



STATE OF NEW HAMPSHIRE  
 DEPARTMENT of NATURAL and CULTURAL RESOURCES  
**DIVISION of PARKS and RECREATION**  
 172 Pembroke Road Concord, New Hampshire 03301  
 Phone: (603) 271-3556 Fax: (603) 271-3553  
 Web: www.nhstateparks.org

109A

December 1, 2023

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

**REQUESTED ACTION**

Authorize the Department of Natural and Cultural Resources, Division of Parks and Recreation, Cannon Mountain Ski Area to select as **SOLE SOURCE** the lease to purchase of a new Prinoth Bison S Stage V Snow Groomer in the amount of \$390,886.24 to be used at Cannon Mountain for the purpose of performing necessary annual snow groomer maintenance services as a vital function of mountain ski operations, financed through a master equipment lease agreement with Flagstar Public Funding Corp. (previously Signature Public Funding Corp.) approved by Governor and Council on November 10, 2021, Item #32E, effective upon Governor and Executive Council approval. 100% Agency Income.

Funding is available in account, Cannon Mountain Operations, in Fiscal Years 2024 and 2025, and is anticipated to be available in Fiscal Years 2026 and 2027, upon continued appropriation of funds in the future operating budget.

03-035-035-351510-37030000-022-500257 – Rents, Leases Other than State

<u>FY24</u>	<u>FY25</u>	<u>FY26</u>	<u>FY27</u>
\$97,721.56	\$97,721.56	\$97,721.56	\$97,721.56

**EXPLANATION**

The Department of Natural and Cultural Resources is seeking approval to enter into a 3-year term, lease to purchase equipment agreement for a Prinoth Bison S Stage V Snow Groomer.

The Department has utilized an equipment leasing program at Cannon Mountain for the last twenty years which has worked very successfully by continually providing a state-of-the-art grooming fleet and a superior on-hill product, and by reducing maintenance costs and capital outlay for outright purchases. Currently, only Prinoth, LLC and Kassbohrer, Inc. sell snow groomers in this part of the country. Cannon's mountain operations team has determined, based on knowledge of the industry and hands on experience, that Prinoth grooming vehicles are far superior in performance. Prinoth's approximately 70% market share in the United States supports that claim. In addition, the mechanics at Cannon are factory trained by Prinoth to service their machines and stock original and aftermarket parts to spec the fleet. The Prinoth machines have had excellent service records, and the eastern sales and service team, located in Gilmanton, has provided superior service. For these reasons, your approval of the new Prinoth Bison S Stage V Snow Groomer by **sole source** selection is respectfully requested.

The Attorney General's Office has reviewed and approved the Lease Agreement and related documents as to form, substance, and execution.

Per RSA 21-I:19-j, the Department of Administrative Services has reviewed and approved this year's Lease Agreement. A copy of the chapter law governing this process is included for your information.

Per RSA 6:35, the NH State Treasury has reviewed and approved this year's Lease Agreement. A letter provided by the State Treasurer and a copy of RSA 6:35 governing this process and a Statement of Appropriations showing Cannon Mountain's operating budget line item for equipment leases are included for your information.

Approval of this Lease agreement and the Escrow agreement does not entail a financial obligation or pledge to the State. The contractual requirement of the State to make lease payments under the lease agreement shall constitute a current operating expense of the State subject to legislative appropriation. The interest component of the lease payments under this agreement will be tax exempt to the lessor.

Respectfully submitted,



Sarah L. Stewart  
Commissioner



AMENDMENT NO. 1

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**AMENDMENT TO LEASE DOCUMENTS**

THIS AMENDMENT TO LEASE DOCUMENTS dated as of this 15th day of November, 2023 (this "Amendment"), by and among FLAGSTAR PUBLIC FUNDING CORP., (formerly known as Signature Public Funding Corp.), its present and future affiliates and their successors and assigns ("Lessor"), and State of NH – Department of Natural and Cultural Resources (DNCR) its successors and permitted assigns ("Lessee"), amends that certain Master Lease Agreement No. 500055, dated as of December 1, 2021 (the "Lease"), all of the Equipment Schedules entered into pursuant thereto and all of the other documents and agreements entered into in connection therewith by and between Signature Public Funding Corp., as lessor, and Lessee, as amended or otherwise modified (hereinafter collectively referred to as the "Lease Documents"). The capitalized terms used herein but not otherwise defined herein shall have the respective meanings given them in the Lease Documents or the other documents referred to therein.

RECITALS

WHEREAS, on or before September 1, 2023 ("Effective Date"), SIGNATURE PUBLIC FUNDING CORP. changed its name to FLAGSTAR PUBLIC FUNDING CORP. and the parties desire to amend all of the Lease Documents to reflect the name of Flagstar Public Funding Corp. as the Lessor.

NOW, THEREFORE, in consideration of the foregoing premises and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. **AMENDMENT.** Each of the Lease Documents, together with any other agreement, document, exhibit, schedule, note or annex delivered in connection with any of the same, is hereby revised (which revision shall be deemed effective upon and at all times after the Effective Date) so that any and all references therein to "SIGNATURE PUBLIC FUNDING CORP." shall be replaced with "FLAGSTAR PUBLIC FUNDING CORP."
2. **COVENANTS.** By their execution hereto, the parties agree that all covenants, representations and warranties contained in the Lease Documents remain valid, true and correct as of the date made.
3. **MISCELLANEOUS.** This Amendment shall hereafter amend and constitute a part of each of the Lease Documents referenced herein. Except as expressly provided herein, the terms and conditions of each such Lease Document remains unmodified and in full force and effect. This Amendment shall be governed by and in accordance with the laws of the Lease Documents. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Amendment No. 1 to Lease Documents to be executed as of the date first above written.

**FLAGSTAR PUBLIC FUNDING CORP.,**  
As Lessor

**STATE OF NH – DEPARTMENT OF  
NATURAL AND CULTURAL RESOURCES  
(DNCR)**  
As Lessee

By:  [SEAL]  
Name: Donald S. Keough  
Title: Senior Managing Director

By:  [SEAL]  
Name: Sarah L. Stewart  
Title: Commissioner

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**INDEX TO LEGAL DOCUMENTS**  
**NON-BANK-QUALIFIED, APPROPRIATION-BASED**  
**TAX-EXEMPT MASTER EQUIPMENT LEASE-PURCHASE AGREEMENT**

**DATED DECEMBER 1, 2021 BY AND BETWEEN**

**FLAGSTAR PUBLIC FUNDING CORP.**

And

**STATE OF NH – DEPARTMENT OF NATURAL AND CULTURAL RESOURCES (DNCR)**

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Lease Documents:

- |         |  |
|---------|--|
| Tab 1:  | Master Equipment Lease-Purchase Agreement; On File   |
| Tab 2:  | Exhibit A - Equipment Schedule 010;  |
| Tab 3:  | Exhibit B - Acceptance Certificate;  |
| Tab 4:  | Exhibit C-1 - Insurance Coverage Request;  |
| Tab 5:  | Exhibit C-2 - Self-Insurance Rider (if applicable);<br>Exhibit C-3 - Questionnaire for Self Insurance (If applicable); |
| Tab 6:  | Exhibit D - Essential Use Certificate;   |
| Tab 7:  | Exhibit E - Incumbency Certificate;  |
| Tab 8:  | Exhibit F - Form of Opinion of Lessee's Counsel;   |
| Tab 9:  | Exhibit G – Reserved;  |
| Tab 10: | Exhibit H - Tax Certificate;   |
| Tab 11: | Exhibit I - Escrow Agreement;  |
| Tab 12: | Exhibit J: - Form of Sample Resolution of Lessee;  |
| Tab 13: | UCC-1 - Financing Statement with attached Schedule A;  |
| Tab 14: | Form 8038-G;   |
| Tab 15: | Closing Memorandum/Payment Proceeds Direction; and   |
| Tab 16: | Vendor Invoices, Purchase Agreement,   |

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**SIGNATURE**  
**PUBLIC FUNDING**

**EXHIBIT A: LEASE SCHEDULE**

**EQUIPMENT SCHEDULE 010 DATED DECEMBER 21, 2023**

This Equipment Schedule 010 dated as of December 21, 2023 ("Equipment Schedule") is made to and part of that certain Master Equipment Lease-Purchase Agreement dated as of December 1, 2021 (the "Master Agreement," and together with the Equipment Schedule, the "Lease"), and the terms, conditions and provisions of the Master Agreement (other than to the extent that they relate solely to other Schedules or Equipment listed on other Schedules or if they are expressly superseded in this Equipment Schedule) are hereby incorporated into this Equipment Schedule by reference and made a part hereof. This Lease is a separate and individual instrument of lease.

**1. DESCRIPTION OF THE EQUIPMENT:**

Equipment shall consist of those units or items of equipment as set forth below and/or as may be accepted by the Lessee and financed hereunder, together with all embedded software, replacements, additions, attachments, substitutions, modifications, upgrades, and improvements thereto (collectively the "Equipment") pursuant to that "Vendor Contract" (as described below) between each respective "Vendor" and Lessee, which is and financed by this Lease.

