project for conservation practices approved by the Secretary.”

The legislation provides an avenue for grazing associations, particularly the smaller ones, to establish sufficient grazing credits to pay for large, expensive rangeland projects that cost far more than the funds an association has available for rangeland improvement construction projects in any one year. Examples of such projects might be drilling a water well to a deep formation or installing an extensive water distribution pipeline system.

The legislation also allows direct permittees on grasslands, who do not have the same advantage as associations of “pooling” their funds, to carry grazing credits forward. The authority may assist some direct permittees when constructing more expensive projects on their allotments. Direct permittees have routinely been in the habit of funding their needed projects up-front and then being allowed to follow standard fee credit procedures to be reimbursed over time for the Forest Service cost-share portion of those needed rangeland improvements that they funded in total (*see* chapter 80, sec. 84.3 above). This fee credit process has been available to, but little-used by, grazing associations in the past.

The following table shows the approximate dollars that could be used for the fee credit carried forward each program year per association. These estimates use the minimum \$1.35 grazing fee set by the Forest Service, and the assumption that the maximum of 50% of the fee available for conservation practices would be moved to the fee credit carried forward in a year.

| Permitted Head Months per Association | Annual Conservation Practice Budget Available per Association | Number of Associations of This Size |
|--|--|--|
| < 5,000 | < \$ 4,000 | 4 |
| 5,000 - 10,000 | \$ 4,000 - \$ 8,000 | 2 |
| 10,000 – 25,000 | \$ 8,000 - \$ 15,000 | 9 |
| 25,000 – 50,000 | \$ 15,000 - \$ 35,000 | 9 |
| 50,000 – 75,000 | \$ 35,000 - \$ 50,000 | 4 |

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| Permitted Head Months per Association | Annual Conservation Practice Budget Available per Association | Number of Associations of This Size |
|--|--|--|
| 75,000 – 100,000 | \$ 50,000 - \$ 75,000 | 0 |
| 100,000 – 200,000 | \$ 75,000 - \$ 125,000 | 2 |

As shown above, the six largest grazing associations generally already collect enough grazing fees annually to be able to construct most of the needed large projects in the same year the fees are collected. Since the 2017 Appropriations language allows the smaller grazing associations to amass enough funds to complete larger projects, these management restrictions on fee credits carried forward are applied to the grazing association or direct permittee as appropriate:

1. For associations permitting between 50,000 and 75,000 head-months (HMs) of grazing annually (currently Grand River, Little Missouri, Sheyenne Valley, and Thunder Basin), no more than three years of fees can be credited and used to fund any project, and the District Ranger must provide written authority and rationale to the association to do so. The priority project must then be completed in full at the end of year three.
2. Associations with over 100,000 HMs of permitted use (currently McKenzie County and Medora) could potentially fund one or more high priority projects in the same year. In the rare case that an exception would be granted in writing by the District Ranger, only one additional year of grazing fees can be credited to the initial year's fees, and the priority project must then be completed in full at the end of year two.

To follow the grazing fee credit language for national grasslands, the following policy and procedures will be implemented for grazing associations and direct permittees beginning with the 2020 grazing fee year:

1. Up to 50 percent of the annual grazing fees can be credited to the approved conservation practice in the year they are collected and each grazing year thereafter until the cumulative amount is large enough to complete the approved project. In no instance can the cumulative collected project amount exceed \$250,000 (except by virtue of the accrued interest).
2. A specific conservation practice work plan must be approved by the Forest Service in writing, and in advance of the date the rangeland project work is set to begin. The conservation practice work plan must include the estimated project costs by the grazing association, or direct permittee, and the Forest Service, and as short of a specific planned date as possible to collect the funds needed for completion of the work. This expensive project must be identified in the conservation practice work plan as the association's or permittee's highest priority project for completion.