<u>Quantity</u>	<u>Equipment Description (with VIN and MSN)</u>	<u>Unit Cost</u>	<u>Total Cost</u>	<u>Vendor Name and Contract/Invoice</u>	<u>Location</u>
1	New Bison S Stage V Snow Groomer	\$362,000.00	\$362,000.00	PRINOTH, LLC	264 NH Route 106 Gilmanton, NH 03237 USA
	Closing Costs				
	<b>TOTAL LEASE PROCEEDS:</b>		<b>\$362,000.00</b>		

**2. EQUIPMENT LOCATION:** CANNON MOUNTAIN 260 TRAMWAY DRIVE, FRANCONIA, NH 03580

**3. PAYMENT SCHEDULE:** The Rental Payments shall be made for the Equipment as follows:

<u>Payment Number</u>	<u>Date Due</u>	<u>Total Rental Payment Due</u>	<u>Interest Component</u>	<u>Principal Component</u>	<u>Prepayment Price*</u>
Loan	12/21/23				
1	12/21/23	97,721.56	0.00	97,721.56	266,921.22
2	11/15/24	97,721.56	13,462.37	84,259.19	181,819.44
3	11/15/25	97,721.56	10,189.11	87,532.45	93,411.67
4	11/15/26	97,721.56	5,234.76	92,486.80	0.00

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<b>Grand Totals</b>	<b>390,886.24</b>	<b>28,886.24</b>	<b>362,000.00</b>
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\* Assumes that all rental payments and other amounts due on and prior to that date have been paid.

**4. INTEREST RATE:** 5.66%

**5. COMMENCEMENT DATE:** December 21, 2023. Interest, if any, accruing from the Commencement Date to the actual date of funding shall be retained by Lessor as additional consideration for entering into this Equipment Schedule.

**6. SCHEDULED LEASE TERM:** 3 Years.

**7. OPTIONAL PREPAYMENT COMMENCEMENT DATE:** December 21, 2023.

**8. FISCAL YEAR:** Lessee's current Fiscal Year extends from July 1, 2023.

9. Lessee hereby represents, warrants, and covenants that (i) its representations, warranties, and covenants set forth in the Master Equipment Lease-Purchase Agreement (particularly Paragraph 7 thereof) are true and correct as though made on the date of execution of this Equipment Schedule, and (ii) sufficient funds have been appropriated by Lessee for the payment of all Rental Payments due under this Lease during Lessee's current Fiscal Year. Funds for making Rental Payments are expected to come from the General Fund of the Lessee.

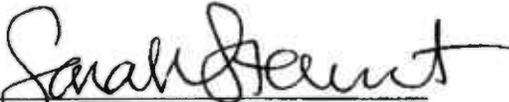
10. **ESSENTIAL USE:** The Equipment will be used by the following governmental agency department for the specific purpose of: performing snow grooming operations on Cannon Mountain Ski Area. The Equipment is essential for the functioning of the Lessee and is immediately needed by the Lessee, and such need is neither temporary, nor expected to diminish during the Lease Term. The Equipment will not be used by the Lessee for a period in excess of the Lease Term.

*[Signature Pages to Follow.]*

**IN WITNESS WHEREOF, LESSOR AND LESSEE HAVE EXECUTED THIS EQUIPMENT SCHEDULE AS OF THE DAY AND YEAR FIRST WRITTEN ABOVE**

STATE OF NH – DNCR,  
as Lessee

FLAGSTAR PUBLIC FUNDING CORP.,  
as Lessor

By:   
Name: Sarah L. Stewart  
Title: Commissioner

By:   
Name: Donald S. Keough  
Title: Senior Managing Director

Counterpart No. 2 of two manually executed and serially numbered counterparts. To the extent that this Equipment Schedule constitutes chattel paper (as defined in the applicable Uniform Commercial Code), no security or ownership interest herein may be created through the transfer or possession of any Counterpart other than Counterpart No. 1.

## EXHIBIT B

### ACCEPTANCE CERTIFICATE

The undersigned, as Lessee under Schedule No. 010 dated as of December 21, 2023 (the "Schedule") to that certain Master Equipment Lease-Purchase Agreement dated as of December 1, 2021 (the "Master," and together with the Schedule, the "Lease"), acknowledges receipt in good condition those certain units of the Equipment described in the Lease and more specifically listed on Annex I hereto as of the Acceptance Date set forth below. Capitalized terms used herein without definition shall be given their meaning in the Lease.

1. The units of Equipment listed on Annex I hereto represent a portion of the Equipment listed on the Schedule and to be acquired under the Lease. By its execution hereto, the Lessee represents and warrants that: (1) the Equipment listed on Annex I hereto has been delivered, installed and accepted on the date hereof; and (2) it has conducted such inspection and/or testing of the Equipment listed on Annex I hereto as it deems necessary and appropriate and hereby acknowledges that it unconditionally and irrevocably accepts the Equipment listed in Annex I hereto for all purposes. Lessee confirms that it will commence or continue to make Rental Payments in accordance with the terms of the Lease. Copies of invoices, proof of payment (if applicable), reimbursement resolutions (if applicable), and purchase orders and/or agreement have been attached with Annex I hereto. As applicable, the following documents are attached hereto and made a part hereof: (a) Original Invoice(s) and (b) Copies of Certificate(s) of Ownership, MSOs, or Certificates of Title, designating Lessor as first position lienholder, and (c) any other evidence of filing or documents attached hereto

2. Lessee hereby certifies and represents to Lessor as follows: (i) the representations and warranties in the Lease are true and correct as of the Acceptance Date; (ii) the Equipment is covered by insurance in the types and amounts required by the Lease; (iii) no Event of Default or Non-Appropriation, as those terms are defined in the Lease, and no event that with the giving of notice or lapse of time or both, would become an Event of Default or a Non-Appropriation, has occurred and is continuing on the date hereof; and (iv) sufficient funds have been appropriated by Lessee for the payment of all Rental Payments due under the Lease during Lessee's current Fiscal Year.

3. Lessee hereby authorizes and directs Lessor to fund the acquisition cost of the Equipment by paying, or directing the payment by the Escrow Agent (if applicable) of, the invoice prices to the Vendor(s), in each case as set forth above, or by reimbursing Lessee in the event such invoice prices have been previously paid by Lessee.

IF REQUEST IS FINAL REQUEST, CHECK HERE  4. **Final Acceptance Certificate.** The undersigned hereby certifies that the items of Equipment described above, together with the items of Equipment described in and accepted by Certificates of Acceptance and Disbursement Requests previously filed by Lessee with Lessor constitute all of the Equipment subject to the Lease. Lessee certifies that upon payment in accordance with paragraph 3 above, or direction to the Escrow Agent (if applicable) to make payment, Lessor shall have fully and satisfactorily performed all of its covenants and obligations under the Lease.

Accepted and certified this 14 day of November, 2023. ("Acceptance Date")

STATE OF NH - DPCR, as Lessee

By:   
Name: Sarah L Stewart  
Title: Commissioner

**ANNEX I TO ACCEPTANCE CERTIFICATE**

<b>Payee</b>	<b>Vendor/ Manufacturer</b>	<b>Invoice or PO No.</b>	<b>VIN or MSN</b>	<b>Equipment Description</b>	<b>Location</b>	<b>Cost</b>
<b>Prinoth LLC</b>		<b>Q00761</b>	<b>TBD</b>	<b>New Bison S Stage V Snow Groomer with attachments</b>	<b>CANNON MOUNTAIN FRANCONIA NOTCH STATE PARK, FRANCONIA NH</b>	<b>\$362,000.00</b>

## EXHIBIT C-1

### INSURANCE CERTIFICATION

In connection with Equipment Schedule 010 dated December 21, 2023 to that certain Master Equipment Lease-Purchase Agreement dated December 1, 2021, STATE OF NH - DNCR, as lessee (the "Lessee") certifies that it has instructed the insurance agent named below (please fill in name, address, and telephone number):

Name of Agent: State of New Hampshire  
Contact Person: Shawn Biron  
Address: 25 Capital St, Concord, NH 03301  
Phone: 603-271-3124  
E-mail: \_\_\_\_\_  
to issue: \_\_\_\_\_

*Liability Insurance.* Lessee is self-insured with respect to Liability Coverage. Please refer to Exhibit C-2 and its attachment for self-insurance information.

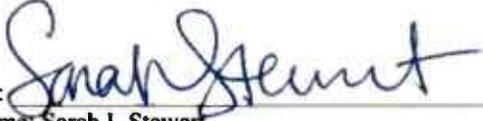
*Casualty Insurance.* Lessee is required to maintain all risk extended coverage, malicious mischief and vandalism insurance for the Equipment described in the above-referenced Equipment Schedule in an amount not less than the greater of \$362,000.00 or the full replacement cost of the Equipment. Such insurance shall be endorsed to name Flagstar Public Funding Corp., a wholly-owned subsidiary of Flagstar Bank, and its successors and assigns as loss payees with respect to such Equipment.

The required insurance should also be endorsed to give Flagstar Public Funding Corp. at least 30 days prior written notice of the effective date of any material alteration or cancellation of coverage, and an endorsement confirming that the interest of Flagstar Public Funding Corp. shall not be invalidated by any actions, inactions, breach of warranty or conditions or negligence of Lessee.

Proof of insurance coverage will be provided to Flagstar Public Funding Corp. prior to and/or commensurate with the December 21, 2023. Proof of coverage will be mailed to: Flagstar Public Funding Corp., Attn: Tonia Lee at 600 Washington Avenue, Suite 305, Towson, MD 21204 or sent via e-mail to [kibrown@signatureny.com](mailto:kibrown@signatureny.com).

Very truly yours,

STATE OF NH – DNCR, as Lessee

By:   
Name: Sarah L Stewart  
Title: Commissioner

## EXHIBIT C-2

### SELF-INSURANCE RIDER AND LESSOR CONSENT

Flagstar Public Funding Corp.  
600 Washington Avenue, Suite 305  
Towson, Maryland 21204

December 21, 2023

Re: Schedule No. 010 dated December 21, 2023 to that certain Master Equipment  
Lease-Purchase Agreement dated December 1, 2021 (collectively, the "Lease")

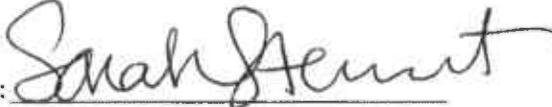
In connection with the above-referenced Lease, STATE OF NH - DNCR, as lessee (the "Lessee") certifies that it participates in an actuarially sound self-insurance program for property damage and public liability risks. The Self-Insurance Questionnaire attached hereto is true and correct, and no Event of Default or Non-Appropriation, as such terms are defined in the Lease, has occurred and is continuing.

The following is attached (check all that apply):

- Letter from risk manager describing self-insurance program
- Other evidence of Lessee's participation in self-insurance program

Flagstar Public Funding Corp., as lessor (the "Lessor") agrees that the self-insurance program as described by Lessee in this Certificate and the attached Questionnaire and related documents is acceptable in lieu of the coverage for property damage and public liability risks required under the Lease, including §13 of the Master.

STATE OF NH - DNCR,  
as Lessee

By:   
Name: Sarah L Stewart  
Title: Commissioner

FLAGSTAR PUBLIC FUNDING CORP.,  
as Lessor

By:   
Name: Donald S. Keough  
Title: Senior Managing Director

**EXHIBIT C-3**

**QUESTIONNAIRE FOR SELF-INSURANCE TO  
SELF-INSURANCE RIDER AND LESSOR CONSENT**

To and part of that Self-Insurance Rider and Lessor Consent to Equipment Schedule No. 010 dated as of December 21, 2023 to that certain the Master Lease Agreement dated December 1, 2021 (collectively, the "Lease"). Attached hereto are copies of a self-insurance insurance letter with respect to the liability coverage maintained by Lessee.

## EXHIBIT D

### ESSENTIAL USE CERTIFICATE

December 21, 2023

Flagstar Public Funding Corp.  
600 Washington Avenue, Suite 305  
Towson, Maryland 21204

Re: Equipment Schedule No. 010 dated December 21, 2023 to that certain Master Equipment Lease-Purchase Agreement dated December 1, 2021

I, Sarah L Stewart, appointed, Commissioner of the STATE OF NH – DNCR, as lessee (the “Lessee”), is qualified to answer the questions set forth below regarding the Equipment to be acquired by Lessee in connection with the above-referenced Lease Agreement:

**1. What is the specific use of the Equipment?**

The Prinoth Bison S is a (ski area specific) grooming vehicle designed with extra capability toward specialty grooming and shaping in the event that it'd be used for both grooming and terrain park shaping.

**2. What increased capabilities will the Equipment provide?**

Please see answer #1. This highly advanced grooming vehicle will be used for both standard slope grooming and terrain park / features construction.

**3. Why is the Equipment essential to your ability to deliver governmental services?**

Cannon Mountain Aerial Tramway & Ski Area is the State's primary business (revenue generating) asset within Franconia Notch State Park, which supports the entire New Hampshire State Park System. Top notch grooming of our terrain and slopes is critical to our financial success.

**4. Does the Equipment replace existing equipment?**

This 2023 Prinoth Bison S replaces a 2012 Prinoth BR350 in our grooming fleet. Each of our 4 grooming vehicles is leased for a 4-year period (4 winter seasons). That keeps our maintenance costs low and the residual value high. Leasing has proven far more cost effective than outright ownership to us. From the fifth year of ownership and beyond, the cost of ownership (via maintenance) has been shown to increase significantly, while the residual value to the owner has been shown to decrease significantly.

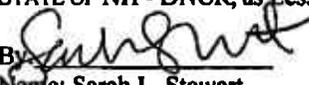
**5. Why did you choose this specific Equipment?**

The Prinoth Bison W 4 is the premier specialty grooming vehicle on the market from North America's leading manufacturer of snow grooming equipment. Prinoth's eastern USA sales and service headquarters is located in Gilmanton, NH (within an hour's drive), and all machines are manufactured in nearby Granby, QC. Prinoth's service and tech support is fantastic, and they hold approximately a 65-70% market share in the eastern USA. Their machines perform very well on Cannon's more challenging terrain. In addition, our entire fleet is Prinoth, our groomers are familiar with Prinoth, our mechanics are factory trained by Prinoth, and our entire parts stock is either Prinoth OEM or Prinoth compatible.

**6. For how many years do you expect to utilize the Equipment?**

Each of our four (4) grooming fleet vehicles (including this one) is leased for four (4) winter seasons / 41 months in total. Each year one vehicle comes off of lease and is replaced with a new one that's four years more technologically advanced (higher capability and better fuel economy).

STATE OF NH - DNCR, as Lessee

By: 

Name: Sarah L. Stewart

Title: Commissioner

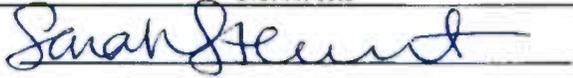
**EXHIBIT E**

**INCUMBENCY CERTIFICATE**

I, Sarah L Stewart, do hereby certify that I am the Commissioner of the STATE OF NH-DNCR, which is an agency duly established and validly existing as a political subdivision of the State under the Constitution and laws of the State, and that I have custody of the records of such entity.

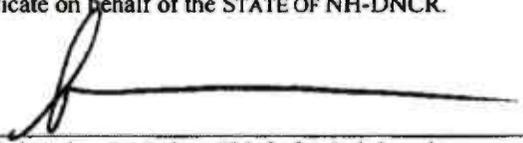
I hereby certify that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the State holding the offices set forth opposite their respective names. I further certify that:

- (i) The signatures set opposite their respective names and titles are their true and authentic signatures, and
- (ii) Such officers have the authority on behalf of such entity to:
  - a. Enter into that certain Equipment Schedule No. 010 dated December 21, 2023 to that certain Master Equipment Lease-Purchase Agreement dated December 1, 2021 (collectively, the "Lease Agreement"), between the STATE OF NH, DNCR and Signature Public Funding Corp., as lessor, and
  - b. Execute Certificates of Acceptance, Disbursement Request Forms, and all other certificates documents, and agreements relating to the Lease Agreement

NAME	TITLE	SIGNATURE
Sarah L Stewart	Commissioner	

IN WITNESS WHEREOF, I have duly executed this Certificate on behalf of the STATE OF NH-DNCR.

December 21, 2023

  
Christopher S Marino, Chief of Administration

## EXHIBIT F

### OPINION OF LESSEE'S COUNSEL

December 21, 2023

Flagstar Public Funding Corp.  
600 Washington Avenue, Suite 305  
Towson, Maryland 21204

Re: Equipment Schedule No. 010 dated December 21, 2023 to that certain  
Master Equipment Lease-Purchase Agreement dated December 1, 2021

Ladies and Gentlemen:

As counsel to the State of New Hampshire, Department of Natural and Cultural Resources (the "*Lessee*"), I have examined the Master Equipment Lease-Purchase Agreement dated December 1, 2021 and Equipment Schedule No. 010 thereto dated December 21, 2023 (collectively, the "*Lease Agreement*"), between the Lessee and Flagstar Public Funding Corp., as lessor ("*Lessor*"), the Disbursement Request Form and Certificate of Acceptance (collectively, the "*Transaction Documents*"), and the proceedings taken by the Governing Body of the Lessee to authorize on behalf of the Lessee the execution and delivery of the Lease Agreement and various certificates delivered in connection therewith. Based upon the foregoing examination and upon an examination of such other documents and matters of law as I have deemed necessary or appropriate, I am of the opinion that:

1. The Lessee is a State Department, which is a body corporate & politic duly established and validly existing as a political subdivision of the State of NH under the Constitution and laws of the State of NH with full power and authority to enter into the Transaction Documents.