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3. The project's importance requires that no expensive second-priority conservation practice work plan will be established as a contingency plan. Nor can the funds be diverted to cover range improvement reconstruction needs brought about by a large wildfire or other act of nature without prior written approval by the Forest/Grassland Supervisor.
4. The project's importance also requires that every effort be made by the Forest Service and the association/permittee to have the approved project 100 percent ready to be installed (environmental analysis, project decision, any needed surveys, etc.) once the total funding needed has been collected and deposited.
5. Standard cost-share percentages (for wells, water developments, fences, etc.) shall be applied to the total cost of all projects approved for completion under this authority.
6. A separate grazing association or direct permittee bank account must be established where the fee credit funds for this specific approved project will be deposited.
7. The fees credited, because they are Forest Service funds, must be deposited in the project-specific account at the beginning of each grazing year when they are collected by the grazing association, or when the bill for the remainder of the fee due is issued to, and paid by, the direct permittee. A standardized form in addition to the work plan may need to be developed by the parties to establish a record of all account transactions.
8. Any and all interest accrued in the account shall remain in the account until it is applied to the total cost of completing that approved project.
9. The bank records shall be made available to the Forest Service for review annually, and at other times if requested by the Forest Service.
10. As with all other approved conservation practice work plans, detailed records must be kept for each project, including itemized receipts for all purchases and work performed. In addition, since several years may be involved in fee credit projects, the records must show fees deposited, interest accrued, and approved expenses, by year, for each year fees are deposited into the account. These records will be monitored periodically by Forest Service staff, including financial auditors.
11. If the project is cancelled or not completed, or is finished under-budget, all funds in the bank account, including all accrued interest, will be remitted to the U.S. Treasury. The only exception to this requirement is if a second-priority project is ready to be installed and can be substituted and completed in full by the same approved completion date for the highest-priority project. In the event that a second-priority approved project is substituted, but is completed under budget, all funds remaining in the account will be sent to the treasury by the end of that grazing fee year.

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Fee credit carried forward for approved conservation practices is also discussed in FSH 2209.13, chapter 80, sec. 84.4.

25.5 - Excess and Unauthorized Livestock Use

Require grazing associations and their members to exercise diligence in detecting and reporting excess or unauthorized livestock use on lands subject to a grazing agreement. Refer to chapter 80, secs. 81.7 and 81.71 for detecting and billing for excess use. Sections 81.8 and 81.81 discuss detecting and taking action in cases of unauthorized use. Uniform suspension and cancellation guidelines for violations of Forest Service grazing permits are set forth in chapter 10, sec. 16, and are usually duplicated in the ROM.

If the grazing association fails to promptly investigate and take appropriate action in cases involving member excess use, the Forest Service authorized officer will need to proceed with appropriate suspension or cancellation action against the grazing agreement. If the problem persists, the authorized officer should initiate serious discussions with the grazing association about their plans to reform practices and after assessing the situation, determine if it is appropriate to consider cancelling the grazing agreement issued to the grazing association for noncompliance and reverting to individual Forest Service issued permits to individual permittees.

The association should take all reasonable precautions to prevent unauthorized livestock use (grazing by anyone not holding a permit). If the association becomes aware of unauthorized livestock they should contact the Forest Service with the location, number and, if known the owner of the unauthorized livestock, on the lands covered by the grazing agreement.

25.6 - Cancellation of Grazing Agreements for Noncompliance with Title VI of the Civil Rights Act

The Association shall not discriminate against any persons or organizations on the basis of race, color, national origin, gender (in educational or training programs or activities), age, or disability and shall comply with the provisions of Title VI of the Civil Rights Act of 1964, as amended, sec. 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments Act of 1972, and the Age Discrimination Act of 1975.

The Association shall include and require compliance with the above nondiscrimination provisions in any third party agreement made with respect to performance of this grazing agreement.

Grazing agreements may be canceled for noncompliance with Title VI of the Civil Rights Act of 1964, as amended, and applicable Department of Agriculture regulations at 7 CFR part 15.

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25.7 - Non-use of Grazing Association-Issued Term Grazing Permits

As set forth in the ROM, members must submit requests for non-use to the grazing association sufficiently in advance of the grazing season to allow time for the consideration of other alternatives by the association and the Forest Service. Failure to place livestock on the NFS lands without association agreed-upon non-use may result in suspension or cancellation of the member's permit, or portion thereof, to the extent of number of animals not grazed, regardless of whether the grazing fees have been paid.