2. The Transaction Documents have each been duly authorized, executed, and delivered by the Lessee and are in full compliance with all local, state and federal laws. Assuming due authorization, execution and delivery thereof by Lessor, the Transaction Documents constitute legal, valid, and binding obligations of the Lessee, enforceable against the Lessee in accordance with their respective terms, subject to any applicable bankruptcy, insolvency, moratorium or other laws or equitable principles affecting the enforcement of creditors' rights generally. The execution of the Transaction Documents and the appropriation of monies due under the Lease Agreement will not result in the violation of any constitutional, statutory or limitation relating to the manner, form or amount of indebtedness which may be incurred by the Lessee.

3. No litigation or proceeding is pending or, to the best of my knowledge, threatened to restrain or enjoin the execution, delivery, or performance by the Lessee of the Transaction Documents or in any way to contest the validity of the Transaction Documents, to contest or question the creation or existence of the Lessee or the governing body of the Lessee or the authority or ability of the Lessee to execute or deliver the Transaction Documents or to comply with or perform its obligations thereunder. There is no litigation pending or, to the best of my knowledge, threatened seeking to restrain or enjoin the Lessee from annually appropriating sufficient funds to pay the rental payments or other amounts contemplated by the Lease Agreement. The entering into and performance of the Transaction Documents do not and will not violate any judgment, order, law, or regulation applicable to the Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest, or other encumbrance upon any assets of the Lessee or on the Equipment (as such term is defined in the Lease Agreement) pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement, or other instrument to which the Lessee is a party or by which it or its assets may be bound.

**Agreement.** This opinion may be relied upon by purchasers and assignees of Lessor's interests in the Lease

Respectfully submitted,

*Sheri Phillips*, AAG      11/14/2023  
\_\_\_\_\_  
State of New Hampshire Attorney General

**EXHIBIT G**  
**BANK-QUALIFIED DESIGNATION**  
**RESERVED**

## EXHIBIT H

### TAX & ARBITRAGE CERTIFICATE

Dated: December 21, 2023

The following certificate is delivered in connection with the execution and delivery of Equipment Schedule No. 010 dated December 21, 2023 to that certain Master Equipment Lease-Purchase Agreement dated December 1, 2021 (collectively, the "Lease Agreement"), entered into between the STATE OF NH-DNCR (the "Lessee") and Flagstar Public Funding Corp. (the "Lessor"). Capitalized terms used herein have the meanings defined in the Lease Agreement.

#### **Section 1. In General.**

1.1. This Certificate is executed for the purpose of establishing the reasonable expectations of Lessee as to future events regarding the financing of certain equipment (the "Equipment") to be acquired by Lessor and leased to Lessee pursuant to and in accordance with the Equipment Schedule executed under the Agreement (together with all related documents executed pursuant thereto and contemporaneously herewith, the "Financing Documents"). As described in the Financing Documents, Lessor shall apply \$362,000.00. (the "Principal Amount") toward the acquisition of the Equipment and closing costs, and Lessee shall make Rental Payments under the terms and conditions as set forth in the Financing Documents.

1.2. The individual executing this Certificate on behalf of Lessee is an officer of Lessee delegated with the responsibility of reviewing and executing the Financing Documents, pursuant to the resolution or other official action of Lessee adopted with respect to the Financing Documents, a copy of which has been delivered to Lessor.

1.3. The Financing Documents are being entered into for the purpose of providing funds for financing the cost of acquiring, equipping and installing the Equipment which is essential to the governmental functions of Lessee, which Equipment is described in the Equipment Schedule.

1.4 Lessee will timely file for each payment schedule issued under the Lease a Form 8038-G (or, if the invoice price of the Equipment under such schedule is less than \$100,000, a Form 8038-GC) relating to such Lease with the Internal Revenue Service in accordance with Section 149(e) of the Internal Revenue Code of 1986, as amended (the "Code").

#### **Section 2. Non-Arbitrage Certifications.**

2.1. The Rental Payments due under the Financing Documents will be made with monies retained in Lessee's general operating fund (or an account or subaccount therein). No sinking, debt service, reserve or similar fund or account will be created or maintained for the payment of the Rental Payments due under the Financing Documents or pledged as security therefor.

2.2. There have been and will be issued no obligations by or on behalf of Lessee that would be deemed to be (i) issued or sold within fifteen (15) days before or after the date of issuance of the Financing Documents, (ii) issued or sold pursuant to a common plan of financing with the Financing Documents and (iii) paid out of substantially the same source of funds as, or deemed to have substantially the same claim to be paid out of substantially the same source of funds as, the Financing Documents.

2.3. Lessee does not and will not have on hand any funds that are or will be restricted, segregated, legally required or otherwise intended to be used, directly or indirectly, as a substitute, replacement or separate source of financing for the Equipment.

2.4. No portion of the Principal Amount is being used by Lessee to acquire investments which produce a yield materially higher than the yield realized by Lessor from Rental Payments received under the Financing Documents.

2.5. The Principal Amount does not exceed the amount necessary for the governmental purpose for which the Financing Documents were entered into. Such funds are expected to be needed and fully expended for payment of the costs of acquiring, equipping and installing the Equipment.

2.6. Lessee does not expect to convey, sublease or otherwise dispose of the Equipment, in whole or in part, at a date which is earlier than the final Payment Date under the Financing Documents.

#### **Section 3. Disbursement of Funds; Reimbursement to Lessee.**

3.1 It is contemplated that the entire Principal Amount will be used to pay the acquisition cost of Equipment to the Vendors or manufacturers thereof or for any financial advisory or closing costs, provided that, if applicable, a portion of

the principal amount may be paid to Lessee as reimbursement for acquisition cost payments already made by it so long as the conditions set forth in Section 3.2 below are satisfied.

3.2. Lessee shall not request that it be reimbursed for Equipment acquisition cost payments already made by it unless each of the following conditions have been satisfied:

(a) Lessee adopted a resolution or otherwise declared its official intent in accordance with Treasury Regulation § 1.150-2 (the "Declaration of Official Intent"), wherein Lessee expressed its intent to be reimbursed from the proceeds of a borrowing for all or a portion of the cost of the Equipment, which expenditure was paid to the Vendor not earlier than sixty (60) days before Lessee adopted the Declaration of Official Intent;

(b) The reimbursement being requested will be made by a written allocation before the later of eighteen (18) months after the expenditure was paid or eighteen (18) months after the items of Equipment to which such payment relates were placed in service;

(c) The entire payment with respect to which reimbursement is being sought is a capital expenditure, being a cost of a type properly chargeable to a capital account under general federal income tax principles; and

(d) Lessee will use any reimbursement payment for general operating expenses and not in a manner which could be construed as an artifice or device under Treasury Regulation § 1.148-10 to avoid, in whole or in part, arbitrage yield restrictions or arbitrage rebate requirements.

#### **Section 4. Use and Investment of Funds; Temporary Period.**

4.1. Lessee has incurred or will incur, within six (6) months from the date of issuance of the Financing Documents, binding obligations to pay an amount equal to at least five percent (5%) of the Principal Amount toward the costs of the Equipment. An obligation is not binding if it is subject to contingencies within Lessee's control. The ordering and acceptance of the items of Equipment will proceed with due diligence to the date of final acceptance of the Equipment.

4.2. An amount equal to at least eighty-five percent (85%) of the Principal Amount will be expended to pay the cost of the Equipment by the end of the three-year period commencing on the date of this Certificate. No portion of the Principal Amount will be used to acquire investments that do not carry out the governmental purpose of the Financing Documents and that have a substantially guaranteed yield of four (4) years or more.

4.3. (a) Lessee covenants and agrees that it will rebate an amount equal to excess earnings on the Principal Amount deposited under the Escrow Agreement to the Internal Revenue Service if required by, and in accordance with, Section 148(f) of the Code, and make the annual determinations and maintain the records required by and otherwise comply with the regulations applicable thereto. Lessee reasonably expects to cause the Equipment to be acquired by December 21, 2023.

(b) Lessee will provide evidence to Lessor that the rebate amount has been calculated and paid to the Internal Revenue Service in accordance with Section 148(f) of the Code unless (i) the entire Principal Amount is expended on the Equipment by the date that is the six-month anniversary of the Financing Documents or (ii) the Principal Amount is expended on the Equipment in accordance with the following schedule: At least fifteen percent (15%) of the Principal Amount and interest earnings thereon will be applied to the cost of the Equipment within six months from the date of issuance of the Financing Documents; at least sixty percent (60%) of the Principal Amount and interest earnings thereon will be applied to the cost of the Equipment within 12 months from the date of issuance of the Financing Documents; and one hundred percent (100%) of the Principal Amount and interest earnings thereon will be applied to the cost of the Equipment prior to eighteen (18) months from the date of issuance of the Financing Documents.

(c) Lessee hereby covenants that (i) Lessee is a governmental unit with general tax powers; (ii) the Lease is not a "private activity bond" under Section 141 of the Code; and (iii) at least ninety-five percent (95%) of the Principal Amount is used for the governmental activities of Lessee.

#### **Section 5. Escrow Account.**

Intentionally omitted for Schedule 010.

#### **Section 6. No Private Use; No Consumer Loan.**

6.1. Lessee will not exceed the private use restrictions set forth in Section 141 of the Code. Specifically, Lessee will not permit more than 10% of the Principal Amount to be used for a Private Business Use (as defined herein) if, in addition, the payment of more than ten percent (10%) of the Principal Amount plus interest earned thereon is, directly or indirectly, secured by (i) any interest in property used or to be used for a Private Business Use or (ii) any interest in payments in respect of such property or derived from any payment in respect of property or borrowed money used or to be used for a Private Business Use.

6.2 In addition, if both (A) more than five percent (5%) of the Principal Amount is used as described above with respect to Private Business Use and (B) more than five percent (5%) of the Principal Amount plus interest earned thereon is secured

by Private Business Use property or payments as described above, then the excess over such five percent (5%) (the "Excess Private Use Portion") will be used for a Private Business Use related to the governmental use of the Equipment. Any such Excess Private Use Portion of the Principal Amount will not exceed the portion of the Principal Amount used for the governmental use of the particular project to which such Excess Private Use Portion is related. For purposes of this paragraph

6.3, "Private Business Use" means use of bond proceeds or bond financed-property directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and excluding use as a member of the general public.

6.4. No part of the Principal Amount or interest earned thereon will be used, directly or indirectly, to make or finance any loans to non-governmental entities or to any governmental agencies other than Lessee.

**Section 7. No Federal Guarantee.**

7.1. Payment of the principal or interest due under the Financing Documents is not directly or indirectly guaranteed, in whole or in part, by the United States or an agency or instrumentality thereof.

7.2. No portion of the Principal Amount or interest earned thereon shall be (i) used in making loans the payment of principal or interest of which are to be guaranteed, in whole or in part, by the United States or any agency or instrumentality thereof, or (ii) invested, directly or indirectly, in federally insured deposits or accounts if such investment would cause the financing under the Financing Documents to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

**Section 8. Miscellaneous.**

8.1. Lessee shall keep a complete and accurate record of all owners or assignees of the Financing Documents in form and substance satisfactory to comply with the registration requirements of Section 149(a) of the Code unless Lessor or its assignee agrees to act as Lessee's agent for such purpose.

8.2. Lessee shall maintain complete and accurate records establishing the expenditure of the Principal Amount and interest earnings thereon for a period of five (5) years after payment in full under the Financing Documents.

8.3. To the best of the undersigned's knowledge, information and belief, the above expectations are reasonable and there are no other facts, estimates or circumstances that would materially change the expectations expressed herein.

8.4. The Lessee confirms and acknowledges that its true and correct tax identification number is: **02-6000618** and full, true and correct legal name is "STATE OF NH - DNCR." Lessee confirms that it is located in County of Merrimack, State of NH.

8.5 The Lessee has adopted, by resolution, separate written procedures regarding ongoing compliance with federal tax requirements necessary to keep, ensure and maintain the interest portions of the Rental Payments under the Financing Documents as excluded from Lessor's gross income for federal income tax purposes, and will, on an annual basis, conduct an audit of the Financing Documents to ensure compliance with such procedures.

**IN WITNESS WHEREOF**, this Tax & Arbitrage Certificate has been executed on behalf of Lessee as of December 21, 2023.

STATE OF NH - DNCR

By: 

Name: Sarah L. Stewart

Title: Commissioner

**EXHIBIT I:**

**ESCROW FUND AND ESCROW AGREEMENT—NOT APPLICABLE**

**RESOLUTION/EVIDENCE OF AUTHORITY**  
**TO BE PROVIDED BY THE LESSEE, PURSUANT TO ITS STATUTORY APPROVAL PROCESS**

## CLOSING MEMORANDUM

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**\$362,000.00 LEASE OF SNOW GROOMER**  
**PURSUANT TO SCHEDULE NO. 010 DATED DECEMBER 21, 2023 TO THAT CERTAIN**  
**MASTER EQUIPMENT LEASE-PURCHASE AGREEMENT DATED DECEMBER 1, 2021**  
**BETWEEN STATE OF NH-DNCR, AS LESSEE, AND**  
**FLAGSTAR PUBLIC FUNDING CORP., AS LESSOR**

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**Pre-Closing:** All documents will be executed and two (2) blue ink originals will be overnighted to Flagstar Public Funding Corp., Attn: Ms. Tonia Lee, 600 Washington Avenue, Suite 305, Towson, Maryland 21204, for delivery no later than 9:00 am on the morning of December 21, 2023 and held in trust until such time as the wires and original documents are released by the Parties.

**Closing:** By wire transfer and pending receipt of original, executed Lease Documents, on the morning of December 21, 2023, Lessor is authorized by Lessee to wire the following Total Lease Proceeds as defined below, pursuant to the Wire Instructions as follows:

Bank Name: Intesa Sanpaolo Spa  
ABA No: 026005319  
Account No: 146070810001  
Account Name: Prinoth LLC  
Attn: \_\_\_\_\_  
Amount of Wire: \$362,000.00  
Reference: \_\_\_\_\_

TOTAL DISBURSEMENT: \$362,000.00

and each of the Parties will confirm by e-mail receipt of funds and then the release of all original documents held in trust, when such funds and/or documents are in the possession of each of the Parties.

STATE OF NH DEPARTMENT OF NATURAL AND CULTURAL RESOURCES

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

Name: Sarah L Stewart

Title: Commissioner

# State of New Hampshire

## Department of State

### CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that FLAGSTAR PUBLIC FUNDING CORP. is a New York Profit Corporation registered to transact business in New Hampshire on June 10, 2015. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 727451

Certificate Number: 0006343085



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 7th day of November A.D. 2023.

A handwritten signature in black ink, appearing to read "D. Scanlan", is written over a circular stamp or mark.

David M. Scanlan  
Secretary of State



**STATE OF NEW HAMPSHIRE**

Department of Administrative Services  
**Division of Risk and Benefits**  
State House Annex, Room 412  
25 Capitol St., Concord NH 03301

**Charles M. Arlinghaus**  
Commissioner

**Sheri L. Rockburn**  
Assistant Commissioner

**Catherine A. Keane**  
Deputy Commissioner

**Joyce I. Pitman**  
Director, Risk & Benefits

January 10, 2023

RE: The State of New Hampshire's Self-Insurance Program and Automobile Liability Insurance Coverage

To Whom It May Concern:

The purpose of this letter is to describe the State of New Hampshire's self-insurance program and automobile liability insurance coverage. This letter may be presented to individuals requesting information about the State's general liability self-insurance program, workers' compensation self-insurance program, or automobile liability insurance coverage.

**General Liability Self-Insurance Program**

The State of New Hampshire (State) does not maintain liability insurance coverage for the general operations of its agencies. Instead, the State has elected to self-insure for general liability exposures. Any liability or costs incurred by the State arising from loss or damage to a third-party would be handled as a general obligation of the State. Per RSA 541-B:14, I, all claims arising out of any single incident against any agency for damages in tort actions is limited to an award not to exceed \$475,000 per claimant and \$3,750,000 per any single incident.

**Workers' Compensation Self-Insurance Program**

All State employees are covered under the State's self-funded workers' compensation program. The State's third-party administrator for workers' compensation claims is Constitution State Services LLC, with contract effective through June 30, 2027.

**Automobile Liability Insurance Coverage**

The State maintains automobile liability coverage through Chubb Insurance. The policy provides liability limits for bodily injury coverage of \$250,000 per person/\$500,000 per accident and property damage coverage of \$100,000 per accident.

Please do not hesitate to contact Risk and Benefits at (603) 271-3180 if you have any questions concerning this letter.

THE STATE OF NEW HAMPSHIRE

*Joyce I. Pitman*

Joyce I. Pitman  
Director of Risk and Benefits

# **TITLE I**

## **THE STATE AND ITS GOVERNMENT**

### **CHAPTER 6**

#### **STATE TREASURER AND STATE ACCOUNTS**

##### **State Leases**

###### **Section 6:35**

**6:35 State Leases.** – The 10-year limitation does not apply to leases for state facility energy cost reduction projects pursuant to RSA 21-I:19-a through RSA 21-I:19-e, which shall be subject to the term limitation applicable to energy performance contracts, as defined therein. The treasurer may establish financing criteria to be met by any state agency or department before entering into leases for equipment. In no instance shall the term of such lease exceed 10 years. For purposes of this section "leases" shall include lease-purchase, sale and lease back, installment sale, or other similar agreements entered into by various agencies or departments to acquire such equipment from time to time for the agencies or departments; provided that funding for such equipment leases was specifically approved by the legislature in a budget. Payment obligations under any lease entered into under this section shall be subject to annual appropriation and shall not be treated as debt obligations of the state. Nothing in this chapter shall prohibit the treasurer from entering into financing agreements or executing any related documents, including any document creating or confirming any security interest retained by the seller or lessor of the equipment.