Grazing associations should ensure that the implementation of its non-use policy is consistent with the Forest Service policy on non-use set forth in chapter 10. The association and the Forest Service need to make sure that the association members are running no less than 90% of their respective permitted numbers (due to member personal convenience non-use) to meet vegetation management objectives. In those instances where an association is formed and operates as a single entity (e.g., C corporation, S corporation, etc.), the association and the Forest Service need to make sure that the association as a whole is running no less than 90% of its permitted numbers across all of the allotments to meet vegetation management objectives. This will rarely be the case, unless non-use for resource protection has been approved over extensive areas because of extended drought.

25.71 - Non-use Due to Personal Convenience of Association Members

As set forth in the ROM, a grazing association is authorized to distribute forage to grazing association members or non-members that becomes available due to personal convenience nonuse of a grazing association member.

25.72 - Non-use Due to Resource Protection of Association Members

As set forth in the ROM, and detailed in chapter 10, resource protection non-use is also authorized on an allotment-by-allotment basis during periods of drought or other severe acts of nature, and does not count as personal convenience non-use on a member's permit.

26 - MEMORANDA OF UNDERSTANDING INVOLVING GRAZING AGREEMENTS

The Statement of Understanding between Farm Credit Administration and SCS, (*see* sec. 26.1) and the Memorandum of Understanding between Farmers Home Administration and Forest Service (*see* sec. 26.2) recognize escrow arrangements related to loans with grazing associations and members. They also set forth procedures for handling these arrangements.

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26.1 - Statement of Understanding Between Farm Credit Administration and Soil Conservation Service (SCS)

The SCS and the Farm Credit Administration entered into a statement of understanding and supplemental agreement on November 19, 1943 (exhibits 01 and 02). In the statement of understanding, SCS agreed to:

1. Provide reasonable assurance that the SCS would honor escrow arrangements pertaining to government-owned land and entered into by the association and the Federal Land Bank if the grazing agreement were terminated or not renewed upon expiration.
2. Acknowledge receipt of the questionnaire, furnished by the Federal Land Bank to be completed by the association, and to supply the lending agency with available pertinent information that would have a bearing on the case.

The Forest Service continues to honor this agreement. Forest Service administrative procedure shall be as follows:

1. The Forest/Grassland Supervisor shall approve any supplemental agreements to the statement between the Federal Land Bank and the grazing association.
2. The questionnaire supplied by the Federal Land Bank to the association shall be reviewed and signed by the Forest/Grassland Supervisor. The Forest Service shall supply the lending agency information that may have a bearing on the case. Ordinarily, such information will not be confined solely to range conditions.

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26.1 - Exhibit 01

**STATEMENT OF UNDERSTANDING
BETWEEN THE FARM CREDIT ADMINISTRATION
AND THE SOIL CONSERVATION SERVICE**

The Soil Conservation Service is charged with the supervision and administration of certain Federally owned lands suitable primarily for grazing purposes, acquired or held under Title III of the Bankhead-Jones Act. The Federal land banks, both in their own capacities and as agents for the Federal Farm Mortgage Corporation, are authorized under the Farm Credit Act of 1935 (Federal Farm Loan Act, Section 12 Fifth, as amended) to take into consideration, in connection with a loan to a livestock man, the extent to which the earning power of his fee-owned lands is increased through the use of outside grazing lands (state or Federal) under lease, when the continued use thereof is reasonably assured for the term of the loan. Also, the production credit associations are authorized under the Farm Credit Act of 1933 (12 U.S.C. 1131g) to make, under such rules and regulations as may be prescribed, loans by the production credit corporations for their respective districts, loans to farmers for general agricultural purposes, including loans to ranchers for the breeding, raising and feeding of livestock and other related purposes. These two types of lending organizations, which are component units of the Farm Credit Administration, are hereinafter referred to as the "lending agencies."

The first purpose, therefore, of this memorandum of understanding is to signify the mutual desire of the S.C.S. and the Farm Credit Administration to act jointly as to their respective spheres of operation, it being understood that the Governor of the Farm Credit Administration is acting in the matter for the benefit and protection of the interests of the above mentioned units of the Farm Credit Administration. It is recognized, however, that in exercising its jurisdiction over these Title III lands, the S.C.S. has entered into or may enter into grazing agreements with State grazing associations or Districts or Soil Conservation Districts (hereinafter called "Districts") through which such Districts assume certain responsibilities for the management of these lands. It is also recognized that in accordance with a memorandum of understanding between the Department of Interior and the Resettlement Administration, dated October 1, 1936, purchased lands in certain projects now under the jurisdiction of the S.C.S. and located within Taylor Grazing Districts are pooled for use with Grazing Service lands and in some areas made available to grazing districts by the Grazing Service.

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26.1 - Exhibit 01--Continued

The second purpose of this memorandum, in order to achieve the objective, is therefore, to set forth: (1) the steps to be followed by a permittee of the District who applies for a loan from an agency under the supervision of the Farm Credit Administration; and (2) the action to be taken (a) by a Federal land bank or production credit association upon the receipt of a loan application from a livestock operator who is a permittee of the S.C.S. or a district or association managing Title III lands under an agreement with S.C.S. or the Grazing Service; (b) by the District in evidencing the "reasonable assurance" required in the particular case; and (c) by the S.C.S. in supplementing such "reasonable assurance" as may be desirable to cover the eventuality of the agreement covering the Title III lands to the particular District not being renewed directly to it at the expiration of the current agreement.

As soon as practicable after the execution of this agreement, each Regional Conservator of the Soil Conservation Service will notify the District office or offices of the Farm Credit Administration as to each District and non-District project area in the respective Farm Credit region or regions where grazing preferences have been established and operations sufficiently stabilized so that the Soil Conservation Service is prepared to carry out its obligations under this agreement with respect to the particular area. Farm Credit Administration district offices will be notified of additional District or non-District areas as the circumstances warrant. In order for this agreement to be operative in a District area of which the Farm Credit Administration is so notified, the Farm Credit Administration may request the District to signify its endorsement and approval of this agreement in the form of a supplement executed in quadruplicate to be attached to facsimile copies of this agreement, a copy to be retained by each of the agencies (including the particular bank or production credit association and the Kansas City Office of the Farm Credit Administration). A copy of the agreement between the S.C.S. and the District, and a copy of the regulations and bylaws of the Districts, if any, shall be attached to the supplement and made a part of this agreement as to the particular District. In the case of a District managing pooled Title III lands under an agreement with the Grazing Service, the foregoing procedure will also apply, except that the Regional Grazier of the Grazing Service will be requested to concur in the supplement to this agreement executed by the District. In non-District project areas, this agreement may become operative immediately upon notification to the Farm Credit Administration, as provided above, that the S.C.S. is prepared to carry out its obligations under this agreement with respect to the particular area.

After this agreement has become operative as to any District or non-District area in the manner prescribed above, the following steps, definitions, safeguards, and procedures shall be furnished and adopted, respectively, by the parties concerned, and the undertaking set forth with respect to each shall become a primary responsibility of each such agency in individual loan cases in which the lending agency takes into consideration the preference of the applicant for grazing on S.C.S. or District controlled lands. (See section XI below)

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26.1 - Exhibit 01--Continued

I. Necessary preliminary steps to bring a particular loan applicant within the scope of this agreement.

A prospective applicant for a Federal land bank, Land Bank Commissioner or production credit association loan shall accompany his application with the usual "questionnaire form" in triplicate (an approved copy of which is attached hereto and made a part of this agreement), filled out with respect to the inquires pertaining to him, whereupon the lending agency shall present such questionnaire to the District for the purpose of supplying pertinent data relating to the permittee-applicant's relations with the District.

II. Pertinent information and data furnished in the questionnaire.

(a) The applicant shall set forth, in the section of the form respecting information to be supplied by him, the pertinent facts concerning his grazing operations, such as the number of acres owned in fee, any acreage covered by a lease on private lands, the number of livestock (kinds, etc.) which he is permitted to graze under preference permit on the lands under the District's control, and other information determined by the several agencies participating in this undertaking as helpful.