**Source.** 1996, 1:1. 2000, 276:8. 2008, 120:12, eff. Aug. 2, 2008.

**Monica I. Mezzapelle**  
STATE TREASURER



**THE STATE OF NEW HAMPSHIRE**  
**STATE TREASURY**  
25 CAPITOL STREET, ROOM 121  
CONCORD, NH 03301  
(603) 271-2621 | FAX (603) 271-3922  
TDD Access: Relay NH 1-800-735-2984

December 7, 2023

Sarah L. Stewart, Commissioner  
State of New Hampshire  
Department of Natural and Cultural Resources  
172 Pembroke Road  
Concord, NH 03301

Dear Commissioner Stewart,

Pursuant to RSA 6:35, the State Treasurer is authorized to establish financing criteria to be met by any state agency or department before entering into leases for equipment. As part of this process, the State Treasury assesses whether the financing arrangement is reasonable, meets the requirements prescribed in RSA 6:35, and, if applicable, facilitates the filing with the United States Internal Revenue Service of information return for tax-exempt government obligations resulting from the lease transaction (RSA 6:36). The State Treasury, however, cannot opine on the financing terms or any contractual provisions under consideration.

We were asked to evaluate the reasonableness of a Lease-Purchase Arrangement for a new Bison S Stage V Snow Groomer to be utilized by Cannon Mountain for a period of three years. Your Department confirmed that there is enough funding available in the budget approved by the Legislature to cover the payments related to this transaction, and submitted all pertinent information describing the terms and conditions of the financing (i.e. lease-purchase agreement, purchase price, payment schedule).

The State Treasury conducted an analysis and determined that the financing arrangement, particularly the interest rate of 5.66% assigned to this transaction, is deemed reasonable and it meets the requirements of tax-exempt financing. As such, and upon approval by the Governor and Executive Council, the State Treasury will file information return(s) for tax-exempt governmental obligations with the United States Internal Revenue Service as directed by RSA 6:36.

Sincerely,

A handwritten signature in blue ink that reads "Monica I. Mezzapelle".

Monica I. Mezzapelle  
State Treasurer

**FY24 DNCR Cannon Mountain Snowcat Groomer Lease Amortization Schedule and IRR calculation table**

<b>date</b>	<b>funding</b>	<b>payment</b>	<b>interest</b>	<b>principal</b>	<b>balance</b>
12/21/2023	362,000.00				362,000.00
12/21/2023		97,721.56	\$0.00	97,721.56	
11/15/2024		97,721.56	\$13,462.37	84,259.19	
11/15/2025		97,721.56	\$10,189.11	87,532.45	
11/15/2026		97,721.56	\$5,234.76	92,486.80	
	<b>362,000.00</b>	<b>390,886.24</b>	<b>28,886.24</b>	<b>362,000.00</b>	

12/21/2023	362,000.00
12/21/2023	(97,721.56)
11/15/2024	(97,721.56)
11/15/2025	(97,721.56)
11/15/2026	(97,721.56)
	<b>5.655% IRR</b>

# **TITLE I**

## **THE STATE AND ITS GOVERNMENT**

### **CHAPTER 21-I**

#### **DEPARTMENT OF ADMINISTRATIVE SERVICES**

#### **Fleet Efficiency and Redistribution**

##### **Section 21-I:19-j**

**21-I:19-j Agreements to Lease-Purchase Vehicles Authorized.** – Any agency, as defined in RSA 21-G:5, III, may, with the prior written approval of the department of administrative services, enter into an agreement to rent, lease, or lease-purchase vehicles from any outside vendor, or to rent or lease vehicles from any other state agency or department.

**Source.** 2017, 156:92, eff. July 1, 2017.



STATE OF NEW HAMPSHIRE  
DEPARTMENT of NATURAL and CULTURAL RESOURCES  
OFFICE OF THE COMMISSIONER

172 Pembroke Road, Concord, New Hampshire 03301  
Phone: 271-2411 Fax: 271-2629  
TDD ACCESS: Relay NH 1-800-735-2964

November 7, 2023

**To: Department of Administrative Services, Division of Purchasing and Procurement**

**Re: Request for Approval - RSA 21-I:19-j, Agreements to Lease-Purchase Vehicles Authorized**

**Requested Action**

Pursuant to [RSA 21-I:19-j, Agreements to Lease-Purchase Vehicles Authorized](#), the Department of Natural and Cultural Resources (DNCR) is requesting written approval to enter into an agreement of a lease to purchase of a Prinoth Bison S Stage V Snow Groomer.

**Purpose and Use Explanation**

We are seeking to procure a snow groomer to be operated solely at Cannon Mountain for the purpose of performing necessary annual snow groomer maintenance services as a vital function of mountain ski operations, financed through an equipment lease agreement with Flagstar Public Funding Corp. The following specific questions and answers are included with the lease agreement and explain in further detail purpose and use.

- 1. What is the specific use of the Equipment?** The Prinoth Bison S is a (ski area specific) grooming vehicle designed with extra capability toward specialty grooming and shaping in the event that it'd be used for both grooming and terrain park shaping.
- 2. What increased capabilities will the Equipment provide?** Please see answer #1. This highly advanced grooming vehicle will be used for both standard slope grooming and terrain park / features construction.
- 3. Why is the Equipment essential to your ability to deliver governmental services?** Cannon Mountain Aerial Tramway & Ski Area is the State's primary business (revenue generating) asset within Franconia Notch State Park, which supports the entire New Hampshire State Park System. Top notch grooming of our terrain and slopes is critical to our financial success.
- 4. Does the Equipment replace existing equipment?** This 2023 Prinoth Bison S will replace a 2012 Prinoth BR350 in our grooming fleet. Each of our 4 grooming vehicles is leased for a 4-year period (4 winter seasons). That keeps our maintenance costs low and the residual value high. Leasing has proven far more cost effective than outright ownership to us. From the fifth year of ownership and beyond, the cost of ownership (via maintenance) has been shown to increase significantly, while the residual value to the owner has been shown to decrease significantly.

5. **Why did you choose this specific Equipment?** The Prinoth Bison S is the premier specialty grooming vehicle on the market from North America's leading manufacturer of snow grooming equipment. Prinoth's eastern USA sales and service headquarters is located in Gilmanton, NH (within an hour's drive), and all machines are manufactured in nearby Granby, QC. Prinoth's service and tech support is fantastic, and they hold approximately a 65-70% market share in the eastern USA. Their machines perform very well on Cannon's more challenging terrain. In addition, our entire fleet is Prinoth, our groomers are familiar with Prinoth, our mechanics are factory trained by Prinoth, and our entire parts stock is either Prinoth OEM or Prinoth compatible.

6. **For how many years do you expect to utilize the Equipment?** Each of our four (4) grooming fleet vehicles (including this one) is leased for four (4) winter seasons. Each year one vehicle comes off of lease and is replaced with a new one that's four years more technologically advanced (higher capability and better fuel economy).

**Business Justification**

Historically, DNCR has managed its snow grooming maintenance operations through the use of a rotating snow groomer fleet using machine leasing and more recently, lease to own as part of its maintenance management and maintenance cost management strategy for over 20 years. The following outlines business justification as the basis for our strategy:

- o New Grooming vehicle ownership is almost unheard of in our industry these days.
- o We still handle the normal maintenance through our factory trained technicians, though the standard warranty applies on all cats for parts and workmanship;
- o New Grooming vehicle ownership is almost unheard of in our industry these days.
- o The cost of leasing this highly specialized grooming cat will hit our operating line at approx. \$90K each year, as opposed to approx. \$436K as a single purchase payment (that we don't have);
- o Each other grooming cat hits our operating line at approx. \$90K annually, as opposed to massive one-time capital hits as described above;
- o We'd have to own a grooming cat for far longer than the 4-year lease turnaround to make it pay off;
- o The longest lease period recommended by the leading manufacturer (Prinoth) is a 2-cycle / 4-year lease (total of 8 years);
- o After 8 years of leasing, grooming cats are sold at a fraction of their original value, typically by smaller "mom-n-pop" ski areas, or as specialty use machines (see below);
- o The break-even point on leasing (when it goes the other way financially) is that fifth year; and
- o After the 5-year mark, the residual value of the cat (market resale) drops exponentially, while the cost of maintenance increases exponentially.

Finally, with the lease agreement we are seeking approval for through Flagstar Public Finance, we will own the vehicle at the end of the 4 year lease. The residual value estimated to be approximately \$70k at the end of the lease period will allow us to defray the cost of lease agreements going forward, further improving cost to value. Ownership of the machine is outlined within the Master Lease as follows Per Article IX, Sections 9.1 through 9.4 of the Master lease as follows:

**ARTICLE IX. TITLE**

**Section 9.1. Title.** Except as may be modified on any Schedule hereto or solely if and to the extent as required by any laws of the State, during the Lease Term, ownership and legal title of all Equipment and all replacements, substitutions, repairs and modification shall be in Lessee and Lessee shall take all action necessary to vest such ownership and title in Lessee. Lessor does not own the Equipment and by this Agreement and each Lease is

merely financing the acquisition of such equipment for Lessee. Lessor has not been in the chain of title of the Equipment, does not operate, control or have possession of the Equipment and has no control over the Lessee or the Lessee's operation, use, storage or maintenance of the Equipment.