(b) The lending agency, prior to submitting the questionnaire to the District, shall insert such information as may be helpful to the District relating to the applicant's request for a loan.

(c) The District shall confirm the information furnished by the applicant with an analysis of the various kinds of ownership composing the lands controlled by the District within the operating unit with particular reference to the application involved, indicating the number of acres of each; special information to be furnished respecting the lands in private ownership held under lease by the District having a bearing on the particular application for a loan; the information to be supplied as to the manner in which reductions in stocking for protection and preservations of the range should be supplied, indicating the manner in which reductions will be made where it is necessary to reduce the carrying capacity on the District's grazing areas, including the loss of or failure to renew leases in private ownership; the terms of the lease or leases covering the State lands should be furnished, together with information as to the right of renewal and provisions in the State law for the sale thereof, with information as to the attending protection to the lessee for the remainder of the lease period or any renewal thereof.

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26.1 - Exhibit 01--Continued

(d) The S.C.S. shall, through its local office, indicate its receipt of the copy of the questionnaire and supply the lending agency with any pertinent information it decides may have a bearing upon the applicant's or District's status or any other feature pertaining to the provisions of the agreement between the Service and the District.

III. When loans are held by the bank and a production credit association on same ranch operating unit.

In any case, coming within the terms of this understanding from the viewpoint of both F.C.A. agencies, that is, where a production credit association holds a mortgage on the livestock or crops and a Federal land bank holds a mortgage on the real estate of the same party, the District will regard the two institutions as one agency, when necessary for the protection of the Federal interests and such interests will be safeguarded by it so long as either lending institution has any interest in the case.

IV. Term of contract between the S.C.S. and the District.

The term of lease with the District is limited to 10 years as a matter of convenience. While the Secretary has delegated to the Chief of the S.C.S. the authority to execute leases not exceeding 10 years, the S.C.S. assures the Farm Credit Administration that the grazing preference of a permittee, in so far as lands under its supervision are concerned, shall continue for the life of the loans (including renewals thereof and not exceeding 20 years in the case of a land bank or Commissioner loan except in the case of extensions, reamortizations, and acquirement of the property mortgaged) in the same manner as provided in the agreement with the District regardless of whether the particular District continues able to operate under the agreement.

V. Effect of acquirement by a lending agency of more than the maximum acreage or livestock permitted under one operation.

Since it is not the intention, purpose, or objective of the lending agencies to acquire land or livestock for the purpose of operation, it is understood that the acquirement of holdings incidental to the lending agency's principal function in excess of that permitted in an individual operating unit under S.C.S. policies shall not be regarded as a violation of the maximum limit restrictions for the District so long as it is temporarily held.

VI. Nonpayment of fees.

The District will advise the particular Federal land bank or production credit association concerned of any delinquency in the payment of grazing fees by the borrower. The lending agency will advise the District of the action it proposes to take in the matter.

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26.1 - Exhibit 01--Continued

VII. Noncompliance with District's regulations.

When a permittee-borrower fails to comply with the regulations or otherwise violates the same and action is contemplated by the District looking toward the cancellation of his grazing permit, or other steps which may tend to affect his livestock operations, are proposed, the District will furnish the Federal land bank or production credit association with detailed information and suggest the corrective action necessary.

VIII. Special provisions in the lending agency's mortgage.

The real estate or chattel mortgage shall contain adequate provisions to permit the lending agency to take the necessary legal or foreclosure action under its mortgage in the event of a nonpayment of fees or noncompliance with the regulations where it decides its interest may be impaired; and also that, in case the lending agency corrects the difficulty, either through a payment of the fees or otherwise adjusts the noncompliance of the permittee-borrower, a failure on the part of the lending agency to proceed under the provisions of its mortgage shall not be a bar to the exercise of the rights there under at a later date.

IX. Acquirement of the livestock operation by the lending agency.

In the event the lending agency accepts deed or acquires ownership of the livestock operation, it is, of course, understood that such ownership is not for the purpose of operating but incidental to its principal lending function. When control of an operating unit passes from a permittee to the lending agency, the preference or proportionate part thereof which is based upon such property will immediately revert to the District or the Government, as the case may be, but will be held in trust for the lending agency for such temporary period as the property is operated directly by the lending agency. During such temporary period the grazing privileges, which would ordinarily accrue to the preference holder, will be allocated to the lending agency. When the lending agency makes disposition of the property by sale or lease, the preference formerly based thereon will be allocated the new operator (who may be the former owner), in so far as such allocation is consistent with the application of the maximum limit policy, and provided he otherwise meets the requirements of a qualified applicant as defined by the S.C.S.

If the lending agency acquires only the livestock of a permittee operator, satisfactory agreement between the lending agency and the operator for the grazing of such livestock, temporarily pending disposition, under the permit of the operator shall not be considered a violation of the rules of the District or the Government, or jeopardize the preference status of the operator.

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26.1 - Exhibit 01--Continued

X. Disposition of acquired land.

Before the lending agency makes disposition of acquired land by sale or lease, it will secure the recommendations of the District, or the Soil Conservation Service if no District is involved, as to the best possible adjustment in land use and adjustment of established operating units in the area that can be effected by such disposition. In so far as practicable the lending agency will take into consideration such recommendations in disposing of any acquired land.

XI. Information regarding actual closing of the loan and pledging of grazing privileges.

It is understood that S.C.S. policies prohibit the transfer or assignment of a grazing preference or grazing permit by a permittee. It is agreed, however, that in all loan cases coming within the scope of this agreement, i.e., loan cases in which the lending agency takes into consideration the preferences of the applicants for grazing on S.C.S. or District controlled lands, each permittee-borrower shall execute a pledge to the effect that (1) he will take no action which would adversely affect his preference status or any permit issued there under without the consent of the lending agency and (2) in case of foreclosure by the lending agency he will waive all claims for preference or grazing privileges based upon the commensurate property foreclosed. Such a pledge will be retained by the lending agency with the loan papers. At the time of entering into a credit relationship with an applicant, the lending agency will advise the District (in duplicate, one copy going to the S.C.S.) when the loan is finally concluded to the permittee-borrower and of the execution of such pledge. Such pledge shall be noted on the District records and shall remain in force until the lending agency has notified the District of the termination of its interest therein.

XII. Title III lands managed by S.C.S. without reference to Districts.

It is agreed that, in so far as applicable, the above understanding, conditions, policies and procedures will apply in (1) grazing project areas where no cooperating District exists and S.C.S. makes allocations of use privileges direct to qualified applicants; and (2) project areas where some use privileges are made available by the S.C.S. direct to qualified applicants in addition to the privileges made available through a District under a grazing agreement. In such cases the necessary data regarding preferences, which form the basis for direct allocations, will be supplied by the S.C.S.

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26.1 - Exhibit 01--Continued

XIII. Application of agreement to existing loans.

It is agreed that the lending agency may, if it should so desire, have this agreement made applicable to any existing loans which it holds at the time this agreement becomes effective by filing the questionnaire and taking any other appropriate steps which are outline above.

Effective date.

This memorandum of understanding shall be effective when signed by both parties and shall continue in effect until terminated (but shall continue in effect thereafter as to loans then existing) by joint agreement of the parties or by either party giving 60 days' notice in writing to the other party. It may be amended at any time by joint agreement of the parties hereto.

Dated this 19th day of November 1943.

/s/ A. E. Jones
Soil Conservation Service

/s/ A. G. Black
For Farm Credit Administration

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26.1 - Exhibit 02

SUPPLEMENTAL AGREEMENT

WHEREAS, the Farm Credit Administration and the Soil Conservation Service have executed a Memorandum of Understanding dated November 19, 1943, a copy of which is attached hereto, marked Exhibit "A" and by reference incorporated herein, and

WHEREAS, the objective of said Memorandum of Understanding is to enable certain of the lending agencies of the Farm Credit Administration to render greater credit service to livestock men, as recited in the said Memorandum of Understanding, and

WHEREAS, it is the desire of the _____ Grazing Association that livestockmen who are members of the said Association or who have grazing privileges, benefits or permits on lands owned, leased or otherwise controlled by the Association shall be able to enjoy the benefits of such greater credit service.