**Section 9.2. Security Interest.** Lessee hereby grants to Lessor a continuing, first priority security interest in and to the Equipment, all repairs, replacements, substitutions and modifications thereto and all proceeds thereof (including without limitation any Net Proceeds, warranty payments and guaranteed energy or other savings payments) and in the Escrow Account (if any) in order to secure Lessee's payment of all Rental Payments and the performance of all other obligations. Lessee hereby authorizes Lessor to prepare and file such financing statements and other such documents to establish and maintain Lessor's valid first priority lien and perfected security interest. Lessee will join with Lessor in executing such documents and will perform such acts as Lessor may request to establish and maintain Lessor's valid first priority lien and perfected security interest. If requested by Lessor, Lessee shall obtain a landlord and/or mortgagee's consent and waiver with respect to the Equipment. If requested by Lessor, Lessee shall conspicuously mark the Equipment, and maintain such markings during the Lease Term, to clearly disclose Lessor's security interest in the Equipment. Upon termination of a Lease through exercise of Lessee's option to prepay pursuant to Article V or through payment by Lessee of all Rental Payments and other amounts due with respect to an Equipment Group, Lessor's security interest in such Equipment Group shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may reasonably request (at the sole cost and expense) to evidence the termination of Lessor's security interest in such Equipment Group.

**Section 9.3. Modification of Equipment.** Lessee will not, without the prior written consent of Lessor, affix or install any accessory equipment or device on any of the Equipment if such addition will change or impair the originally intended value, function or use of the Equipment.

**Section 9.4. Personal Property.** Except as permitted by Lessor in writing in connection to any Equipment Schedules, the Equipment is and shall at all times be and remain personal property and not fixtures.

The following Exhibit as included in the Master lease outlines the payment schedule that will be included as part of the contract for this lease. **Note that this table reflect the final agreed upon interest rate of 5.66% and total amount of payment that we will be submitting for approval to the Governor and Executive Council.**

#### **EXHIBIT A: LEASE SCHEDULE**

##### **EQUIPMENT SCHEDULE 010 DATED NOVEMBER 30, 2023**

This Equipment Schedule 010 dated as of December 21, 2023 ("Equipment Schedule") is made to and part of that certain Master Equipment Lease-Purchase Agreement dated as of December 1, 2021 (the "Master Agreement," and together with the Equipment Schedule, the "Lease"), and the terms, conditions and provisions of the Master Agreement (other than to the extent that they relate solely to other Schedules or Equipment listed on other Schedules or if they are expressly superseded in this Equipment Schedule) are hereby incorporated into this Equipment Schedule by reference and made a part hereof. This Lease is a separate and individual instrument of lease.

#### **1. DESCRIPTION OF THE EQUIPMENT:**

Equipment shall consist of those units or items of equipment as set forth below and/or as may be accepted by the Lessee and financed hereunder, together with all embedded software, replacements, additions, attachments, substitutions, modifications, upgrades, and improvements thereto (collectively the "Equipment") pursuant to that "Vendor Contract" (as described below) between each respective "Vendor" and Lessee, which is and financed by this Lease.

<u>Quantity</u>	<u>Equipment Description (with VIN and MSN)</u>	<u>Unit Cost</u>	<u>Total Cost</u>	<u>Vendor Name and Contract/Invoice</u>	<u>Location</u>
1	New Bison S Stage V Snow Groomer	\$362,000.00	\$362,000.00	PRINOTH, LLC	264 NH Route 106 Gilmanton, NH 03237 USA
	Closing Costs				
	<b>TOTAL LEASE PROCEEDS:</b>		<b>\$362,000.00</b>		

2. **EQUIPMENT LOCATION:** CANNON MOUNTAIN 260 TRAMWAY DRIVE, FRANCONIA, NH 03580

3. **PAYMENT SCHEDULE:** The Rental Payments shall be made for the Equipment as follows:

<u>Payment Number</u>	<u>Date Due</u>	<u>Total Rental Payment Due</u>	<u>Interest Component</u>	<u>Principal Component</u>	<u>Prepayment Price*</u>
Loan	12/21/23				
1	12/21/23	97,721.56	0.00	97,721.56	266,921.22
2	11/15/24	97,721.56	13,462.37	84,259.19	181,819.44
3	11/15/25	97,721.56	10,189.11	87,532.45	93,411.67
4	11/15/26	97,721.56	5,234.76	92,486.80	0.00

<b>Grand Totals</b>	<b>390,886.24</b>	<b>28,886.24</b>	<b>362,000.00</b>
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\* Assumes that all rental payments and other amounts due on and prior to that date have been paid.

4. **INTEREST RATE:** 5.66%

5. **COMMENCEMENT DATE:** December 21, 2023. Interest, if any, accruing from the Commencement Date to the actual date of funding shall be retained by Lessor as additional consideration for entering into this Equipment Schedule.

6. **SCHEDULED LEASE TERM:** 3 Years.

7. **OPTIONAL PREPAYMENT COMMENCEMENT DATE:** DECEMBER 21, 2023.

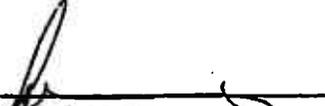
8. **FISCAL YEAR:** Lessee's current Fiscal Year extends from July 1, 2023.

9. Lessee hereby represents, warrants, and covenants that (i) its representations, warranties, and covenants set forth in the Master Equipment Lease-Purchase Agreement (particularly Paragraph 7 thereof) are true and correct as though made on the date of execution of this Equipment Schedule, and (ii) sufficient funds have been appropriated by Lessee for the payment of all Rental Payments due under this Lease during Lessee's current Fiscal Year. Funds for making Rental Payments are expected to come from the General Fund of the Lessee.

10. **ESSENTIAL USE:** The Equipment will be used by the following governmental agency department for the specific purpose of: performing snow grooming operations on Cannon Mountain Ski Area. The Equipment is essential for the functioning of the Lessee and is immediately needed by the Lessee, and such need is neither temporary, nor expected to diminish during the Lease Term. The Equipment will not be used by the Lessee for a period in excess of the Lease Term.

Attached is a copy of our last approval for your reference. Please let us know if you need any further information so we may obtain your written approval for this vehicle lease.

Respectfully requested,

  
\_\_\_\_\_  
Christopher S. Marino  
Chief of Administration, DNCR

Reviewed,

  
\_\_\_\_\_  
Andrew J Bennett  
Administrator III, DAS-DPSS

11/9/23  
\_\_\_\_\_  
Date

Approved,

  
\_\_\_\_\_  
Gary S. Lunetta  
Director, DAS-DPSS

Digitally signed by Gary S. Lunetta  
DN: cn=Gary S. Lunetta, o=Dept of  
Admin. Serv., ou=Dir of Procurement  
Support Sys., email=Gary.S.Lunetta@dcr.nh.gov,  
c=US  
Date: 2023.11.09 14:50:14 -0500

\_\_\_\_\_  
Date

# SALES AGREEMENT



Nº **Q-00761**      DATE **May 25, 2023**

Rocky Mountain Branch Office  
2746 Seaber Drive Bldg B  
Grand Junction CO USA 81506  
Tel. (970) 242-7150  
Fax. (970) 241-6722

Far West Branch Office  
2620 East 5th Street  
Reno NV USA 89512  
Tel. (775) 359-7517  
Fax. (775) 359-7725

Inland Branch Office  
2505 Decker Lake Lane, Suite 3  
West Valley City UT USA 84119  
Tel. (801) 364-8286  
Fax. (801) 364-8275

Eastern USA Branch Office  
264 NH Route 106  
Gilmanton, NH USA 03237  
Tel. (603) 267-7840  
Fax. (603) 267-7843

Purchaser Legal Name: **DCNR (Cannon Mountain)**      Tel.: (603) 823-8800      Fax.: ( )

Contact: **John DeVivo**      Customer #: **2007811/1014291**

Complete address: **172 Pembroke Rd, Concord, NH 03301**

Ship to: **Cannon Mountain, 250 Tramway Dr, Franconia, NH 03580 (1014291)**

E-Mail address: **jdevivo@dred.state.nh.us**

EQUIPMENT AND ACCESSORIES DESCRIPTION (if more space needed, continue on Attachment A)						
QTY	NEW USED	MODEL	SERIAL NO.	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1	NEW	BISON S Stage V	TBD	NEW BISON S Stage V SNOW GROOMER	\$362,000.00	\$362,000.00
				Equipped with 66" MASTER climber tracks,		
				master blade, premium POSIFLEX filler, center seat,		
				instructor seat, LED lights, removable carpet,		
				rear view camera, Caterpillar C9.3B Engine		
					TOTAL PRICE:	\$ 362,000.00