NOW, THEREFORE, in consideration of the premises, the _____ Grazing Association, a corporation organized and existing under the laws of the State of _____ does hereby endorse and approve the said Memorandum of Understanding and does hereby promise and agree to perform and to be bound by the terms, conditions and provisions thereof to the same extent as it had executed the same as one of the original parties thereto.

There is attached hereto and made a part of this agreement a copy of the agreements between the Soil Conservation Service and the Association mentioned in said Memorandum of Understanding as well as a copy of any agreements between the Bureau of Land Management and the Association and a copy of the regulations and bylaws of the Association.

It is understood and agreed that the credit agency, for and on behalf of whom the Farm Credit Administration acted in execution of the said Memorandum of Understanding and who will receive benefits of and bound by the terms thereof in transactions with this association there under is the Federal Land Bank of _____ a corporation.

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26.1 - Exhibit 02--Continued

IN WITNESS WHEREOF, said corporation has caused its corporate name to be hereunto subscribed by its proper, duly authorized officers.

Date _____ GRAZING ASSOCIATION

by

ATTEST:

Secretary

I concur in the above supplement agreement.

Date _____

National Forest
Forest Supervisor
Forest Service – USDA

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26.2 - Memorandum of Understanding Between Farmers Home Administration and Forest Service

The Farmers Home Administration (FmHA) and the Forest Service entered into the following memorandum of understanding on March 22, 1966, (exhibit 01) to facilitate cooperation involving rural groups of grazing users forming a nonprofit grazing association under FmHA programs. The memorandum sets forth respective procedures to be followed when a rural group, which may operate on Forest Service administered land, applies for financial assistance from FmHA. Procedures outlined in the memorandum of understanding are concerned with the pre-organization and post-organization aspects of the undertaking. Applicable portions shall be followed when a group is already organized. The escrow arrangement set forth by the memorandum shall be used when a grazing agreement already exists and both FmHA and the association request such an arrangement.

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26.2 - Exhibit 01

FHA-FS MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING

Between

FARMERS HOME ADMINISTRATION and FOREST SERVICE

Grazing Associations

Operating on

FOREST SERVICE-Administered Lands

I. PURPOSE: The purpose of this memorandum is to achieve the mutual objectives of the Forest Service (FS) and the Farmers Home Administration (FHA) by coordinating general agency responsibilities and functions and promoting maximum cooperation in carrying out agency programs of FHA and FS when a grazing association operating on FS-administered lands is receiving financial assistance from FHA.

II. AGENCY RESPONSIBILITIES:

A. FHA has the responsibility for making loans to groups of farmers and ranchers for shifts in land use including the purchase and development of grazing lands.

B. FS is responsible for administration of the National Forests, National Grasslands, and other lands under its control, hereinafter referred to as a FS-administered lands. FS may make these lands available to qualified nonprofit organizations of farmers and ranchers for grazing purposes.

III. PROCEDURES:

A. Upon receipt of a loan application from a rural group that may operate on FS-administered lands, the FHA County Supervisor will notify the local Forest Supervisor and inquire into the availability of FS-administered lands. The Forest Supervisor will furnish the FHA County Supervisor information on: (1) the status of any grazing permit or grazing agreement, (2) an estimate of the grazing capacity of lands involved, (3) any other information which might affect the transaction, and (4) any circumstances which might prevent the Forest Service from entering into a grazing agreement with the proposed association.

B. FS and FHA will jointly assist the association in effecting its organization, developing its articles of incorporation and bylaws, using guides provided by FS and FHA, and in formulating rules of management including shifts in land use for all lands controlled by the association. The rules of management will be in accordance with policies of all Federal, State, county, and other appropriate agencies involved and with the needs and operations of the associations.

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26.2 - Exhibit 01--Continued

C. FS representatives, working with representatives of other agencies as any be involved, will furnish such technical assistance as is necessary and available for planning and carrying out conservation and range management operations on all lands controlled by the association, including privately-owned lands.

D. Grazing agreements make FS-administered lands available for grazing purposes. They are approved for the exclusive use and benefit of the association. Grazing agreements are not property rights. They do, however, entitle the association to use the lands for grazing purposes during the period covered by the agreement, and to first priority for renewal at the end of term period. FS may enter into a grazing agreement with a grazing association financed by FHA when:

1. The articles of incorporation and bylaws are compatible with the grazing regulations of the Secretary of Agriculture and instructions of FS.

2. FS has determined that the association is competent and qualified to manage grazing on FS-administered lands.

3. The association purchases the base property of a permittee with a term permit to graze livestock on FS-administered lands or otherwise qualifies for grazing privileges on FS-administered lands.

E. When requested by FHA and the association, FS will hold the grazing privileges contained in a grazing agreement in escrow for security purposes. Under this arrangement the association surrenders its grazing privileges to the Forest Service but may continue to graze livestock, pending satisfaction of a mortgage. Until the mortgage is satisfied, no waiver of grazing privileges subsequently presented by the association will be recognized by FS without the written approval of FHA.

F. If for any reason it should become necessary to discontinue in whole or in part the grazing privileges contained in the grazing agreement of an association borrower, FS will give written notice to this association and to FHA. The reasons for the adjustment may include noncompliance with the regulations or terms of the grazing agreement, need for resource protection and to allow for a higher public land use. The matter will be discussed with FHA and at least one year will be allowed for possible adjustment before the grazing agreement is modified or terminated.

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26.2 - Exhibit 01--Continued

G. If it becomes necessary for FHA to liquidate a loan in connection with which grazing privileges have been surrendered to FS through an escrow waiver, the privileges will immediately revert to FS and will be held for FHA for such period as the property is being operated under temporary arrangement approved by FS and FHA. Upon disposition of the property by FHA, the grazing privileges formerly included in the grazing agreement will be allowed a new grazing association borrower or other parties insofar as the association or other parties meet the qualification requirements of both FHA and FS.

H. Questions pertaining to the handling of grazing associations borrower cases not specifically provided for in this agreement will be governed by the regulations and instructions set forth in the FS manual, FHA Instructions, and by currently approved policies.

IV. EFFECTIVE DATE: This Memorandum of Understanding shall be effective when signed by both parties and shall continue in effect until terminated (but shall continue in effect thereafter as to loans then existing) by joint agreement of the parties or by either party giving 60 days' notice in writing to the other party.

V. AMENDMENTS: FS and FHA agree that amendments to this Memorandum of Understanding may be proposed by either party and will become effective upon approval of both parties.

/s/ Howard Bertsch
Administrator
Farmers Home Administration

/s/ Edward P. Cliff
Chief
Forest Service

March 10, 1966
Date

March 22, 1966
Date

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27 - CANCELLATION OF GRAZING AGREEMENTS

The reasons why a grazing agreement may be cancelled, suspended, or modified are listed in 36 CFR 222.4 and detailed in the clauses of the agreement (*see* sec. 23, exhibits 01- 05). In summary, those reasons are:

1. The NFS lands are required for military or national security purposes.
2. The NFS lands are pending disposal or will be devoted to a higher purpose that precludes livestock grazing.
3. For noncompliance with the rules and regulations of the Secretary of Agriculture.
4. For violation by any of the terms and conditions of the agreement.
5. For failure of the Association to promptly inspect and enforce where necessary alleged violations of the agreement terms by its members.
6. For failure to comply with the nondiscrimination clauses of the 1964 Civil Rights Act, as amended, and subsequent related Acts.

Upon cancellation of the grazing agreement for noncompliance for items 3 through 6, the Forest Service authorized officer will proceed to issue Forest Service term grazing permits directly to those individuals or other entities in good standing who previously held grazing association-issued term grazing permits for the same amount of grazing use previously provided by the grazing association-issued term grazing permits.

Individuals who do not meet the eligibility or qualification requirements for Forest Service term grazing permits will be issued temporary permits and will be given 1 year to meet qualification requirements.

Unless all of the NFS lands covered by the grazing agreement were devoted to a higher purpose, the agreement would be modified rather than cancelled.