DESCRIPTION OF TRADE-IN EQUIPMENT AND OPTION(S) (if more space needed, continue on Attachment A)							
QTY	NEW USED	MODEL	SERIAL NO.	YEAR	HOURS	DESCRIPTION	TRADE-IN VALUE
							\$
							TOTAL TRADE-IN VALUE: \$

TOTAL PRICE	\$ 362,000.00	ADDRESS WHERE EQUIPMENT WILL BE DELIVERED:
FREIGHT	\$ INCLUDED	CANNON MOUNTAIN
SALES and USE TAXES	\$ N/A	260 TRAMWAY DR
NET SELLING PRICE	\$ 362,000.00	FRANCONIA, NH 03580
**TRADE-IN VALUE TO BE CONFIRMED FOLLOWING EVALUATION (TIVER)	\$ ( )	ADDRESS FROM WHICH EQUIPMENT WILL BE SHIPPED:
SALES and USE TAXES	\$ ( )	PRINOTH
TOTAL TRADE-IN AMOUNT	\$ ( )	264 NH ROUTE 106
		GILMANTON, NH 03237
▶ TOTAL AMOUNT DUE	\$ 362,000.00	
PAYMENT DUE 30 DAYS FROM DELIVERY	\$ 362,000.00	DELIVERY DATE: November 15, 2023

**Additional information:**  
Full payment due net 30 days from delivery  
Vehicle warranty - 12 months or 1200 hours on complete vehicle; 24 months or 1200 hours on powertrain components, whichever comes first.  
Caterpillar engine warranty - 24 months or 3000 hours, whichever comes first  
Caterpillar extended engine warranty - 60 months/6000 hours.  
**Lease/purchase subject to approval by the NH Executive Council.**

PRINOTH LLC (VENDOR) AND PURCHASER AGREE TO THE "TERMS AND CONDITIONS" from STATE OF NEW HAMPSHIRE FORM P-37.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

PRINOTH LLC

**James Egan**      Sales Representative  
(print name)      (title)

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

STATE OF NEW HAMPSHIRE (DCNR)

\_\_\_\_\_  
(print name)      (title)

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

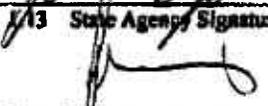
**FORM NUMBER P-37 (version 2/23/2023)**

**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**  
The State of New Hampshire and the Contractor hereby mutually agree as follows:

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

<b>1.1 State Agency Name</b> Department of Natural and Cultural Resources		<b>1.2 State Agency Address</b> 172 Pembroke Road, Concord NH 03301	
<b>1.3 Contractor Name</b> Prinoth, LLC		<b>1.4 Contractor Address</b> 284 NH Route 108 Gilmanton, NH 03237	
<b>1.5 Contractor Phone Number</b> 603-287-7840	<b>1.6 Account Unit and Class</b> N/A	<b>1.7 Completion Date</b> 11/15/2023	<b>1.8 Price Limitation</b> N/A (See Exhibit C)
<b>1.9 Contracting Officer for State Agency</b> David Webster, Business Administrator II		<b>1.10 State Agency Telephone Number</b> 603-823-880 EXT 721	
<b>1.11 Contractor Signature</b>  Date: June 29, 2023		<b>1.12 Name and Title of Contractor Signatory</b> Christopher Marino, Chief of Administration James Egan regional sales	
<b>1.13 State Agency Signature</b>  Date: 11/13/2023		<b>1.14 Name and Title of State Agency Signatory</b> Christopher S. Marino, Chief of Administration	
<b>1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable)</b> By: _____ Director, On: _____			
<b>1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable)</b> By: _____ On: _____			
<b>1.17 Approval by the Governor and Executive Council (if applicable)</b> G&C Item number: _____ G&C Meeting Date: _____			

Contractor Initials   
Date: 6/29/23

**2. SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

## 8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;  
8.1.2 failure to submit any report required hereunder; and/or  
8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

## 9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

## 10. PROPERTY OWNERSHIP/DISCLOSURE.

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

11. **CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

## 12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. **INDEMNIFICATION.** The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

**14. INSURANCE.**

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

**15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A (*"Workers' Compensation"*).

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. WAIVER OF BREACH.** A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

**17. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CHOICE OF LAW AND FORUM.**

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

**20. CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

**21. THIRD PARTIES.** This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

**22. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**23. SPECIAL PROVISIONS.** Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

**24. FURTHER ASSURANCES.** The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

**25. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**26. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

Contractor Initials *16*  
Date *6/20/23*

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES  
DIVISION OF PARKS AND RECREATION**

**FY 2024 SNOW GROOMER BUILD**

**EXHIBIT A**

There are no additional or special provisions in this contract.

**EXHIBIT B**

**Scope of Work: Prinoth, LLC shall build a Bison S Stage V Snow Groomer, equipped with 66" MASTER climber tracks, master blade, premium POSIFLEX tiller, center seat, instructor seat, LED lights, removable carpet, rear view camera, and Caterpillar C9 3B engine, as outlined in Sales Agreement No. Q-00761, dated May 25, 2023, to be leased by Cannon Mountain.**

**EXHIBIT C**

**Contract Price**

There are no funds to be expended in this contract. The Department authorizes Prinoth, LLC to proceed with the construction of the snow groomer as specified in Exhibit B above. Authorization to finance the lease of the snow groomer is contingent upon Governor and Council approval and will be submitted at a later date.

Contractor Initials

Date

*JS*  
*6/29/23*

**State of New Hampshire**  
**Department of State**

**CERTIFICATE**

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that PRINOTH LLC is a Delaware Limited Liability Company registered to transact business in New Hampshire on October 05, 2004. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 490862

Certificate Number: 0006249977



IN TESTIMONY WHEREOF,  
I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 20th day of June A.D. 2023.

A handwritten signature in black ink, appearing to read "David M. Scanlan".

David M. Scanlan  
Secretary of State

**Limited Partnership or LLC Certificate of Authority**

I, Mark Palmateer, hereby certify that I am a Partner, Member or Manager  
(Name)  
of PRINOTH, LLC a limited liability partnership under RSA 304-B, a limited  
(Name of Partnership or LLC)  
liability professional partnership under RSA 304-D, or a limited liability company under  
RSA 304-C.

I certify that James Egan is authorized to bind the partnership or LLC. I  
(P-37 Signatory)\*

further certify that it is understood that the State of New Hampshire will rely on this  
certificate as evidence that the person listed above currently occupies the position indicated  
and that they have full authority to bind the partnership or LLC and that this authorization  
shall remain valid for thirty (30) days from the date of this Corporate Resolution

DATE: 06/20/2023

ATTEST:

Mark Palmateer  
(Name)  
Mark Palmateer  
Regional Manager  
(Title)

\* Note: The signatory to this Certificate of Authority and the signatory to the P-37 may not be the same individual.

Amber L. Mark  
Notary Public  
New Hampshire  
My Commission Expires 05-04-27

Amber L. Mark  
6/20/23

Client#: 124471

LEITPOMA

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 8/20/2023

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

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

PRODUCER: Propel Insurance, 601 Union Street; Suite 3400, COM Sports & Recreation, Seattle, WA 98101-1371. CONTACT NAME: Karen Robinson, TEL: 800 499-0933, FAX: 866 577-1326, EMAIL: karen.robinson@propelinsurance.com. INSURER(S) AFFORDING COVERAGE: Allianz Global Risks US Insurance Co., NAIC #: 35300.

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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

Table with columns: POLICY TYPE, TYPE OF INSURANCE, ADDL. SUBR. POLY, POLICY NUMBER, POLICY EFF. DATE, POLICY EXP. DATE, LIMITS. Includes rows for Commercial General Liability, Automobile Liability, Umbrella Liability, and Workers Compensation.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) Additional Insured status applies to NH Department of Natural and Cultural Resources per attached form.

CERTIFICATE HOLDER: NH Department of Natural and Cultural Resources, 172 Pembroke Road, Concord, NH 03301-8000. CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: Paul [Signature]

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PRNLLC-01

NICHOLET

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
6/14/2022

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

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

<b>PRODUCER</b> Home Loan & Investment Company 205 North 4th Street Grand Junction, CO 81801	<b>CONTACT: Nichols Clark</b> PHONE (A/C. No. Ext): (970) 254-0856 FAX (A/C. No.): (970) 243-3914 E-MAIL: nicholet@hlic.com	
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> Prinoth LLC 2746 Seaber Dr Building B Grand Junction, CO 81506	<b>INSURER A: Technology Insurance Company</b>	
	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

COVERAGES: CERTIFICATE NUMBER: REVISION NUMBER:

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

INER LTR	TYPE OF INSURANCE	ADDL INSD	EXCL WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PER OBJECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea. occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPOP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea. accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR CLAIMS-MADE DED RETENTIONS						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE EMPLOYER EXCLUDED? (Indicate Y/N) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	TWC4124504	7/1/2022	7/1/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

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

<b>CERTIFICATE HOLDER</b> NH Department of Natural and Cultural Resources 172 Pembroke Road Concord, NH 03301	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 